

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

RESOLUTION NO. RES-24-0111

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3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH, CALIFORNIA SUBMITTING TO
5 THE QUALIFIED VOTERS OF THE CITY OF LONG BEACH
6 ON THE NOVEMBER 5, 2024 GENERAL MUNICIPAL
7 ELECTION BALLOT A TAX MEASURE AMENDING LONG
8 BEACH MUNICIPAL CODE SECTION 3.68.040, TO REPEAL
9 THE EXEMPTION FROM THE GAS UTILITY USERS TAX
10 FOR CHARGES MADE FOR GAS TO BE USED IN THE
11 GENERATION OF ELECTRICAL ENERGY BY AN
12 ELECTRICAL CORPORATION OR GOVERNMENTAL
13 AGENCY; REQUESTING THE COUNTY OF LOS ANGELES
14 TO CONSOLIDATE SAID ELECTION WITH THE
15 NOVEMBER 5, 2024 STATEWIDE GENERAL ELECTION;
16 DIRECTING THE CITY ATTORNEY TO PREPARE AN
17 IMPARTIAL ANALYSIS OF THE TAX MEASURE AND
18 SETTING RULES AND DEADLINES FOR ARGUMENTS
19 AND REBUTTALS FOR AND AGAINST THE TAX MEASURE
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21 WHEREAS, for at least 30 years two power plants sited within Long Beach
22 City limits have been exempt from paying the City's Gas Utility Users Tax that residents,
23 businesses, and other organizations in Long Beach pay; and

24 WHEREAS, during that time, residents of Long Beach have borne the
25 environmental burden and the inconvenience of the two power plants -- the Alamitos
26 Energy Center owned by AES, and the Haynes Plant owned by the Los Angeles
27 Department of Water and Power -- with financial compensation limited to several million
28 dollars per year from the SoCal Gas franchise fee on the imputed value of the gas delivered

1 to the plants; and

2 WHEREAS, Repealing the exemption would result in the application of the
3 City’s existing 5% gas utility user tax to said electrical corporations and government
4 agencies as set forth in Long Beach Municipal Code section 3.68.010; and

5 WHEREAS, repealing the power plants’ exemption from the Gas Utility Users
6 Tax will redress this imbalance by adding a projected \$15 million annually to General Fund
7 revenue beginning the first full fiscal year (FY 26), which is important in light of projected
8 annual operating deficits as the City phases out the General Fund’s structural reliance on
9 oil-related revenue; and

10 WHEREAS, the projected \$15,000,000 in annual General Fund revenue
11 would be used to maintain general city services, including 911 response,
12 firefighter/paramedic, pothole/street repair, improve storm drains, afterschool programs,
13 senior services, parks, libraries, public health, and homeless services; and

14 WHEREAS, the Measure would also amend the language in Long Beach
15 Municipal Code section 3.68.040 to conform with the governing 5% rate set forth in Long
16 Beach Municipal Code section 3.68.010 resulting from voters’ approval of Measure J in
17 2000; and

18 WHEREAS, pursuant to Long Beach City Charter section 2001 and California
19 Elections Code section 9222, the City Council is authorized to submit this measure to the
20 voters at the November 5, 2024 General Municipal Election; and

21 WHEREAS, the specific terms of the measure are provided for in the
22 ordinance to be considered by the qualified voters, attached hereto as Exhibit “A” (the
23 “Ordinance” or “Measure”) and by this reference made an operative part hereof, and in
24 accordance with all applicable laws; and

25 WHEREAS, it is desirable that the General Municipal Election be
26 consolidated with the Statewide General Election to be held on the same date, that within
27 the City the precincts, polling places, voting centers and election officers of the two
28 elections be the same, that the Los Angeles County election department canvass the

1 returns of the General Election, and that the election be held in all respects as if there were
2 only one election; and

3 WHEREAS, it is also desirable to establish deadlines and rules for the
4 submission of written arguments and rebuttals for and against the Measure in accordance
5 with applicable California Elections Code and Long Beach Municipal Code procedures;

6 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
7 follows:

8 Section 1. The foregoing recitals are true and correct and are hereby
9 incorporated and made an operative part of this Resolution.

10 Section 2. **Submission of Ballot Measure.** The City Council of the City,
11 pursuant to its right and authority as contained in Long Beach City Charter section 2001
12 and California Elections Code section 9222, hereby orders the Measure attached hereto
13 as Exhibit “A” to be submitted to the qualified voters of the City at a General Election to be
14 held on Tuesday, November 5, 2024. The Measure shall be in the form attached hereto
15 as Exhibit “A” to this Resolution and is incorporated by this reference as if fully set forth
16 herein.

17 Section 3. **Ballot Question.** The City Council, pursuant to its right and
18 authority, does hereby order that the ballot question for the Measure shall be presented
19 and printed upon the ballot submitted to the qualified voters in the manner and form set
20 forth in this Section 3. On the ballot to be submitted to the qualified voters at the General
21 Election to be held on Tuesday, November 5, 2024, in addition to any other matters
22 required by law, there shall be printed substantially the following ballot question:

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"Shall the measure to maintain general city services, including 911 response; firefighter/paramedic; pothole/street repairs; improve storm drains; afterschool programs; senior services; parks; libraries; public health; and homeless services, by eliminating the exemption for electrical corporations/government agencies using gas to make electricity and applying Long Beach's existing 5% gas utility user tax to said corporations/agencies, generating approximately \$15,000,000 annually until ended by voters, requiring audits, spending disclosure, and all funds used locally, be adopted?"	YES
	NO

Section 4. The vote requirement for the Measure to pass is a simple majority (50% + 1) of votes cast.

Section 5. **Election Procedures.**

A. Request for Consolidation. Pursuant to the requirements of §10403 of the Elections Code, the Board of Supervisors of the County of Los Angeles is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 5, 2024, for the purpose of submitting to the voters the Measure.

B. Necessary Steps. The Board of Supervisors is requested to issue instructions to the Los Angeles County Registrar of Voters/Elections Official to take any and all steps necessary for the holding of the consolidated election.

C. Canvass of Returns. The Los Angeles County Registrar of Voters/Elections Official is authorized to canvass the returns and perform all other proceedings incidental to and connected with the General Municipal Election for the Measure. The Election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. Pursuant to California Elections Code Sections 10403 and 10418, the election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election.

1 D. Costs. The City Council determines and declares that the City
2 will pay to the County the reasonable and actual expenses incurred by the
3 County by the consolidation of the General Municipal Election with the
4 Statewide General Election. The City shall reimburse the County for services
5 performed when the work is completed and upon presentation to the City of
6 a properly approved bill.

7 E. Form of Ballot. The ballots to be used at the election shall be
8 in the form and content as required by law.

9 F. City Clerk Authorized to Coordinate with County. The City
10 Clerk is authorized, instructed and directed, in coordination with the Los
11 Angeles County Registrar of Voters/Elections Official, to procure and furnish
12 any and all official ballots, notices, printed matter and all supplies, equipment
13 and paraphernalia that may be necessary in order to properly and lawfully
14 conduct the election.

15 G. Opening and Operation of Polls, Vote Centers, Etc. The polls,
16 vote centers and/or vote-by-mail drop-off boxes shall be open and the
17 procedures for submitting votes-by-mail or votes at polls and vote centers
18 shall be in accordance with those times and procedures established by the
19 County of Los Angeles, except as otherwise provided in the Elections Code
20 of the State of California.

21 H. Notice of Election. Notice of the time and place of holding the
22 election is given and the City Clerk is authorized, instructed and directed to
23 give further or additional notice of the election, in time, form, and manner as
24 required by law.

25 I. Tallying of Ballots. All ballots shall be tallied at a central
26 counting place and not at the precincts. Said central counting place shall be
27 at a County center as designated by the Registrar of Voters.

28 J. Receipt of Election Results. The City Clerk of the City of Long

1 Beach shall receive the canvass as it pertains to the election on the Charter
2 Amendment measure, and shall certify the results to the City Council, as
3 required by law.

4 Section 6. That pursuant to California Elections Code Section 9280 and
5 Long Beach Municipal Code Section 1.15.455, the City Council hereby directs the City
6 Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall
7 prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing
8 the effect of the Measure on the existing law, and transmit such impartial analysis to the
9 City Clerk not later than the deadline for submittal of primary arguments for or against the
10 Measure. The impartial analysis shall include a statement indicating whether the Measure
11 was placed on the ballot by a petition signed by the requisite number of voters or by the
12 City Council. In the event the entire text of the Measure is not printed on the ballot, nor in
13 the voter information portion of the sample ballot, there shall be printed immediately below
14 the impartial analysis, in no less than 10-font bold type, the following: **“The above**
15 **statement is an impartial analysis of Ordinance or Measure “ ____ ”. If you desire a**
16 **copy of the ordinance or measure, please call the Office of the City Clerk at 562-570-**
17 **6101 and a copy will be mailed at no cost to you.”**

18 Section 7. **Primary Arguments.** That the City Council authorizes (i) the
19 City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote
20 on the above Measure, (iii) a bona fide association of such citizens or (iv) any combination
21 of voters and associations, to file a written argument in favor of or against the Measure,
22 accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in
23 accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of
24 California, and to change the argument until and including the date fixed below by the City
25 Clerk, after which no arguments for or against the Measure may be submitted to the City
26 Clerk.

27 Section 8. Pursuant to Long Beach Municipal Code Section 1.15.415, the
28 Mayor, with the approval of the City Council, may designate a person, or association of

1 persons, to write arguments either for or against or both for and against the adoption of
2 any measure or proposition placed on the ballot.

3 Section 9. The deadline to submit arguments for or against the Measure
4 pursuant to this Resolution is declared by the City Clerk to be Friday, August 16, 2024, at
5 5:00 p.m. Each argument shall not exceed three hundred (300) words and shall be filed
6 with the City Clerk, signed, and include the printed name(s) and signature(s) of the
7 author(s) submitting it, or if submitted on behalf of an organization, the name of the
8 organization, and the printed name and signature of at least one of its principal officers
9 who is the author of the argument.

10 Section 10. **Rebuttal Arguments.** Pursuant to Section 9285 of the
11 Elections Code of the State of California, when the City Clerk has selected the primary
12 arguments for and against the Measure which will be printed and distributed to the voters,
13 the Clerk shall send copies of the primary argument in favor of the Measure to the authors
14 of the primary argument against, and copies of the primary argument against to the authors
15 of the primary argument in favor. The authors or persons designated by them may prepare
16 and submit rebuttal arguments not exceeding two hundred fifty (250) words. The rebuttal
17 arguments shall be filed with the City Clerk not later than Tuesday, August 26, 2024 at 5:00
18 p.m. Rebuttal arguments shall be printed in the same manner as the primary arguments.
19 Each rebuttal argument shall immediately follow the primary argument which it seeks to
20 rebut. That notice of the time and place of holding the election is hereby given and the City
21 Clerk is authorized, instructed and directed to give further or additional notice of the
22 election, in time, form and manner as required by law.

23 Section 11. The full text of the Measure shall not be printed in the voter
24 information guide, but a statement shall be printed in the ballot pursuant to Section 9223
25 of the Elections Code advising voters that they may obtain a copy of this Measure, at no
26 cost, upon request made to the City Clerk.

27 Section 12. Pursuant to Elections Code section 9295, this Measure will be
28 available for public examination for no fewer than ten (10) calendar days prior to being

1 submitted for printing in the voter information guide. The City Clerk shall post notice in the
2 Clerk's office of the specific dates that the examination period will run.

3 Section 13. That in all particulars not recited in this resolution, the election
4 shall be held and conducted as provided by law for holding municipal elections.

5 Section 14. The City Treasurer is hereby authorized and directed to
6 appropriate the necessary funds to pay for the City's cost of placing the Measure on the
7 election ballot.

8 Section 15. The City Council finds that this Resolution is not subject to the
9 California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity
10 will not result in a direct or reasonably foreseeable indirect physical change in the
11 environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378) of
12 the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has
13 no potential for resulting in physical change to the environment, directly or indirectly.

14 Section 16. The provisions of this resolution are severable and if any
15 provision of this resolution is held invalid, that provision shall be severed from the resolution
16 and the remainder of this resolution shall continue in full force and effect, and not be
17 affected by such invalidity.

18 Section 17. This resolution shall take effect immediately upon its adoption
19 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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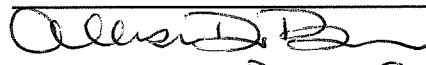
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I hereby certify that the foregoing resolution was adopted by the City Council
of the City of Long Beach at its meeting of August 6, 2024,
by the following vote:

Ayes: Councilmembers: Zendejas, Allen, Duggan, Supernaw,
Kerr, Uranga, Austin, Ricks-Oddie.

Noes: Councilmembers: None.

Absent: Councilmembers: None.

Recusal(s): Councilmembers: Saro.

for Monique DeLa Garza
City Clerk

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ATTACHMENT "A"
ORDINANCE NO. ORD-24-

AN ORDINANCE OF THE PEOPLE OF THE CITY OF
LONG BEACH, CALIFORNIA, AMENDING SECTION
3.68.040 OF THE LONG BEACH MUNICIPAL CODE TO
REPEAL THE EXEMPTION FROM THE GAS UTILITY
USERS TAX FOR CHARGES MADE FOR GAS TO BE USED
IN THE GENERATION OF ELECTRICAL ENERGY BY AN
ELECTRICAL CORPORATION OR GOVERNMENTAL
AGENCY

[NOTE: Deletions are identified in strikethrough and additions are identified in bold
underline]

THE PEOPLE OF THE CITY OF LONG BEACH, CALIFORNIA, DO ORDAIN
AS FOLLOWS:

Section 1. AMENDMENT TO MUNICIPAL CODE. Subject to the approval
of a majority of the voters of the City of Long Beach at the General Election so designated
by the City Council in a separate resolution placing the proposal on the ballot for such
election, Section 3.68.040` of the Long Beach Municipal Code is hereby amended to read
as follows:

3.68.040 - Gas users tax.

A. There is imposed a tax upon every person in the City using gas in the City
which is delivered directly or indirectly through mains or pipes. The tax imposed by this
Section shall be at the rate of ~~ten~~ **five** percent (~~10~~**5**%) of the charges made for such gas
and shall be paid by the person paying for such gas.

B. "Charges", as used in this Section, shall include minimum charges for service of

1 the gas commodity, whether owned by the City or the customer, and the gas
2 transportation, including, but not limited to, customer charges, service charges, standby
3 charges, and annual and monthly charges.

4 C. There shall be excluded from the base on which the tax imposed in this Section
5 is computed: (1) charges made for gas which is to be resold and delivered through mains
6 or pipes; ~~(2) charges made for gas to be used in the generation of electrical energy by an~~
7 ~~electrical corporation or governmental agency;~~ ~~(3)~~ (2) charges made for compressed
8 natural gas used for motor vehicle fuel.

9 Section 2. EFFECTIVE DATE. Pursuant to California Elections Code
10 Section 9217, this Ordinance shall be deemed adopted and take effect only if approved by
11 a majority of the eligible voters of the City of Long Beach voting at the General Election of
12 November 5, 2024. It shall be deemed adopted when the City Council has certified the
13 results of that election by resolution and shall take effect ten (10) days thereafter.

14
15 Section 3. ATTESTATION OF ORDINANCE. The City Clerk is hereby
16 authorized to attest to the adoption of this Ordinance by the People voting thereon on
17 November 5, 2024, by signing where indicated below.

18
19 PASSED, APPROVED AND ADOPTED by the People of the City of Long
20 Beach this ___th day of November 2024.

21
22 _____
23 REX RICHARDSON
24 Mayor of the City of Long Beach

25 ATTEST:

26 _____
27 MONIQUE DE LA GARZA
28 City Clerk

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APPROVED AS TO FORM:

DAWN MCINTOSH
City Attorney