

RESOLUTION NO.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, ORDERING, CALLING, PROVIDING FOR, AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD IN SAID CITY ON THE 2ND DAY OF NOVEMBER 2021, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED ELECTORS AN AMENDMENT TO THE CHARTER OF THE CITY OF RIVERSIDE AND REPEALING RESOLUTION NO. 23740.

WHEREAS, the City of Riverside City Charter has called for transfers from its electric utility to the General Fund since voters first approved the Charter in 1907. That original Charter provided that utility rates “should preferably, but not necessarily, yield a reasonable profit and interest on the investment to the city ...” (1907 City Charter, section 162) and it further stated that, on an annual basis, any funds remaining after the utilities have paid their specified expenses may be transferred to the general fund (1907 City Charter, section 172) ; and

WHEREAS, over a half-century ago, in 1968, the City's voters adopted a version of the Charter that specifically called for a general fund transfer ("GFT") from utilities in "an amount equal to 11.5% of the utilities' gross operating revenues." City Charter § 1204, subd. (f), currently allows a GFT “in an amount not to exceed 11.5%” of the utilities' gross operating revenues for the prior fiscal year. This language was approved by 74% of City voters in 1977. The City's voters have therefore approved the GFT at three separate elections; and

WHEREAS, the General Fund Transfer provides a locally controlled revenue source to the General Fund. Combined with other sources of revenue (sales tax, property tax, utility users' tax, etc.), the General Fund funds vital governmental services including, but not limited to, fire, paramedic, police, street repairs, parks, senior services, homelessness and other general services. The General Fund Transfer is critical to advancing the City Council's Envision Riverside 2025 Strategic Plan priorities of: Arts, Culture and Recreation; Community Well-Being, Economic Opportunity; Environmental Stewardship; High Performing Government; and Infrastructure, Mobility and Connectivity; and

WHEREAS, the electric utility portion of the General Fund Transfer currently provides approximately \$40 million annually, or roughly 14%, of the total General Fund operating budget. Losing this revenue source would require significant reductions in the services mentioned above; and

1 WHEREAS, Riverside voters have already voted three times in the past to amend the City
2 Charter to allow the City-owned electric utility to transfer a fixed percentage of electric fund revenues
3 into the City’s General Fund, which provides essential funding for community services such as police,
4 fire, children’s after-school programs, senior/disabled services; and

5 WHEREAS, this measure simply renews and clarifies the previous actions of Riverside voters
6 so that the City can continue to exercise responsible budget practices as originally directed by voters
7 and maintain current funding for essential City services; and

8 WHEREAS, in 2018, the City was served with a lawsuit entitled Parada v. City of Riverside,
9 challenging the validity of Charter-authorized transfers from the City’s Electric Fund to the General
10 Fund, alleging the transfer is a tax (requiring new voter approval in addition to that granted in 1907,
11 1968 and 1977). The lawsuit sought a refund of the transferred monies and a court order preventing
12 the City from continuing the electric transfer going forward, until and unless the City obtains voter
13 approval; and

14 WHEREAS, the City defended the lawsuit and on May 19, 2021, a settlement agreement was
15 reached. The mutually-agreed-upon settlement requires the City to place a measure before voters
16 pursuant to California Constitution article XIII C, section 2, subdivision (b) to explicitly approve of
17 the past practice of the utility fund budget transfer that maintains local funding for essential City
18 services. Specifically, Section 1.2.1 of the settlement agreement provides the following: “the City will
19 draft the Ballot Measure, and resolutions placing the Ballot Measure on City of Riverside ballots in
20 November 2021, to state that: (1) the City’s General Fund Transfer policies subject to voter approval
21 in the Ballot Measure are a general tax requiring voter approval under California Constitution, article
22 XIII C, section 2, subdivision (b); and (2) the revenues the City collects from retail customers for
23 electric service may fund, in whole or part, transfers from the City’s electric utility to its general fund
24 under the General Fund Transfer policies.”; and

25 WHEREAS, should voters authorize these current City budget and electric rate-setting
26 practices by passing the measure, the City will also issue utility credits over a five-year period to local
27 utility ratepayers, as required by the settlement. This settlement, reached with the assistance of a
28 mediator, allows the parties to avoid unnecessary taxpayer-funded litigation and a lengthy appeal,

1 while prioritizing the desire of both parties to honor voters’ say and support local residents and
2 businesses; and

3 WHEREAS, Article XI, Section 3, of the Constitution of the State of California, Elections
4 Code sections 1000, 1301, 1415, 9255, Government Code section 34458, and City Charter sections
5 400 and 502 authorize the City Council, on its own motion, to submit to the qualified electors of the
6 City any ballot measure by ordinance or resolution proposing amendments to the City Charter at a
7 regularly scheduled municipal election; and

8 WHEREAS, on January 19, 2021, the City Council adopted Resolution No. 23670, ordering,
9 calling, providing for and giving notice of a General Municipal Election to be held in the City of
10 Riverside on the 8th day of June, 2021; and WHEREAS, Section 400(d) of the City Charter states
11 that if in the June 8, 2021, election for members of the City Council for Wards 2, 4, and 6, no candidate
12 receives a majority of the total votes cast for the office, the City Council shall immediately upon the
13 determination of that fact, call a special election to be held on November 2, 2021; and

14 WHEREAS, at the June 8, 2021 election, a candidate for election for members of the City
15 Council for Wards 2, 4, and 6 did receive a majority of the total votes cast for the office, and therefore
16 the City of Riverside has not called for a special election for November 2, 2021, for a run off election
17 for each ward. The court in *Silicon Valley Taxpayers' Assn. v. Garner* (2013) 216 Cal.App.4th 402,
18 407-408, held that such a special election for a tax measure can be called even though no candidate is
19 on the ballot; a "regularly scheduled general election" does not mean "actually scheduled general
20 election", because that would limit the opportunities for taxpayers to vote on taxes and thereby
21 contravene one of the stated objectives of Proposition 218; and

22 WHEREAS, Section 501 of the City Charter states that all other municipal elections that may
23 be held by authority of this Charter, or of any law, shall be known as special municipal elections; and

24 WHEREAS, City Council wishes to call and order to be held a special municipal election on
25 November 2, 2021 for the purpose of submitting a certain Charter amendment to the voters; and

26 WHEREAS, the County of Riverside will conduct a Uniform District Election Law (“UDEL”)
27 election on November 2, 2021, concurrent with the special municipal election, and the City Council
28 desires to request that the County of Riverside consolidate the City’s special municipal election with

1 the County’s UDEL election; and

2 WHEREAS, City Charter section 1404 – “Charter; amending” provides that “[t]he City
3 Council must submit any proposed Charter amendment, except for those proposed by voter initiative,
4 to a Charter Review Committee for recommendation before the City Council places the Charter
5 amendment proposal on a ballot;” and

6 WHEREAS, on February 16, 2021 and April 27, 2021, the City Council referred the proposed
7 Charter amendment for the Riverside Services Protection Measure to the Committee for its review and
8 consideration to place on the November 2, 2021 ballot; and

9 WHEREAS, on July 6, 2021, the Charter Review Committee provided a report to the City
10 Council, with its recommendation declining to support the Riverside Services Protection Measure and
11 proposed an alternative Charter amendment.

12 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Riverside,
13 California, based upon the foregoing facts, the reports submitted by staff and the City’s Charter
14 Review Committee and other evidence provided to the City Council, as follows:

15 Section 1: The City Council, pursuant to its right and authority under the City Charter and
16 California law, hereby calls and orders to be held a special municipal election on November 2, 2021,
17 for the purpose of submitting to the qualified electors of the City of Riverside at the Special Municipal
18 Election on November 2, 2021 the following question:

19 **City of Riverside Services Protection Measure.** To maintain such general city services as
20 911 response, fire, paramedic, police, street repairs, parks, senior services; address
21 homelessness; shall the measure amending City of Riverside’s Charter to continue collecting
22 in electric rates and maintain the voter-approved fund transfer (established 1968), limited to
23 11.5% of gross revenue, providing approximately \$40,000,000 annually to City of Riverside’s
24 General Fund not increasing tax or utility rates, until ended by voters, requiring audits/all funds
25 controlled locally, be adopted?

26 Section 2: That only the qualified electors of the City of Riverside are entitled to vote at
27 said election on this proposal to amend the City Charter and that if a majority of the qualified electors
28 voting on the Charter proposal votes in favor of the proposal, said proposal shall be deemed approved.

1 Section 3: That the form and contents of the ballots to be used at said election shall be as
2 provided by law.

3 Section 4: That the City Council consents to the consolidation of the special municipal
4 election hereby called with all other elections being held in the same territory on November 2, 2021,
5 and said elections, where possible, shall be held in all respects as if there were only one election within
6 the City of Riverside and only one form of ballot shall be used in the precincts, and polling places and
7 officers of election for said elections shall be the same as provided for the County UDEL election.

8 Section 5: That in accordance with Section 10002 of the Elections Code, the Board of
9 Supervisors of Riverside County are hereby requested to consent to the Riverside County Registrar of
10 Voters rendering election services to the City of Riverside as may be requested by the City Clerk of
11 said City, the County of Riverside to be reimbursed in full for such services as are performed.

12 Section 6: That the City Clerk shall have charge of all City elections pursuant to Riverside
13 City Charter section 703(f).

14 Section 7: That the City Clerk is hereby designated the “Elections Official” for the
15 purposes of this election pursuant to Elections Code section 320(b).

16 Section 8: That based upon the foregoing authority, the City Clerk shall have charge of
17 this election and shall make all determinations necessary to conducting this election.

18 Section 9: That the City Clerk of said City shall receive the canvass of the Special
19 Municipal Election and shall certify the results to the City Council, as required by law.

20 Section 10: The City Clerk is directed to transmit a copy of the measure to the City Attorney.
21 The City Attorney shall prepare an impartial analysis of the measure pursuant to Elections Code
22 section 9280, showing the effect of the measure on the existing law and the operation of the measure.
23 The analysis shall be printed preceding the arguments for and against the measure.

24 BE IT FURTHER RESOLVED NOW, by the City Council of the City of Riverside, California,
25 based upon the foregoing facts, and the report submitted by staff for the August 3, 2021 City Council
26 meeting, that Resolution No. 23740 is hereby repealed.

1 ADOPTED by the City Council this _____ day of _____, 2021.

2

3

PATRICIA LOCK DAWSON
Mayor of the City of Riverside

4

Attest:

5

6

DONESIA GAUSE
City Clerk of the City of Riverside

7

8

9

I, Donesia Gause, City Clerk of the City of Riverside, California, hereby certify that the
10 foregoing resolution was duly and regularly adopted at a meeting of the City Council of said City at
11 its meeting held on the _____ day of _____, 2021, by the following vote, to wit:

12

Ayes:

13

Noes:

14

Absent:

15

Abstain:

16

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
17 City of Riverside, California, this _____ day of _____, 2021.

18

19

DONESIA GAUSE
City Clerk of the City of Riverside

20

21

22

23

24

25

26

27

28

CA 21-0043.1