



City of Arts & Innovation

# City Council Memorandum

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**TO: HONORABLE MAYOR AND CITY COUNCIL**      **DATE: JULY 20, 2021**

**FROM: CITY MANAGER'S OFFICE**      **WARDS: ALL**  
**CITY CLERK'S OFFICE**  
**CITY ATTORNEY'S OFFICE**

**SUBJECT: ADOPTION OF RESOLUTION TO BE SUBMITTED FOR VOTER CONSIDERATION OF A BALLOT MEASURE TO AMEND THE CITY CHARTER ADDING SECTION 1204.2 ON ELECTRIC UTILITY REVENUE**

**ISSUE:**

Consider adopting resolutions to submit a ballot measure for voter consideration on November 2, 2021 to amend the City Charter by adding a new Section 1204.2 on Electric Utility Revenue.

**RECOMMENDATIONS:**

That the City Council:

1. Adopt the attached Resolution proposing an amendment to the City Charter, with the option of selecting the:
  - a. "The Fiscal Responsibility Act of 2021" as proposed by the Charter Review Committee;  
OR
  - b. "The Riverside Services Protection Measure" as referred by the City Council to the Charter Review Committee on April 27, 2021; OR
  - c. Both; OR
  - d. Consider other options as stated in this report;
  
2. Adopt the attached Resolution calling a special municipal election to be held on November 2, 2021, for the purpose of submitting to the qualified electors of the City of Riverside an amendment to the City Charter with the option of selecting either:
  - a. "The Fiscal Responsibility Act of 2021" as proposed by the Charter Review Committee;  
OR
  - b. "The Riverside Services Protection Measure" as referred by the City Council to the Charter Review Committee on April 27, 2021; OR
  - c. Both; OR
  - d. Consider other options as stated in this report.
  
3. Determine if the Mayor or Members of the City Council wish to author ballot arguments.

## **BACKGROUND**

The City's 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 must be transferred to the general fund (1907 City Charter, section 172).

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.

This 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. As an important source of City revenue, the General Fund Transfer is critical to advancing all general services provided to the public as well as 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.

Subsequent to these approvals, Proposition 218 was adopted by California voters in 1996 and Proposition 26 was adopted in 2010. Both of those propositions amended the California Constitution to provide that certain fees and charges imposed by public agencies must be approved by voters. In general, if a fee or charge for a service exceeds the cost to provide that service, voters must approve the fee or charge. For utilities, Proposition 218 applies to water service and Proposition 26 applies to electric service. Neither of these propositions apply to an investor-owned, private utility like Southern California Edison.

City Charter section 1404 – "Charter; amending" provides the following: "This Charter, and any of its provisions, may be amended in accordance with the Constitution and laws of the State of California. The City Council must submit any proposed Charter amendment, except for those proposed by voter initiative, to a Charter Review Committee for recommendation before the City Council places the Charter amendment proposal on a ballot."

## **DISCUSSION:**

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. In addition to this potential loss of General Fund revenue, the City is also dealing with the recovery from the COVID-19 pandemic, an ongoing structural deficit of approximately \$10 million annually, and the economic impacts of the pandemic such as business closures and unemployment that could further impact the City budget. Notwithstanding new replacement revenue from Measure Z or other sources, the impact would be absorbed through a reduction of personnel and non-personnel

expenditures.

For a point of reference, based on the Fiscal Year 2021/22 budget, the estimated structural deficit of \$10 million was bridged in large measure by holding the non-personnel expenditure budget flat and keeping an estimated 82 positions vacant to benefit from the temporary salary savings. The impacts of losing \$40 million in General Fund revenue would be similar to the measures taken to address the structural deficit, but on a larger scale to proportionately reflect the increased dollar amount of lost revenue.

City Council referral to Charter Review Committee: “Riverside Services Protection Measure”

Riverside has a responsibility to maintain its local funding and financial stability to continue providing the range of public services that residents rely on the most. To maintain this critical General Fund revenue source, which has funded public services in the City of Riverside for at least 50 years (if not from the City’s founding as a charter city), on April 27, 2021, the City Council formally referred the following Charter amendment to the Charter Review Committee for a recommendation. This proposal would amend the Charter to add a section confirming the electric utility transfer, limited to 11.5% of gross revenue. The proposed language for that Charter amendment is as follows:

**Sec. 1204.2. – Electric utility revenue.**

The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for the purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund in twelve equal monthly installments during each fiscal year, an amount not to exceed 11.5 percent of the gross operating revenues, exclusive of surcharges, of the electric utility for the last fiscal year ended and reported upon by independent public auditors. The proceeds shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct such as 9-1-1 response, fire, paramedic, police, street repairs, parks, senior services, homelessness and other general services.

The proposed ballot measure for this Charter amendment is as follows:

**City of Riverside Services Protection Measure.**

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

Community Engagement

In January 2021, the City launched a community engagement effort to identify residents’ priorities and service needs that could be impacted by the loss of the electric utility transfer. This engagement effort began with the Community Issues Survey, which was conducted by California-based research firm Fairbank, Maslin, Maulin, Metz & Associates (FM3), to examine the funding priorities of Riverside residents and the community’s opinion on the Riverside Services Protection Measure. The survey was conducted online and by telephone between January 7-14, 2021

among a random sample of over 700 residents. The study found that a strong majority of respondents support amending the City Charter to maintain local funding by continuing the existing practice of transferring utility revenue to the City's General Fund for use on services such as police, fire, homelessness, and maintaining city streets and parks.

Key findings from the survey are summarized in the attached executive summary (Attachment 1) and include the following:

- 71% of respondents rated Riverside Public Utilities as doing an excellent/good job.
- 65% of respondents rated the Police Department as doing an excellent/good job.
- 88% of respondents rated the Fire Department as doing an excellent/good job.
- More than two-thirds of all respondents indicated they support a voter reauthorization of a budget measure that transfers utility revenue to the general fund for use on services such as 911 response, police/fire, homeless needs, and parks.
- Respondents prioritized ensuring local funding is maintained for public safety services such as 911 response, fire and paramedic services, keeping public areas and parks clean and safe, and addressing homelessness, among other priorities.

In March 2021, the City continued this community engagement effort with the launch of The Riverside Discussion to expand on the input received from the Community Issues Survey and reach a broader community audience to obtain feedback on services that residents rely on the most. The Riverside Discussion included a wide variety of communication methods to engage the community, including citywide mailers, utility bill inserts, website content, social media posts, and presentations to community groups. The engagement effort was designed to inform the community about this important issue and encourage residents to complete a brief survey to identify their City service needs and priorities.

From March through July 2021, approximately 260,000 residents were reached through The Riverside Discussion and roughly 1,800 surveys were completed. Based on the feedback received through The Riverside Discussion survey, the service needs and priorities identified as most important are ranked below in order of priority:

1. Addressing homelessness
2. Maintaining Police and Fire/Paramedic services
3. Investigating and preventing property crimes
4. Keeping public areas and parks clean and safe
5. Retaining local businesses
6. Preparing for and recovering from public health emergencies
7. Preventing and preparing for wildfires
8. Maintaining street repairs

In addition, the City has been learning about a range of other important needs and priorities of the Riverside community.

#### Charter Review Committee Proposal – “The Fiscal Responsibility Act of 2021”

Under Charter section 1404, a Charter amendment requires a review and recommendation, but not approval, by the Charter Review Committee (Committee) before the City Council can consider placing a measure on the ballot. That section provides: “This Charter, and any of its provisions, may be amended in accordance with the Constitution and laws of the State of California. The City Council must submit any proposed Charter amendment, except for those proposed by voter



initiative, to a Charter Review Committee for recommendation before the City Council places the Charter amendment proposal on a ballot.”

On February 16, 2021 and April 27, 2021, the City Council referred the proposed Charter amendment for the Riverside Services Protection Measure to the Committee for its review and consideration to place on the November 2, 2021 ballot. The City Council recommended the Committee provide its recommendation on the Charter amendment by June 16, 2021 in order for the City Council to have enough time to consider that recommendation prior to the August 6, 2021 deadline to place a measure on the November 2021 ballot.

Since the City Council’s February 16, 2021 and April 27, 2021 referral, the Committee met five times to review and consider the proposed Charter amendment for the Riverside Services Protection Measure and several alternative Charter amendment options pertaining to the General Fund Transfer. During the course of these public meetings, the Committee recommended a Charter amendment that would provide a maximum General Fund Transfer of \$38 million beginning in 2022, decreased by \$1 million annually, until the maximum General Fund Transfer decreased to \$30 million, whereupon the maximum General Fund Transfer would remain at \$30 million without adjustment for inflation.

On June 9, 2021, the Committee reviewed, modified, and approved adding a new Section 1204.2 – Electric utility revenue to the City Charter based on the Committee’s proposed Charter amendment. On June 16, 2021, the Committee reviewed, modified, and approved the proposed ballot measure question. Due to technical difficulties and the possibility that all Committee members were not able to participate in the vote during this meeting, the Committee voted to meet again on June 30, 2021 and confirmed its review, revisions to, and approval of the proposed ballot measure question. The Committee’s proposed Charter amendment language and ballot measure question are provided below.

**Proposed City Charter Amendment Language from Charter Review Committee (new section):**

***Sec. 1204.2 – Electric utility revenue***

*The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund as set forth in Section 1204(f), except as set forth in this section. For the electric utility, the annual payment required under Section 1204(f), beginning on January 1, 2022, shall not exceed \$38,000,000. The amount of the annual maximum payment shall then decrease by \$1,000,000 in each subsequent calendar year, until the amount of the maximum annual payment does not exceed \$30,000,000. The proceeds of the annual payment shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct including but not limited to 911 response, fire, paramedic, police, street repairs, parks, senior and/or disabled services, homelessness services, and other general services.*

**Proposed Ballot Measure Question:**

***The Fiscal Responsibility Act of 2021***

*Shall the measure, beginning January 2022, discontinuing the 11.5% tax on electricity, replacing it with a \$38 million fixed amount transferred from Riverside Public Utility to the unrestricted general fund which amount will be reduced annually by \$1 million until this*

*reduction reaches \$30 million and continuing until ended by the voters, be adopted?*

Compliance with Settlement Agreement in Litigation on Electric Utility Transfer

In 2018, the City was served with a lawsuit entitled *Parada v. City of Riverside*, which sought a refund of the transferred monies and a court order preventing the City from continuing the electric transfer going forward, until and unless the City obtains voter approval.

On May 19, 2021, a settlement was announced by the City and Parada Plaintiffs. The mutually-agreed-upon settlement requires the City to place a measure on an upcoming ballot that allows voters to consider whether to authorize a utility fund budget transfer that maintains local funding for essential City services. The Settlement Agreement specifically requires that the City ask voters to approve the GFT as a general tax and approve that rate proceeds may fund that tax.

Should voters so approve, the City would then issue utility credits over a five-year period to local utility ratepayers, as required by the settlement. This settlement, reached with the assistance of a mediator, allows the parties to avoid unnecessary taxpayer-funded litigation and a lengthy appeal, while prioritizing the desire of both parties to honor voters' say and support local residents and businesses.

The Charter ballot measure proposed by the Charter Review Committee does not specifically reference the amendment to the City Charter, which specifies that the electric transfer annual payments can be made from electric rates. Therefore, the City Attorney recommended a non-substantive change to the Charter Review Commission's ballot question, adding the following seven words, if the City Council chooses to place it on the November 2, 2021 ballot:

**Proposed Ballot Measure Question from the Charter Review Committee:**

***The Fiscal Responsibility Act of 2021***

*Shall the measure, **adopting Section 1204.2 to the City Charter**, beginning January 2022, discontinuing the 11.5% tax on electricity, replacing it with a \$38 million fixed amount transferred from Riverside Public Utility to the unrestricted general fund which amount will be reduced annually by \$1 million until this reduction reaches \$30 million and continuing until ended by the voters, be adopted?*

Under the settlement agreement, the Paradas can challenge the Charter amendment and the ballot question that the City places on the ballot for approval by the voters at the November 2, 2021 election as not complying with the settlement agreement. The City, through its outside attorneys, contacted the Paradas' attorneys on July 2, 2021 and asked that they review both proposals – the one referred by the City Council to the Charter Review Committee on April 27, 2021 and the one proposed by the Charter Review Committee. On July 6, 2021, the Paradas' attorneys orally stated that the proposed Charter amendment and ballot measure referred by the City Council to the Charter Review Committee on April 27, 2021 does comply with the settlement agreement. The Paradas' attorneys orally stated that the Charter Review Committee's proposed Charter amendment and ballot measure does not comply with the settlement agreement because the proposed language suggested the City wanted to eliminate the tax, which is inconsistent with the settlement agreement – which requires the City to propose a tax to voters. The City's outside attorneys confirmed this oral conversation in an email and asked that the attorneys confirm their understanding. To date, the attorneys have not objected to the summary. On July 7, the City was informed of the objection.

Based upon that conversation with the Paradas' attorneys, the City Attorney recommends the following change to the ballot measure proposed by the Charter Review Committee, if selected by the City Council to be placed on the ballot:

**Proposed City Charter Amendment Language from Charter Review Committee (new section):**

**Sec. 1204.2 – Electric utility revenue**

*The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund as set forth in Section 1204(f), except as set forth in this section. For the electric utility, the annual payment required under Section 1204(f), beginning on January 1, 2022, shall not exceed \$38,000,000. The amount of the annual maximum payment shall then decrease by \$1,000,000 in each subsequent calendar year, until the amount of the maximum annual payment does not exceed \$30,000,000. The proceeds of the annual payment shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct including but not limited to 911 response, fire, paramedic, police, street repairs, parks, senior and/or disabled services, homelessness services, and other general services.*

**The Fiscal Responsibility Act of 2021**

*Shall the measure, **adopting Section 1204.2 to the Charter**, beginning January 2022, **approving** the 11.5% tax on electricity, **not to exceed an annual** \$38 million fixed amount transferred from Riverside Public Utility to the unrestricted general fund which amount will be reduced annually by \$1 million until this reduction reaches **a not to exceed annual cap of** \$30 million and continuing until ended by the voters, be adopted?*

On July 8, 2021, the City Attorney contacted the Paradas' attorneys to determine if they any objections to this language. The Paradas' attorneys indicated that the proposed charter amendment and ballot question comply with the settlement agreement.

*Options to Incorporate a Reduction or a Cap into the April 27, 2021 City Council referral to Charter Review Committee: "Riverside Services Protection Measure"*

If the City Council wishes to adopt a cap or a fixed amount on the Electric General Fund Transfer, there are several options:

1. The proposed Charter section 1204.2 provides that the transfer shall be in an amount "not to exceed 11.5 percent of the gross operating revenues". The proposed section does not require that the entire amount be transferred. Historically, the City has transferred less than 11.5%. The City Council could adopt a resolution or an ordinance requiring that the City Council reduce the Electric General Fund Transfer by a certain amount each year until the \$30 million dollar cap recommended by the Charter Review Committee is reached.

Such a resolution or ordinance could be repealed by a future City Council, but such repeal would require a public process and hearing before the City Council. The proposal would allow a Council flexibility as to how much of the transfer would be transferred, while allowing the public to provide comments as to desire for a reduction.

2. The City Council could choose to amend its recommendation to reduce the amount of the

transfer by a certain percentage:

**Sec. 1204.2. – Electric utility revenue.**

The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for the purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund in twelve equal monthly installments during each fiscal year, an amount not to exceed **XX** percent of the gross operating revenues, exclusive of surcharges, of the electric utility for the last fiscal year ended and reported upon by independent public auditors. The proceeds shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct such as 9-1-1 response, fire, paramedic, police, street repairs, parks, senior services, homelessness and other general services.

The proposed ballot measure for this Charter amendment is as follows:

**City of Riverside Services Protection Measure.**

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

The amount to be collected (“providing approximately **\$XX**”) would depend upon the percentage selected by the City Council. For each percentage that is reduced from the 11.5%, the amount to be collected annually would also be reduced. For example, a reduction of the electric transfer from 11.5% to 11.25% would be \$38.6 million and a reduction from 11.5% to 11.0% would be \$37.8 million based on the most recently audited financial information.

This proposal would be binding on future City Councils.

3. Both measures could be placed on the ballot. To avoid a conflict, the two proposed Charter amendments should be designated as *Sec. 1204.2. – Electric utility revenue* and *Sec. 1204.3. – Electric utility revenue*, so that it is clear that there are two new sections to the City Charter. Initiatives are deemed to “conflict” if they present themselves as conflicting, or if each creates a comprehensive regulatory scheme related to the same subject. If there is an inconsistency, Elections Code section 9221 provides that the one receiving the highest number of affirmative votes controls. The two ballot measures, as revised to comply with the settlement agreement and referenced in this report, would not be in conflict.

Community Issues Survey

Given the Charter Review Committee’s proposed Charter amendment, and recognizing that many circumstances have changed since January 2021 (e.g. in January the state of the pandemic was very troublesome compared to now when the situation appears to be improving), the City retained FM3 to conduct a follow-up survey to the Community Issues Survey to understand voters’ current opinions on the electric utility transfer and identify any changes in funding priorities.

In June 2021, the City conducted a follow-up survey to assess the community’s response to the current atmosphere and shift given the possible state recall election and to also test the Charter

Review Commission's recommended ballot question along with the City's current recommended ballot question. The Commission's recommended ballot question received 30% less support than the City's recommended version.

### Ballot Arguments

Elections Code Section 9282 provides that for measures placed on the ballot by the legislative body, the legislative body, or a member or members of the legislative body authorized by that body, or an individual voter who is eligible to vote on the measure, or bona fide association of citizens, or a combination of voters and associations, may file a written argument for or against any City measure. Arguments shall not exceed 300 words in length. Arguments are printed in the voter information guide mailed to voters.

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure \_\_\_\_" or "Argument Against Measure \_\_\_\_," accordingly, the blank spaces being filled in only with the letter or number, if any, designating the measure. Measure letters are assigned by the Registrar of Voters upon receipt of the resolution calling the election.

A ballot argument must be accompanied by the printed name and signature or printed names and signatures of the author or authors submitting it, or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument. No more than five signatures shall appear with any argument.

When an argument in favor and an argument against a measure have been selected to be printed in the voter information guide, the City Clerk forwards a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of an argument against the measure to the authors of the argument in favor of the measure.

The author or a majority of the authors of an argument may prepare and submit a rebuttal argument or may authorize in writing another person or persons to prepare, submit, or sign the rebuttal argument. Rebuttal arguments are limited to 250 words and must be filed with the City Clerk no later than ten days after the final filing date for primary arguments. A rebuttal argument relating to a city measure shall not be signed by more than five persons, shall be printed in the same manner as a direct argument, and shall immediately follow the direct argument which it seeks to rebut.

### *More Than One Argument Submitted*

If more than one argument for or against any measure is submitted to the City Clerk, one will be selected for printing in the ballot materials. Elections Code Section 9287 provides that preference and priority be given in the order below to the arguments of the following:

1. The City Council, or one or more Councilmembers authorized by the City Council.
2. An individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
3. Bona fide association of citizens.
4. Individual voters who are eligible to vote on the measure.

The City Council is not legally required to submit an argument for or against a measure and could choose to not designate one of their members to submit such argument.

**FISCAL IMPACT:**

The estimated cost to place a measure on the November 2, 2021 ballot is \$165,000. Sufficient funding is available in the City Clerk Election Services Account No. 120500-421000.

Prepared by: Al Zelinka, FAICP, City Manager  
Donesia Gause, MMC, City Clerk  
Susan Wilson, Assistant City Attorney  
Elliot Min, Deputy City Attorney

Certified as to availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer

Approved by: Al Zelinka, FAICP, City Manager

Approved as to form: Kristi J. Smith, Interim City Attorney

Attachment:

1. Community Issues Survey Executive Summary
2. Charter Review Committee Report
3. Follow-up Survey Executive Summary
4. Resolution proposing an amendment to the City Charter from the Charter Review Committee
5. Resolution submitting City Charter amendment to voters for the Charter Review Committee proposed amendment
6. Resolution proposing an amendment to the City Charter for the proposed Charter amendment referred by the City Council to the Charter Review Committee on April 27, 2021
7. Resolution submitting City Charter amendment to voters for the proposed Charter amendment referred by the City Council to the Charter Review Committee on April 27, 2021
8. Presentation





OPINION  
RESEARCH  
& STRATEGY

**TO** Interested Parties  
**FROM** FM3 Research  
**RE:** City of Riverside Community Issues Survey  
**DATE** February 21, 2021

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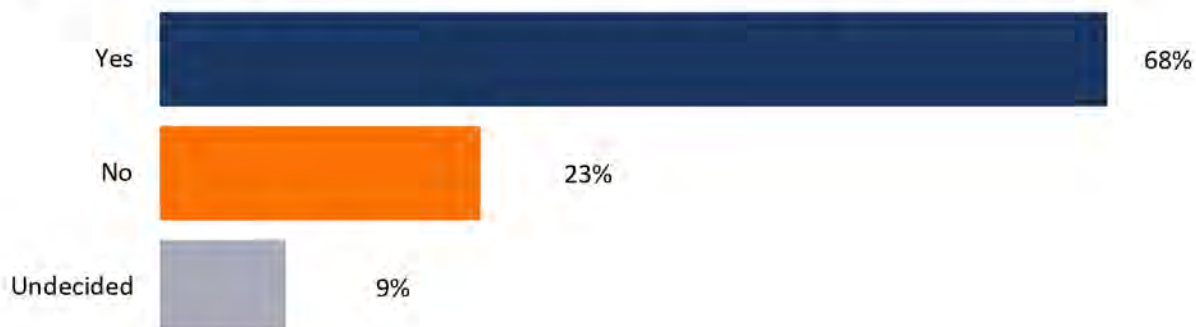
Fairbank, Maslin, Maullin, Metz & Associates (FM3) recently conducted a survey of residents of the City of Riverside to examine community satisfaction and funding priorities<sup>1</sup>. **The study found that a strong majority of respondents support amending the City Charter to maintain local funding and the City's financial stability by continuing the existing voter-approved practice of transferring utility revenue to the City's General Funds for use on services such as 911 response, police/fire, homeless needs, and parks.**

Key findings from the study include:

- **Respondents rated City services in departments such as Riverside Public Utilities, the Fire Department and Police Departments.** Seventy-one percent rated Riverside Public Utilities as doing an excellent/good job. The Police and Fire Departments also received positive ratings with 65% rating the Police Department as doing an excellent/good job and 88% rating the Fire Department as doing an excellent/good job.
- **More than two-thirds of all respondents support a simple-majority measure re-authorizing an existing voter-approved budget procedure that transfers the City's utility revenue to the general fund for use on services such as 911 response, police/fire, homeless needs, and parks. (Figure 1).** Sixty-eight percent of respondents indicated that they support a Voter-reauthorization of such a measure, far exceeding the majority-vote threshold necessary for passage and well outside the survey's margin of error. Support for the measure is significantly greater than the 23% of respondents who said they would oppose it. An additional 9% of respondents were unsure about the measure.



**Figure 1: Support for City Charter Amendment to Continue Providing General Fund Revenue**



- Respondents prioritized ensuring local funding is maintained for public safety services such as 911 response, fire and paramedic services, keeping public areas and parks clean and safe, and addressing homelessness, among other priorities.** Overall, nearly all respondents indicated that “maintaining 911 response” was extremely or very important to fund (93%), as was “maintaining fire and paramedic services” (92% extremely/very important). Similarly, “keeping public areas and parks clean and safe” (87% extremely/very important); “maintaining public safety services” (86% extremely/very important); and “addressing homelessness” (85% extremely important) were highly prioritized by respondents. **Figure 2** below includes a list of the projects and services considered by more than eight-in-ten respondents to be extremely or very important to be funded through the General Fund if the proposed measure passes.

**Figure 2: Top Funding Priorities, Ranked by “Extremely Important/Very Important”**

Funding Priority	“Extremely/Very Important”
Maintaining 911 response	93%
Maintaining fire and paramedic services	92%
Keeping public areas and parks clean and safe	87%
Maintaining public safety services	86%
Addressing homelessness	85%
Preventing and preparing for wildfires	84%
Maintaining essential city services	84%
Preparing for and recovering from public health emergencies	83%
Maintaining local infrastructure	83%
Retaining local businesses	82%
Maintaining street repairs	82%
Investigating and preventing property crimes	81%

Overall, survey results indicate that a large majority (68%) support amending the City Charter and allowing the City to continue transferring funds from electric rates to its General Fund. Respondents prioritize funding for a variety of services and infrastructure needs such as maintaining 911 response and fire and paramedic services; keeping public areas and parks clean and safe; and addressing homelessness.

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<sup>1</sup> Fairbank, Maslin, Maullin, Metz & Associates (FM3) conducted a dual-mode survey online and by telephone (cellular and landline) between January 7-14, 2021, among a random sample of 709 voters registered in the City of Riverside who are likely to participate in a November 2022 General Election, of which 385 respondents are also likely to participate in a 2021 Municipal Election. Interviews were conducted in English and Spanish. The margin of error for participants likely to vote in 2022 Election is +/-4.0%. The margin of error for participants likely to vote in 2021 is +/- 5.0% with a 95% confidence interval.



# City Council Memorandum

City of Arts & Innovation

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**TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: July 6, 2021**

**FROM: CHARTER REVIEW COMMITTEE                      WARDS: ALL**

**SUBJECT: PUBLIC HEARING FOR CHARTER REVIEW COMMITTEE'S FINAL REPORT AND RECOMMENDED CITY CHARTER AMENDMENT AND BALLOT MEASURE REGARDING THE ELECTRIC UTILITY GENERAL FUND TRANSFER.**

**ISSUE:**

To consider the Charter Review Committee's final report and recommended City Charter amendment and ballot measure regarding the electric utility general fund transfer.

**RECOMMENDATION:**

Receive and file the Charter Review Committee's final report of the Committee's recommended City Charter amendment and ballot measure to replace the annual "not to exceed 11.5 percent" general fund transfer from the electric utility into the general fund with a fixed amount not to exceed \$38 million annually, such fixed amount to decrease by \$1 million each subsequent calendar year, until the amount of the maximum annual general fund transfer does not exceed \$30 million.

**BACKGROUND:**

At the time this Report is published, the Charter Review Committee is scheduled for a special meeting on June 30, 2021 when it is anticipated that the Committee will formally adopt its final report to the City Council. The City of Riverside's Sunshine Ordinance (Riverside Municipal Code Title 4) requires twelve (12) days advance notice for regular meetings of the City Council. Therefore, this Report is being timely submitted for the July 6, 2021 City Council meeting prior to the Charter Review Committee's formal adoption of its final report to the City Council.

On June 16, 2021, the Charter Review Committee reviewed but did not formally adopt a draft final report to the City Council ("Final Report"). The Committee directed City staff to work with Committee Chair Ben Clymer, Jr., to revise the draft Final Report and moved to hold a special meeting on June 30, 2021 to formally adopt the draft Final Report. The draft version of the Final Report that was reviewed by the Committee on June 16, 2021 is attached hereto as **Attachment A**.

Following the June 16, 2021 meeting, City staff worked with Chair Ben Clymer, Jr., to revise the draft Final Report to the City Council. The revised version of the draft Final Report is scheduled for Committee consideration on June 30, 2021, and is attached hereto as **Attachment B**.

Any revisions to the draft Final Report made by the Charter Review Committee on June 30, 2021 shall be submitted prior to the July 6, 2021 City Council meeting pursuant to Riverside Municipal Code section 4.05.050.

**FISCAL IMPACT:**

The estimated cost for one ballot measure on the November 2, 2021, election is \$165,000.

Prepared by: Elliot Min, Deputy City Attorney

Approved as to form: Kristi J. Smith, Interim City Attorney

Attachments:

**Attachment A** – June 16, 2021 Charter Review Committee Draft Final Report to City Council w/ Attachments (not yet approved by the Charter Review Committee)

**Attachment B** – June 30, 2021 Charter Review Committee Draft Revised Final Report to City Council w/ Attachments (not yet approved by the Charter Review Committee)





including at two special meetings, to review and consider the proposed City Charter amendment based on the City of Riverside's Services Protection Measure, and to make a recommendation thereon. In addition to receiving input from the public, the Committee interviewed Councilmembers Edwards, Conder, and Melendrez regarding the General Fund Transfer.

On May 5, 2021, a sub-committee tasked with researching the General Fund Transfer presented to the full Committee its findings and three Charter amendment options:

1. To accept the City Council's referred proposed Charter amendment as-is without changes (i.e. GFT up to 11.5%).
2. To repeal both the GFT and the utility user tax ("UUT") and fix or cap the amount that can be transferred, with a reduction over time of the fixed or capped amount.
3. To reduce the 11.5% transfer incrementally over time.

A robust and lengthy discussion ensued, and no formal decision was made at that meeting.

On May 19, 2021, the sub-committee presented to the full Committee six GFT Charter amendment options:

1. Agree with what Council recommends (i.e. no changes).
2. Recommend an incremental decrease over a certain period of time.
3. Recommend a fixed dollar amount rather than a percentage.
4. Eliminate the electric GFT altogether (i.e. hard stop).
5. Propose a "sliding scale" based on population not dollar amount (i.e. increase 0.5% based on 1,000 population increase).
6. Increase the GFT (fixed rate or percentage).

After a robust and lengthy discussion, the Committee approved in concept a proposed amendment to the annual payment by the electric utility into the general fund ("General Fund Transfer" or "GFT") in the City Charter. The Committee proposed a maximum General Fund Transfer of \$38 million beginning in 2022, decreased by \$1 million annually, until the maximum General Fund Transfer decreased to \$30 million, whereupon the maximum General Fund Transfer would remain at \$30 million. The Committee directed staff to return with proposed City Charter amendment language for the Committee's review.

On June 9, 2021, the Committee reviewed, modified, and approved adding a new Section 1204.2 – Electric utility revenue to the City Charter. In addition, the Committee reviewed and approved proposed ballot measure language for the proposed Charter amendment. Both the charter amendment language and the ballot measure label language are provided in detail below.

#### **Proposed City Charter Amendment Language (new section):**

##### **Sec. 1204.2 – Electric utility revenue**

*The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund as set forth in Section 1204(f), except as set forth in this section. For the electric utility, the annual payment required under Section 1204(f), beginning on January 1, 2022, shall not exceed \$38,000,000. The amount of the annual maximum payment shall then decrease by \$1,000,000 in each subsequent calendar year, until the amount of the maximum annual payment does not exceed \$30,000,000. The proceeds of the annual payment shall be used to maintain local general purposes as the City Council may by budget or other*

*appropriation direct including but not limited to 911 response, fire, paramedic, police, street repairs, parks, senior and/or disabled services, homelessness services, and other general services.*

**Issues Raised by Committee in Support:** A fixed amount “de-links” the GFT from electric rates, thereby removing the incentive to increase electric rates to raise general fund revenue. The fixed amount of \$38,000,000 and annual decrease would reduce the cost of electricity to Riverside residents. A gradual decrease to the GFT would require the City to gradually reduce reliance on the GFT, resulting in better fiscal management. (Oral Discussions and Documents presented at May 5, 2021 Meeting).

**Issues Raised by Committee in Opposition:** The City should consider raising the GFT, not decreasing it. As the needs of our community grow, and as the cost of City services increase, we need to be able to raise revenue every year to protect those City services in the future. (Oral Discussions at May 5, 2021 Meeting). The City budget already has a very thin margin of error, and a GFT decrease would be problematic. (Oral Discussions at June 9, 2021 Meeting).

**Votes:**

Proposal in concept: **7 ayes, 3 noes, 1 abstention** (May 5, 2021).

Approval of Charter amendment and ballot measure language: **6 ayes, 2 noes, 1 abstention** (June 9, 2021).

**Proposed Ballot Measure Question:**

MEASURE \_\_\_\_

The Fiscal Responsibility Act of 2021

Beginning January 2022, City will discontinue charging an 11.5 percent tax on electricity replacing it with a \$38 million fixed amount transferred from RPU to the unrestricted general fund. This amount will be reduced annually by \$1 million until this reduction reaches \$30 million. This fixed transfer stabilizes the budget without drastic cuts allowing continued vital services to city residents. In addition, rate payers will experience lower utility bills, while promoting fiscal accountability from elected officials and City Leaders.

**Legal Issues and Recommendations Regarding the Proposed Ballot Measure Question**

California Elections Code section 13119(a) requires ballot questions to include the words: “Shall the measure (stating the nature thereof) be adopted”? Furthermore, if the proposed measure imposes a tax or raises the rate of the tax, the ballot question must include the amount of money to be raised annually and the rate and duration of the tax to be levied (Elec C § 13119(b)). Lastly, the ballot question is limited to 75 words (the title of the question does not count towards the 75 words). Staff recommends that the Committee restate the ballot question to comply with Elec C § 13119 and to be 75 words or less. For the Committee’s reference, Election Code section 13119 is attached hereto as **Attachment A**.



Finally, the ballot question must only include true and impartial descriptions that are not argumentative. The language of the ballot question cannot be false, misleading, or partial to one side. The last two sentences of the ballot question, beginning with “This fixed transfer . . .” and ending with “while promoting fiscal accountability from elected officials and City Leaders” could be subject to accusations that they are false, misleading, and/or partial statements. Staff recommends modifying the last two sentences of the ballot question.

**FISCAL IMPACT:**

Prepared by: Elliot Min, Deputy City Attorney

Approved as to form: Kristi J. Smith, Interim City Attorney

Attachments:

**Attachment A** – Cal Elec Code § 13119

**Attachment B** - Charter Review Committee Member Biographies



**User Name:** Susan Wilson

**Date and Time:** Thursday, June 10, 2021 3:51:00 PM PDT

**Job Number:** 145895573

## Document (1)

1. [Cal Elec Code § 13119](#)

**Client/Matter:** -None-

**Search Terms:** ca Elections code section 13119

**Search Type:** Natural Language

## Cal Elec Code § 13119

Deering's California Codes are current through Chapter 19 of the 2021 Regular Session, including all urgency legislation effective June 1, 2021 or earlier.

*Deering's California Codes Annotated > ELECTIONS CODE (§§ 1 — 23004) > Division 13 Ballots, Sample Ballots, and Voter Pamphlets (Chs. 1 — 6) > Chapter 2 Forms of Ballots: Ballot Order (§§ 13100 — 13121)*

### § 13119. Words to appear on ballot containing measure proposed by local governing body or submitted as initiative or referendum

- (a) The ballots used when voting upon a measure proposed by a local governing body or submitted to the voters as an initiative or referendum measure pursuant to Division 9 (commencing with [Section 9000](#)), including a measure authorizing the issuance of bonds or the incurrence of debt, shall have printed on them the words "Shall the measure (stating the nature thereof) be adopted?" To the right or below the statement of the measure to be voted on, the words "Yes" and "No" shall be printed on separate lines, with voting targets. If a voter marks the voting target next to the printed word "Yes," the voter's vote shall be counted in favor of the adoption of the measure. If the voter marks the voting target next to the printed word "No," the voter's vote shall be counted against its adoption.
- (b) If the proposed measure imposes a tax or raises the rate of a tax, the ballot shall include in the statement of the measure to be voted on the amount of money to be raised annually and the rate and duration of the tax to be levied.
- (c) The statement of the measure shall be a true and impartial synopsis of the purpose of the proposed measure, and shall be in language that is neither argumentative nor likely to create prejudice for or against the measure.
- (d) For purposes of this section, the following terms have the following meanings:
- (1) "Local governing body" means the governing body of a city, county, city and county, including a charter city or charter county, or district, including a school district.
  - (2) "Target" means an object designated as the aim for a voter to make a vote selection.

### History

Added [Stats 1994 ch 920 § 2 \(SB 1547\)](#). Amended [Stats 2015 ch 337 § 1 \(AB 809\)](#), effective January 1, 2016; [Stats 2017 ch 105 § 1 \(AB 195\)](#), effective January 1, 2018; [Stats 2018 ch 57 § 4 \(AB 2835\)](#), effective January 1, 2019; [Stats 2019 ch 863 § 3 \(AB 623\)](#), effective January 1, 2020.

Annotations

### Notes

Derivation:

**Editor's Notes—****Amendments:****Derivation:**

- (a) Former Elec C §§ 3714, 4014, 5156.
- (b) Former Elec C § 10235, as added Stats 1976 ch 248 § 4, amended Stats 1976 ch 1438 § 10.8, Stats 1983 ch 756 § 6.
- (c) Former Elec C §§ 1614, 1714.
- (d) Former Elec C § 1906, as added by Stats 1957 ch 2146 § 1 p 3804.
- (e) Former Pol C § 4058, as added by Stats 1911 ch 342 § 1 p 577, amended by Stats 1911 Ex Sess ch 31 § 1 p 125, Stats 1937 ch 332 § 3 p 727.
- (f) Stats 1911 Ex Sess ch 33 § 1 p 131, as amended by Stats 1915 ch 155 § 1 p 319.

**Editor's Notes—**

For disposition of former provisions, see the table at the beginning of Volume [1 Elec C](#).

For legislative intent, see the 1994 note following Elec C § [13100](#).

**Amendments:****2015 Amendment:**

Added (1) subdivision designation (a); and (2) subd (b).

**2017 Amendment:**

In (a), in the first sentence, substituted "measure proposed by a local governing body or submitted to the voters as an initiative or referendum" for "proposed county, city, or district ordinance submitted to the voters of the respective local government" and added "including a measure authorizing the issuance of bonds or the incurrence of debt"; substituted "measure" for "ordinance" in (a) and (b); and added (c) and (d).

**2018 Amendment (ch 57):**

In (a), in the second sentence, substituted "To the right or below the statement" for "Opposite the statement", deleted "and to its right," following "voted on," and substituted "voting targets" for "voting squares", and substituted "voting target" for "voting square" in the third and last sentences; and rewrote (d) which read: "For purposes of this section, 'local governing body' means the governing body of a city, county, city and county, including a charter city or charter county, or district, including a school district"; and added (d)(2).

**2019 Amendment (ch 863):**

In (a), in the second sentence, substituted "marks" for "stamps a cross (+)", "next to" for "after", and "the voter's" for "his or her"; and in the last sentence, substituted "the voter marks the voting target next to" for "he or she stamps a cross (+) in the voting target after" and "the voter's" for "his or her".

**Research References & Practice Aids**

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**Cross References:**

Marking ballot with respect to measures submitted: Elec C § [14286](#).

**Jurisprudences:**

Cal Jur 3d (Rev) Elections § 136.

Deering's California Codes Annotated  
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*(end of document)*

## CHARTER REVIEW COMMITTEE 2021

**Randolph Ben Clymer, Jr. (Ward 4), Chair;** 7-year Riverside resident; Chief Executive Officer of Ben Clymer's The Body Shop; Prior La Sierra Chamber and Meals on Wheels board member; La Sierra High School Business Academy mentor; Leadership Riverside graduate; Lincoln Club of Riverside County Vice President; Center for Self Governance Board of Directors; Member of Tenth Amendment Center and Greater Riverside Chambers of Commerce.

**Malissa H. McKeith (Ward 3), Vice-Chair;** 10-year Riverside resident; Citizens United for Resources and the Environment President; Attorney in constitutional and municipal law; Colorado River Board member; Base Closure Commission member; California Women Lawyers; American Lung Association of California; Urban Water Institute; and Greater Riverside Chambers of Commerce.

**Warren Avery (Citywide);**

**Pete Benavidez (Ward 6);** 40-year Riverside resident; UCR Graduate; President & Chief Executive Officer for Blindness Support Services, Inc.; Vice Chair of the Riverside Housing Development Corporation; Member and Past President of Latino Network; Member of The Group, The National Vision Serve Alliance; Advisory Committee for The Interwork Institute at San Diego State University; Former Chairperson of the Citizens Advisory Committee for RCTC; Past Chairperson of the Blind Advisory Committee for the State of California Department of Rehabilitation; Past Member of Molina Bridge To Access Committee, and Former Member of the National Rehabilitation Association.

**Larry Burns (Citywide);** 17-year Riverside resident; Riverside City College, Associate Professor; CSU San Bernardino, Center Director; Southern New Hampshire University, Associate Faculty; CBD BEB, LLC Managing Partner; Inlandia Institute, Co-founder and Director Emeritus; Riverside Community Arts Association, Member; Riverside Art Museum, The 52 Project; Greater Riverside Chambers of Commerce, various board assignments; SLATE Inc, Board Member; Los Angeles Urban League, Workforce Advisor; Leadership Riverside Graduate; Budget Engagement Commissioner 2018-present.

**James Goldman (Citywide);** 21-year resident of Riverside; Attorney with Berman, Berman, Berman, Schneider and Lowary working here in Riverside; Married, father of three; Graduate of California State University of San Bernardino and Whittier Law School; Pro Bono representation of adoptive parents for Los Angeles County National Adoption Day.

**Garth Newberry (Ward 2);** 26-year Riverside resident; Retired Art Teacher Rialto

Unified School District; California Teachers Association; Founder/CEO of EV Charging Services LLC; Prior Project Coordinator Gaffoglio Family Metalcrafters Costa Mesa; Jurupa Valley Redevelopment Project Area Committee; Rubidoux Community Services District Board of Directors; Riverside Airport Commission; City of Riverside Charter Review Committee; The Roosevelt/Jamie Williams Foundation Board of Directors; Islamic Development Center Moreno Valley member; Hidden Pioneers Volunteer; Aircraft Owners and Pilots Association; Member of The Group.

**Kori Norsell (Ward 1);** Current 6-year Riverside resident; Previous 13-year Riverside resident; County of Riverside - Department of the Auditor-Controller; Executive Office; Economic Development Agency and Department of Information Technology; Member of Friends of Mt. Rubidoux; Volunteer Riverside Community Hospital; nominee for Riverside County Civil Grand Jury (2021/2022 fiscal year).

**Rafael C. Ramirez (Ward 5);**

**Alia Rodriguez (Citywide);** 15-year Riverside resident; Chief Executive Officer of a non-profit organization, the Corona-Norco United Way; Adjunct Professor at California Baptist University in the History and Government Department; Member of the Corona Chamber of Commerce; Member of the Eastvale Chamber of Commerce; Member of the Norco Chamber of Commerce; Graduate of the City of Moreno Valley Leadership Academy; Current Member of the Corona Chamber of Commerce Executive Leadership Roundtable; Domestic Violence Advocate through the California Partnership to end Domestic Violence; Elsinore First Assembly volunteer; and experienced in local government having worked for the County of Riverside, City of Moreno Valley, City of Eastvale and City of Riverside.

**Brian Saipramuk (Ward 7);** 2-year Riverside resident; Fontana Unified School District Math and Physics teacher; Cal State Fullerton Alumni; Cal State Fullerton Debate Member; Inland Empire Math Teachers' Circle; Good Shepherd Presbyterian Church Member and Volunteer.

**Monrow Mabon (Citywide), Alternate;** Attorney; Associate Pastor at Allen Chapel Church of Riverside; Retired Los Angeles Police Department Commanding Officer; Retired California Senior Supervising State Attorney; Former Member of the Riverside Human Relations Commission; Former Member of the 2019-2020 Riverside Charter Review Committee; Past-President of Riverside Community Settlement Association; Former Member of the Board of Directors of the Riverside Community Health Foundation; Member on the Boards of Directors of other Philanthropic Organizations.





At the June 16, 2021 Committee meeting, the Committee moved to table discussion of the Final Report and to call a special meeting on June 30, 2021 to allow Committee Chair Ben Clymer, Jr., to review and edit the Final Report for discussion on that date. Chair Clymer, Jr.'s, revisions are found in red below. Upon the Committee's review and approval of the Final Report on June 30, 2021, the Committee will present the Final Report to the City Council in July.

The contents of this report will be published with the City Council meeting agenda materials for July 6, 2021. The agenda will be published on June 24, 2021.

### Summary of Charter Review Committee Process

After the February 16, 2021 City Council meeting, the Committee became aware that the City Council would be referring to the Committee for review and consideration a proposed amendment to the City Charter based on the City of Riverside's Services Protection Measure. The proposal would add Section 1204.2 to the City Charter setting the "annual payment by the electric utility into the general fund" (i.e. "General Fund Transfer" or "GFT") at the amount not to exceed 11.5%.

On April 27, 2021, the City Council referred to the Committee the City of Riverside's Services Protection Measure. The City Council recommended the Committee review and make a recommendation as to the proposed City Charter amendment by June 16, 2021.

Since the City Council's April 27, 2021 referral, the 11-member Committee met five times (including at three special meetings), often late into the evening, to review and consider the proposed City Charter amendment based on the City of Riverside's Services Protection Measure, and to make a recommendation thereon. In addition to receiving input from the public, the Committee interviewed Councilmembers Edwards, Conder, and Melendrez regarding the General Fund Transfer.

On May 5, 2021, a sub-committee tasked with researching the General Fund Transfer presented to the full Committee its findings and three Charter amendment options:

1. To accept the City Council's referred proposed Charter amendment as-is without changes (i.e. GFT up to 11.5%).
2. To repeal both the GFT and the utility user tax ("UUT") and fix or cap the amount that can be transferred, with a reduction over time of the fixed or capped amount.
3. To reduce the 11.5% transfer incrementally over time.

A robust and lengthy discussion ensued. A motion to approve the Council-referred City of Riverside's Services Protection Measure without any changes, failed for a lack of second. No formal Committee decision was made at that meeting.

On May 19, 2021, the sub-committee presented to the full Committee six GFT Charter amendment options:

1. Agree with what Council recommends (i.e. no changes).
2. Recommend an incremental decrease over a certain period of time.
3. Recommend a fixed dollar amount rather than a percentage.
4. Eliminate the electric GFT altogether (i.e. hard stop).
5. Propose a "sliding scale" based on population not dollar amount (i.e. increase 0.5% based on 1,000 population increase).
6. Increase the GFT (fixed rate or percentage).



Members of the public brought to the Committee's attention the legality of the GFT as currently in place. Discussion took place of the current *Parada* lawsuit and the potential issue with the water GFT being in noncompliance with law and potential future suit. The potential legality of UUT was also raised. The Committee also discussed the fact that some citizens of Riverside are not required to pay the GFT because they receive water from Western Municipal Water District and questioned whether those revenues should be being transferred to the General Fund to protect services. The committee agreed that those two issues of the water portion of the GFT and the UUT were not in the current purview of current CRC, however could be a potential issue for a subsequent CRC or this Council to address before more litigation is filed.

A motion was once again made to approve the Council-referred City of Riverside's Services Protection Measure without any changes. The motion failed with 7 Noes and 2 Ayes (2 members were absent). Following a robust and lengthy discussion, the Committee approved in concept a proposed amendment to the annual payment by the electric utility into the general fund ("General Fund Transfer" or "GFT") in the City Charter. The Committee proposed a maximum General Fund Transfer of \$38 million beginning in 2022, decreased by \$1 million annually, until the maximum General Fund Transfer decreased to \$30 million, whereupon the maximum General Fund Transfer would remain at \$30 million. The Committee directed staff to return with proposed City Charter amendment language for the Committee's review.

On June 9, 2021, the Committee reviewed, modified, and approved adding a new Section 1204.2 – Electric utility revenue to the City Charter. In addition, the Committee reviewed and approved proposed ballot measure language for the proposed Charter amendment.

On June 16, 2021, based on recommendations from the City Attorney's Office, the Committee reviewed, modified, and approved the proposed Ballot Measure Question. Vice Chair Malissa Mckeith suggested that the Committee vote on the Ballot Measure Question again due to the possibility that all members were not able to participate in the vote due to technical difficulties. It is recommended that this vote occur at the June 30, 2021 special meeting. A member of the public also raised the issue, citing *Trask v. Nicol*, case no. RIC 1603840, of whether the impartial analysis for this ballot measure should be drafted by an attorney or law firm other than the City Attorney or the City Attorney's Office.

Both the charter amendment language and the ballot measure label language are provided in detail below.

**Proposed City Charter Amendment Language (new section):**

**Sec. 1204.2 – Electric utility revenue**

*The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund as set forth in Section 1204(f), except as set forth in this section. For the electric utility, the annual payment required under Section 1204(f), beginning on January 1, 2022, shall not exceed \$38,000,000. The amount of the annual maximum payment shall then decrease by \$1,000,000 in each subsequent calendar year, until the amount of the maximum annual payment does not exceed \$30,000,000. The proceeds of the annual payment shall be used to maintain local general purposes as the City Council may by budget or other*

*appropriation direct including but not limited to 911 response, fire, paramedic, police, street repairs, parks, senior and/or disabled services, homelessness services, and other general services.*

**Issues Raised by Committee in Support:** A fixed amount “de-links” the GFT from electric rates, thereby removing the incentive to increase electric rates to raise general fund revenue. A fixed amount also avoids fluctuations and lends to budget predictability in the GFT when demand is reduced or customers do not pay. The fixed amount of \$38,000,000 and annual decrease would reduce the cost of electricity to Riverside residents. A gradual decrease to the GFT would require the City to gradually reduce reliance on the GFT, resulting in better fiscal management. (Oral Discussions and Documents presented at May 5, 2021 Meeting).

**Issues Raised by Committee in Opposition:** The City should consider raising the GFT, not decreasing it. As the needs of our community grow, and as the cost of City services increase, we need to be able to raise revenue every year to protect those City services in the future. (Oral Discussions at May 5, 2021 Meeting). The City budget already has a very thin margin of error, and a GFT decrease would be problematic. (Oral Discussions at June 9, 2021 Meeting).

**Votes:**

Proposal in concept: **7 ayes, 3 noes, 1 abstention, 1 member absent** (May 5, 2021).

Approval of Charter amendment and ballot measure language: **6 ayes, 2 noes, 1 abstention, 2 members absent** (June 9, 2021).

Approval of Proposed Ballot Measure Question (June 17, 2021): **6 ayes, 2 noes, 3 abstentions** (June 16, 2021).

**Proposed Ballot Measure Question:**

MEASURE \_\_\_\_

The Fiscal Responsibility Act of 2021

Shall the measure, beginning January 2022, discontinuing the 11.5 % tax on electricity, replacing it with a \$38 million fixed amount transferred from Riverside Public Utility to the unrestricted general fund which amount will be reduced annually by \$1 million until this reduction reaches \$30 million and continuing until ended by the voters, be adopted?

**FISCAL IMPACT:**

The estimated cost for one ballot measure on the November 2, 2021, election is \$165,000.

Prepared by: Elliot Min, Deputy City Attorney  
Approved as to form: Kristi J. Smith, Interim City Attorney

Attachment A: Charter Review Committee Member Biographies

## CHARTER REVIEW COMMITTEE 2021

**Randolph Ben Clymer, Jr. (Ward 4), Chair;** 7-year Riverside resident; Chief Executive Officer of Ben Clymer's The Body Shop; Prior La Sierra Chamber and Meals on Wheels board member; La Sierra High School Business Academy mentor; Leadership Riverside graduate; Lincoln Club of Riverside County Vice President; Center for Self Governance Board of Directors; Member of Tenth Amendment Center and Greater Riverside Chambers of Commerce.

**Malissa H. McKeith (Ward 3), Vice-Chair;** 10-year Riverside resident; Citizens United for Resources and the Environment President; Attorney in constitutional and municipal law; Colorado River Board member; Base Closure Commission member; California Women Lawyers; American Lung Association of California; Urban Water Institute; and Greater Riverside Chambers of Commerce.

**Warren Avery (Citywide);** 30-year Riverside resident; Married, father of two—all three are RUSD graduates; Regional Vice President of Sales for Armstrong Flooring; Chair of the RCCD Measure C Bond Oversight Committee; Member of Magnolia Area Neighborhood Alliance; Member of Neighbors Better Together.

**Pete Benavidez (Ward 6);** 40-year Riverside resident; UCR Graduate; President & Chief Executive Officer for Blindness Support Services, Inc.; Vice Chair of the Riverside Housing Development Corporation; Member and Past President of Latino Network; Member of The Group, The National Vision Serve Alliance; Advisory Committee for The Interwork Institute at San Diego State University; Former Chairperson of the Citizens Advisory Committee for RCTC; Past Chairperson of the Blind Advisory Committee for the State of California Department of Rehabilitation; Past Member of Molina Bridge To Access Committee, and Former Member of the National Rehabilitation Association.

**Larry Burns (Citywide);** 17-year Riverside resident; Riverside City College, Associate Professor; CSU San Bernardino, Center Director; Southern New Hampshire University, Associate Faculty; CBD BEB, LLC Managing Partner; Inlandia Institute, Co-founder and Director Emeritus; Riverside Community Arts Association, Member; Riverside Art Museum, The 52 Project; Greater Riverside Chambers of Commerce, various board assignments; SLATE Inc, Board Member; Los Angeles Urban League, Workforce Advisor; Leadership Riverside Graduate; Budget Engagement Commissioner 2018-present.

**James Goldman (Citywide);** 21-year resident of Riverside; Attorney with Berman, Berman, Berman, Schneider and Lowary working here in Riverside; Married, father of three; Graduate of California State University of San Bernardino and Whittier Law School; Pro Bono representation of adoptive parents for Los Angeles County



National Adoption Day.

**Garth Newberry (Ward 2);** 26-year Riverside resident; Retired Art Teacher Rialto Unified School District; California Teachers Association; Founder/CEO of EV Charging Services LLC; Prior Project Coordinator Gaffoglio Family Metalcrafters Costa Mesa; Jurupa Valley Redevelopment Project Area Committee; Rubidoux Community Services District Board of Directors; Riverside Airport Commission; City of Riverside Charter Review Committee; The Roosevelt/Jamie Williams Foundation Board of Directors; Islamic Development Center Moreno Valley member; Hidden Pioneers Volunteer; Aircraft Owners and Pilots Association; Member of The Group.

**Kori Norsell (Ward 1);** Current 6-year Riverside resident; Previous 13-year Riverside resident; County of Riverside - Department of the Auditor-Controller; Executive Office; Economic Development Agency and Department of Information Technology; Member of Friends of Mt. Rubidoux; Volunteer Riverside Community Hospital; nominee for Riverside County Civil Grand Jury (2021/2022 fiscal year).

**Rafael C. Ramirez (Ward 5);** 6-year Riverside resident; Retired, with a background in law enforcement and roadside assistance; Started a local neighborhood watch; Actively involved in a number of charitable organizations; first time Charter Review Committee Member.

**Alia Rodriguez (Citywide);** 15-year Riverside resident; Chief Executive Officer of a non-profit organization, the Corona-Norco United Way; Adjunct Professor at California Baptist University in the History and Government Department; Member of the Corona Chamber of Commerce; Member of the Eastvale Chamber of Commerce; Member of the Norco Chamber of Commerce; Graduate of the City of Moreno Valley Leadership Academy; Current Member of the Corona Chamber of Commerce Executive Leadership Roundtable; Domestic Violence Advocate through the California Partnership to end Domestic Violence; Elsinore First Assembly volunteer; and experienced in local government having worked for the County of Riverside, City of Moreno Valley, City of Eastvale and City of Riverside.

**Brian Saipramuk (Ward 7);** 2-year Riverside resident; Fontana Unified School District Math and Physics teacher; Cal State Fullerton Alumni; Cal State Fullerton Debate Member; Inland Empire Math Teachers' Circle; Good Shepherd Presbyterian Church Member and Volunteer.

**Monrow Mabon (Citywide), Alternate;** Attorney; Associate Pastor at Allen Chapel Church of Riverside; Retired Los Angeles Police Department Commanding Officer; Retired California Senior Supervising State Attorney; Former Member of the Riverside Human Relations Commission; Former Member of the 2019-2020 Riverside Charter Review Committee; Past-President of Riverside Community Settlement Association; Former Member of the Board of Directors of the Riverside



Community Health Foundation; Member on the Boards of Directors of other Philanthropic Organizations.



OPINION  
RESEARCH  
& STRATEGY

**TO** Interested Parties

**FROM** FM3 Research

**RE:** City of Riverside Community Issues Survey

**DATE** June 30, 2021

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Fairbank, Maslin, Maullin, Metz & Associates (FM3) recently conducted a survey of residents of the City of Riverside that examined community satisfaction and funding priorities.<sup>1</sup> The purpose of the study was to test the level of support for a potential measure that may appear on an upcoming City of Riverside ballot. Two versions of the measure were tested: one was the previously recommended ballot question (hereafter referred to as the alternative version 1 measure), and the other by the Riverside Charter Review Committee (hereafter referred to as the CRC) (see **Appendix A**). To test both measures, a random half of the sample of respondents were asked to indicate how they would vote on the previously recommended version, and the other random half of the sample were asked to report on how they would vote on the CRC version.<sup>2</sup> A simple majority (50+1%) is required for passage.

Key findings from the study include:

- **Two-thirds initially support the alternative version 1 measure that amends the City of Riverside's Charter to protect local funding without raising taxes or utility rates by continuing an existing voter-approved budget procedure that transfers a portion of the City's utility revenue to the General Fund for use on services such as 911 response times, street repairs and addressing homelessness (see Figure 1).** Sixty-six percent of respondents indicated that they would vote in favor of re-authorizing the transfer, exceeding the majority-vote threshold necessary for passage and well outside the survey's margin of error. In contrast, only 22% indicated they would oppose it, and an additional 12% were undecided.
- **Just over a third of respondents indicated they would initially vote to support the CRC's recommended measure to establish a fixed amount that is transferred from the City's utility revenue to the General**

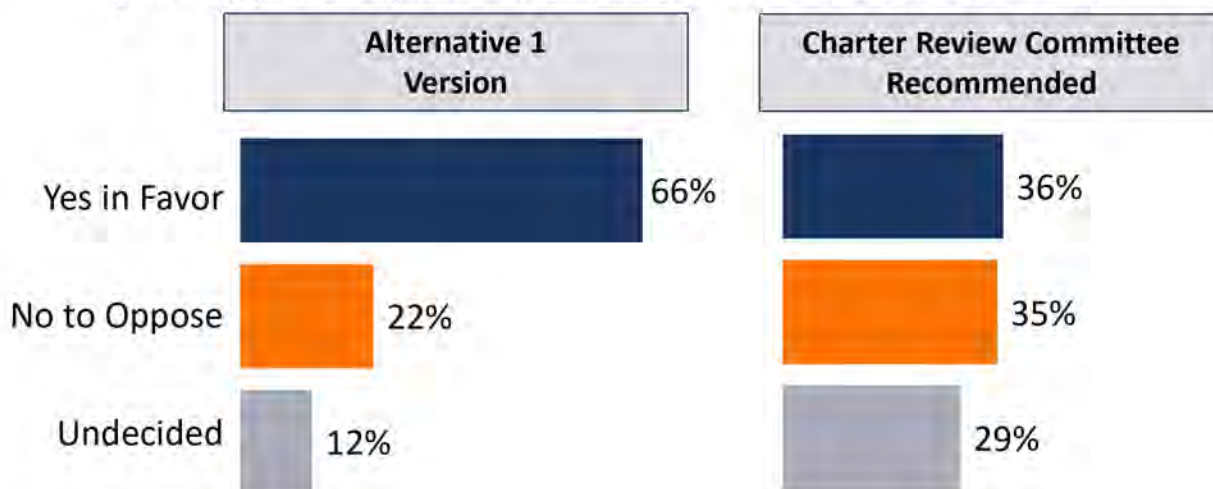
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<sup>1</sup> Fairbank, Maslin, Maullin, Metz & Associates (FM3) conducted a dual-mode survey online and by telephone (cellular and landline) between June 19-28, 2021, among a random sample of 605 voters registered in the City of Riverside who are likely to participate in a 2021 Municipal Election. Interviews were conducted in English and Spanish. The margin of error for this study is +/-4.0% with a 95% confidence interval for the full sample, and +/-5.7% for half the sample.

<sup>2</sup> Each respondent received only one version of the two potential ballot measures and were not informed that another potential version existed. Respondents were randomly selected to receive a particular version of the measure in order to ensure both groups are representative of the demographics in the City of Riverside.

**Fund and reduces the amount transferred by \$1 million annually.** Thirty-six percent of respondents indicated they would be in favor of this measure, while nearly the same percentage indicated they would vote no against it (35%). Approximately, three-in-ten respondents were undecided.

Figure 1: Support for City-Recommended and CRC-Recommended Ballot Measures

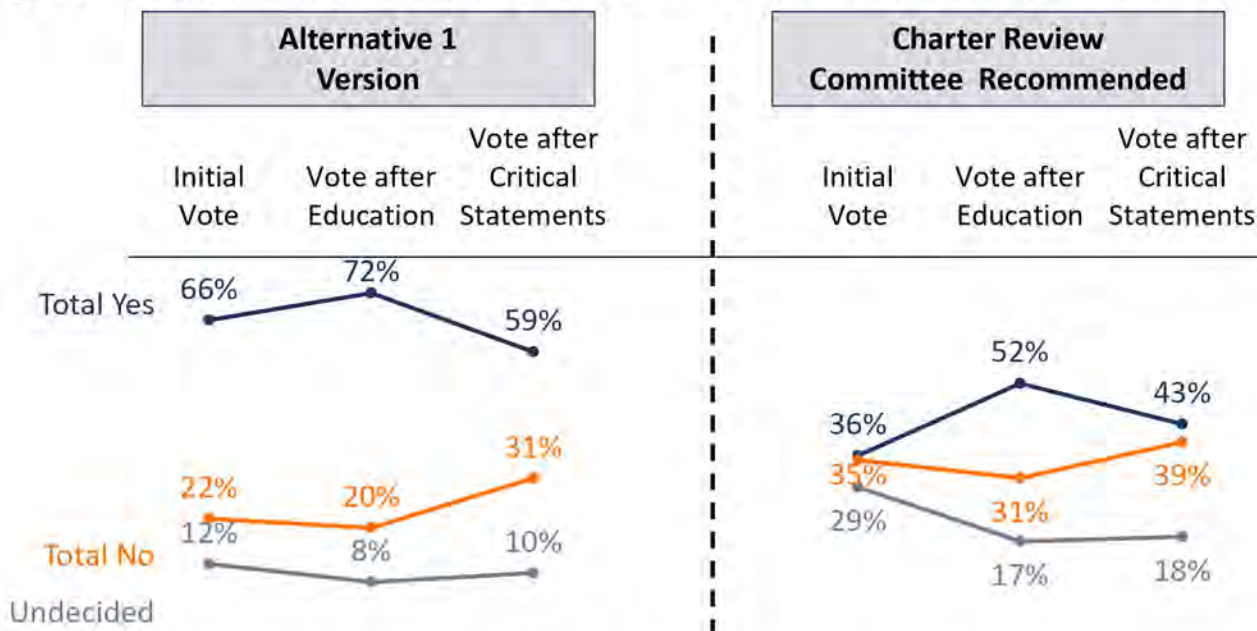


- **After receiving all information about the measure, a majority remain in favor of the alternative version 1 measure’s ballot language, but less than half are supportive of the CRC-recommended version.** Respondents received a variety of statements and information about the measure, including the mechanics of the measure, how the funds transferred to the City’s General Fund could be spent and what some opponents of the measure may say about it. After all information was given, **59% indicated they would vote yes in favor of the alternative version 1**, while 31% indicated they would vote no against it—remaining above the required threshold for passage (see **Figure 2** on the following page).

Among respondents who received the CRC-recommended version, after hearing more about how the measure would improve the City’s fiscal management by requiring a decrease in the transfer of funds from the Riverside Public Utility to the City’s unrestricted General Fund to pay for various services as well as statements from potential opponents, **42% of respondents supported the CRC measure -- below the simple majority threshold needed for passage and outside the survey’s margin of error.** Nearly four-in-ten (39%) indicated they would vote no against the measure, and 18% remained undecided.

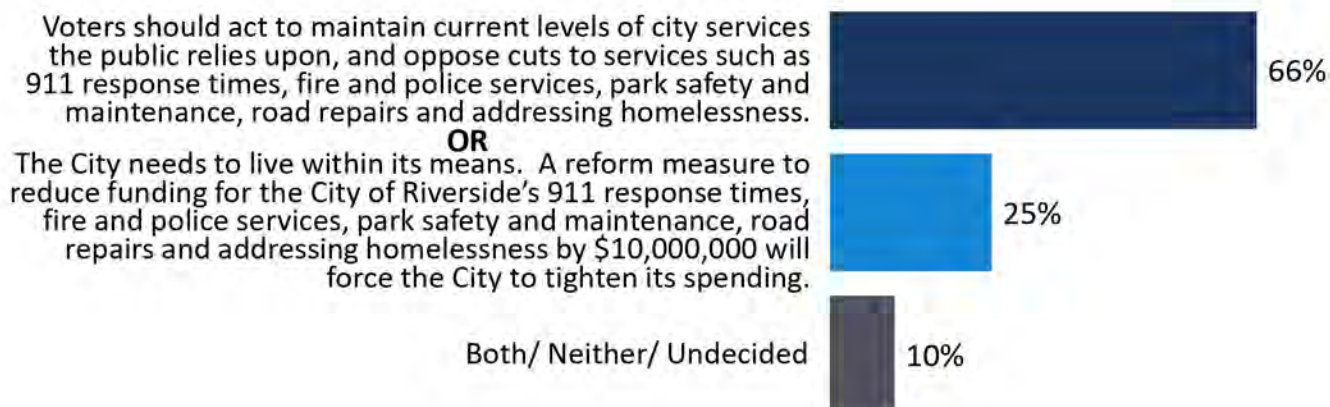


Figure 2: Vote Progression for the Previously Recommended and CRC- Recommended Ballot Measures



- Respondents also agree that voters should act to maintain current levels of city services rather than reducing funding and forcing the City to tighten its spending.** When asked to choose between the two viewpoints, two-thirds of all respondents (66%) chose maintaining current levels of City services and opposed cuts to services such as 911 response times, fire and police services, and addressing homelessness. In contrast, only a quarter (25%) prefer reducing funding for such services by \$10,000,000 to force the City to tighten its spending. Approximately 10% either did not agree with either statement, felt they needed more information, or were unsure (see **Figure 3**).

Figure 3: Respondents’ Opinion on Maintaining Current Levels of City Services or Reduce Funding to Tighten Spending



Overall, survey results indicate that a large majority (66%) support the alternative version 1 measure that would protect local funding for essential services by amending the City Charter and allowing the City to continue transferring funds from electric rates to its General Fund. Respondents are initially split about the CRC-

recommended measure to reform the City's fiscal management by establishing a fixed amount that is transferred from the City's utility revenue to the General Fund, with nearly equal levels of support and opposition. After hearing all information, support for the alternative version 1 measure remains above the required threshold for passage. However, support for the CRC-recommended measure does not reach a simple majority. Lastly, most respondents agree that voters in the City of Riverside should act to maintain current levels of city services on which the public relies and should oppose cuts to such services.





OPINION  
RESEARCH  
& STRATEGY

# Appendix A

## **ALTERNATIVE VERSION 1 BALLOT MEASURE LANGUAGE:**

**CITY OF RIVERSIDE SERVICES PROTECTION MEASURE:** To maintain 911 response times, fire, paramedic, police, street repairs, parks, senior services; address homelessness; maintain other general services, shall the measure amending City of Riverside's Charter to continue collecting in electric rates and maintain the voter-approved fund transfer (established 1968), limited to 11.5% of gross revenue, providing approximately \$40,000,000 annually to City of Riverside's General Fund not increasing tax or utility rates, until ended by voters, requiring audits/ funds controlled locally, be adopted?

## **CHARTER REVIEW COMMITTEE RECOMMENDED BALLOT MEASURE LANGUAGE:**

**THE FISCAL RESPONSIBILITY ACT OF 2021:** Shall the measure, beginning January 2022, discontinuing the 11.5% tax on electricity, replacing it with a \$38 million fixed amount transferred from Riverside Public Utility to the unrestricted general fund which amount will be reduced annually by \$1 million until this reduction reaches \$30 million and continuing until ended by the voters, be adopted?

**REFERENCES CHARTER AMENDMENT PROPOSED BY CHARTER REVIEW COMMITTEE**

RESOLUTION NO.

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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

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 must 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

WHEREAS, Riverside voters have already voted three times in the past to amend the City

1 Charter to allow the City-owned electric utility to transfer a fixed percentage of electric fund revenues  
2 into the City’s General Fund, which provides essential funding for community services such as police,  
3 fire, children’s after-school programs, senior/disabled services; and

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

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

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

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

1 businesses; and

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

7 WHEREAS, on January 19, 2021, the City Council adopted Resolution No. 23670, ordering,  
8 calling, providing for and giving notice of a Special Municipal Election to be held in the City of  
9 Riverside on the 2nd day of November, 2021; and

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

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

17 WHEREAS, on July 6, 2021, the Charter Review Committee provided a report to the City  
18 Council, with its recommendation declining to support the Riverside Services Protection Measure and  
19 proposed an alternative Charter amendment, entitled the Fiscal Responsibility Act of 2021; and

20 WHEREAS, City Council wishes to submit a certain Charter amendment to the voters at the  
21 November 2, 2021, Special Municipal Election.

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

25 Section 1: The City Council, pursuant to its right and authority under California law,  
26 hereby orders that the following question be submitted to the qualified electors of the City of Riverside  
27 at the Special Municipal Election on November 2, 2021, pursuant to Resolution No. 23670:

28 The Fiscal Responsibility Act of 2021

1 Shall the measure, adopting Section 1204.2 to the City Charter, beginning January 2022,  
2 discontinuing the 11.5% tax on electricity, replacing it with a \$38 million fixed amount  
3 transferred from Riverside Public Utility to the unrestricted general fund which amount will  
4 be reduced annually by \$1 million until this reduction reaches \$30 million and continuing until  
5 ended by the voters, be adopted?

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

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

11 Section 4: That in accordance with Section 10002 of the Elections Code, the Board of  
12 Supervisors of Riverside County are hereby requested to consent to the Riverside County Registrar of  
13 Voters rendering election services to the City of Riverside as may be requested by the City Clerk of  
14 said City, the County of Riverside to be reimbursed in full for such services as are performed.

15 Section 5: That the City Clerk shall have charge of all City elections pursuant to Riverside  
16 City Charter section 703(f).

17 Section 6: That the City Clerk is hereby designated the “Elections Official” for the  
18 purposes of this election pursuant to Elections Code section 320(b).

19 Section 7: That based upon the foregoing authority, the City Clerk shall have charge of  
20 this election and shall make all determinations necessary to conducting this election.

21 Section 8: That the City Clerk of said City shall receive the canvass of the Special  
22 Municipal Election and shall certify the results to the City Council, as required by law.

23 Section 9: The City Clerk is directed to transmit a copy of the measure to the City Attorney.  
24 The City Attorney shall prepare an impartial analysis of the measure pursuant to Elections Code  
25 section 9280, showing the effect of the measure on the existing law and the operation of the measure.  
26 The analysis shall be printed preceding the arguments for and against the measure.

27  
28 ADOPTED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2021.



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\_\_\_\_\_  
PATRICIA LOCK DAWSON  
Mayor of the City of Riverside

Attest:

\_\_\_\_\_  
DONESIA GAUSE  
City Clerk of the City of Riverside

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

Ayes:

Noes:

Absent:

Abstain:

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

\_\_\_\_\_  
DONESIA GAUSE  
City Clerk of the City of Riverside

**REFERENCES PROPOSED CHARTER AMENDMENT REFERRED BY CITY COUNCIL ON APRIL 27, 2021 FOR REVIEW BY THE CHARTER REVIEW COMMITTEE**

RESOLUTION NO.

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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

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 must 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

WHEREAS, Riverside voters have already voted three times in the past to amend the City

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2 into the City’s General Fund, which provides essential funding for community services such as police,  
3 fire, children’s after-school programs, senior/disabled services; and

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

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

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

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

1 businesses; and

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

7 WHEREAS, on January 19, 2021, the City Council adopted Resolution No. 23670, ordering,  
8 calling, providing for and giving notice of a Special Municipal Election to be held in the City of  
9 Riverside on the 2nd day of November, 2021; and

10 WHEREAS, City Council wishes to submit a certain Charter amendment to the voters at the  
11 November 2, 2021, Special Municipal Election; and

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

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

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

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

25 Section 1: The City Council, pursuant to its right and authority under California law,  
26 hereby orders that the following question be submitted to the qualified electors of the City of Riverside  
27 at the Special Municipal Election on November 2, 2021, pursuant to Resolution No. 23670:  
28

1           **City of Riverside Services Protection Measure.** To maintain such general city services as  
2           911 response, fire, paramedic, police, street repairs, parks, senior services; address  
3           homelessness; shall the measure amending City of Riverside’s Charter to continue collecting  
4           in electric rates and maintain the voter-approved fund transfer (established 1968), limited to  
5           11.5% of gross revenue, providing approximately \$40,000,000 annually to City of Riverside’s  
6           General Fund not increasing tax or utility rates, until ended by voters, requiring audits/all funds  
7           controlled locally, be adopted?

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

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

13          Section 4:       That in accordance with Section 10002 of the Elections Code, the Board of  
14          Supervisors of Riverside County are hereby requested to consent to the Riverside County Registrar of  
15          Voters rendering election services to the City of Riverside as may be requested by the City Clerk of  
16          said City, the County of Riverside to be reimbursed in full for such services as are performed.

17          Section 5:       That the City Clerk shall have charge of all City elections pursuant to Riverside  
18          City Charter section 703(f).

19          Section 6:       That the City Clerk is hereby designated the “Elections Official” for the  
20          purposes of this election pursuant to Elections Code section 320(b).

21          Section 7:       That based upon the foregoing authority, the City Clerk shall have charge of  
22          this election and shall make all determinations necessary to conducting this election.

23          Section 8:       That the City Clerk of said City shall receive the canvass of the Special  
24          Municipal Election and shall certify the results to the City Council, as required by law.

25          Section 9:       The City Clerk is directed to transmit a copy of the measure to the City Attorney.  
26          The City Attorney shall prepare an impartial analysis of the measure pursuant to Elections Code  
27          section 9280, showing the effect of the measure on the existing law and the operation of the measure.  
28          The analysis shall be printed preceding the arguments for and against the measure.



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ADOPTED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
PATRICIA LOCK DAWSON  
Mayor of the City of Riverside

Attest:

\_\_\_\_\_  
DONESIA GAUSE  
City Clerk of the City of Riverside

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

Ayes:

Noes:

Absent:

Abstain:

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

\_\_\_\_\_  
DONESIA GAUSE  
City Clerk of the City of Riverside

**REFERENCES CHARTER AMENDMENT PROPOSED BY CHARTER REVIEW COMMITTEE**

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE, CALIFORNIA, PROPOSING AN AMENDMENT TO THE CITY CHARTER.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Riverside, California, as follows:

Section 1: That the City Council, pursuant to its right and authority under California law, proposes that the City Charter be amended as shown in Attachment "A".

ADOPTED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
PATRICIA LOCK DAWSON  
Mayor of the City of Riverside

Attest:

\_\_\_\_\_  
DONESIA GAUSE  
City Clerk of the City of Riverside

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

Ayes:

Noes:

Absent:

Abstain:

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

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DONESIA GAUSE  
City Clerk of the City of Riverside

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**Sec. 1204.2 – Electric utility revenue**

The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund as set forth in Section 1204(f), except as set forth in this section. For the electric utility, the annual payment required under Section 1204(f), beginning on January 1, 2022, shall not exceed \$38,000,000. The amount of the annual maximum payment shall then decrease by \$1,000,000 in each subsequent calendar year, until the amount of the maximum annual payment does not exceed \$30,000,000. The proceeds of the annual payment shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct including but not limited to 911 response, fire, paramedic, police, street repairs, parks, senior and/or disabled services, homelessness services, and other general services.

**REFERENCES PROPOSED CHARTER AMENDMENT REFERRED BY CITY COUNCIL ON  
APRIL 27, 2021 FOR REVIEW BY THE CHARTER REVIEW COMMITTEE**

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERSIDE,  
CALIFORNIA, PROPOSING AN AMENDMENT TO THE CITY  
CHARTER.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Riverside,  
California, as follows:

Section 1: That the City Council, pursuant to its right and authority under California law,  
proposes that the City Charter be amended as shown in Attachment "A".

ADOPTED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
PATRICIA LOCK DAWSON  
Mayor of the City of Riverside

Attest:

\_\_\_\_\_  
DONESIA GAUSE  
City Clerk of the City of Riverside

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

Ayes:

Noes:

Absent:

Abstain:

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

\_\_\_\_\_  
DONESIA GAUSE  
City Clerk of the City of Riverside

Attachment A

**Sec. 1204.2 Electric Utility Revenue**

The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for the purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund in twelve equal monthly installments during each fiscal year, an amount not to exceed 11.5 percent of the gross operating revenues, exclusive of surcharges, of the electric utility for the last fiscal year ended and reported upon by independent public auditors. The proceeds shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct such as 9-1-1 response, fire, paramedic, police, street repairs, parks, senior services, homelessness and other general services.

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## BALLOT MEASURE TO AMEND THE CITY CHARTER ADDING SECTION 1204.2 ON ELECTRIC UTILITY REVENUE

City Manager's Office

City Council  
July 20, 2021

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### BACKGROUND

1. The electric utility portion of the General Fund Transfer (GFT) currently provides approximately \$40 million annually, or 14% of the total General Fund operating budget.
2. City voters have approved the General Fund Transfer at three separate elections:
  - a. City Charter has called for transfers from its electric utility to the General Fund since voters adopted the first Charter in 1907.
  - b. In 1968, voters adopted a Charter amendment allowing a General Fund Transfer (GFT) in "an amount not to exceed 11.5%" of the utilities' gross operating revenues for the prior fiscal year.
  - c. This language was approved again by 74% of Riverside voters in 1977.

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## COMMUNITY ENGAGEMENT

1. March 2021 - City launched The Riverside Discussion to receive stakeholder feedback on City service needs and priorities;
2. Over 1,800 participants provided feedback; community priorities include:
  - ✓ Addressing homelessness
  - ✓ Maintaining Police and Fire/Paramedic services
  - ✓ Investigating and Preventing property crimes
  - ✓ Keeping public areas and parks clean and safe
  - ✓ Retaining local businesses
  - ✓ Preparing for and recovering from public health emergencies
  - ✓ Preventing and preparing for wildfires
  - ✓ Maintaining street repairs
3. The City has a responsibility to maintain its local funding and financial stability to continue providing these essential services.



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## CITY COUNCIL REFERRAL TO COMMITTEE Riverside Services Protection Measure

1. Charter section 1404 requires a review and recommendation, but not approval, of a Charter amendment by the Charter Review Committee
2. On February 16 and April 27, 2021, City Council referred a proposed Charter amendment to the Charter Review Committee for consideration:

***Charter Amendment, Sec. 1204.2. – Electric utility revenue.***

The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for the purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund in twelve equal monthly installments during each fiscal year, an amount not to exceed 11.5 percent of the gross operating revenues, exclusive of surcharges, of the electric utility for the last fiscal year ended and reported upon by independent public auditors. The proceeds shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct such as 9-1-1 response, fire, paramedic, police, street repairs, parks, senior services, homelessness and other general services.



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## CITY COUNCIL REFERRAL TO COMMITTEE Riverside Services Protection Measure

3. The proposed ballot measure for this Charter amendment is as follows:

***City of Riverside Services Protection Measure.***

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



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## CHARTER REVIEW COMMITTEE PROPOSAL The Fiscal Responsibility Act of 2021

1. On July 6, 2021, the Charter Review Committee recommended an alternative Charter amendment to the City Council:

***Charter Amendment, Sec. 1204.2 – Electric utility revenue***

The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund as set forth in Section 1204(f), except as set forth in this section. For the electric utility, the annual payment required under Section 1204(f), beginning on January 1, 2022, shall not exceed \$38,000,000. The amount of the annual maximum payment shall then decrease by \$1,000,000 in each subsequent calendar year, until the amount of the maximum annual payment does not exceed \$30,000,000. The proceeds of the annual payment shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct including but not limited to 911 response, fire, paramedic, police, street repairs, parks, senior and/or disabled services, homelessness services, and other general services.

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## CHARTER REVIEW COMMITTEE PROPOSAL The Fiscal Responsibility Act of 2021

2. The proposed Ballot Measure for the Charter amendment proposed by the Charter Review Committee is as follows:

### ***The Fiscal Responsibility Act of 2021***

Shall the measure, adopting Section 1204.2 to the City Charter\*, beginning January 2022, discontinuing the 11.5% tax on electricity, replacing it with a \$38 million fixed amount transferred from Riverside Public Utility to the unrestricted general fund which amount will be reduced annually by \$1 million until this reduction reaches \$30 million and continuing until ended by the voters, be adopted?

*\*The Ballot measure proposed by the Charter Review Committee does not reference the amendment to the City Charter; therefore, City Attorney recommends adding this non-substantive change to the ballot question.*



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## COMPLIANCE WITH SETTLEMENT AGREEMENT

1. *Parada v. City of Riverside* sought a refund of the transferred monies and a court order preventing the City from continuing the electric GFT unless voter approval is obtained.
2. Settlement announced on May 19, 2021, requiring the City to place a measure on the ballot allowing voters to consider the GFT as a general tax and approve that rate proceeds may fund the tax.
3. Paradas can challenge the Charter amendment as not complying with settlement agreement; both proposals were reviewed by their attorneys:
  - a) Paradas' attorney orally stated that the **City Council referred Charter amendment** and ballot measure **does comply** with the settlement agreement;
  - b) Paradas' attorneys orally stated that the **Charter Review Committee's proposed Charter amendment** and ballot measure **does not comply** with the settlement agreement.



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## COMPLIANCE WITH SETTLEMENT AGREEMENT

4. The City Attorney recommends the following change to ballot measure proposed by the Charter Review Committee, if selected by the City Council:

**a) Sec. 1204.2 – Electric utility revenue**

*The revenue of the electric public utility for each fiscal year shall be kept separate and apart from all other moneys of the City by deposit in the appropriate revenue fund and shall be used for purposes and in the order set forth in Section 1204 and for the annual payment by the electric utility into the general fund as set forth in Section 1204(f), except as set forth in this section. For the electric utility, the annual payment required under Section 1204(f), beginning on January 1, 2022, shall not exceed \$38,000,000. The amount of the annual maximum payment shall then decrease by \$1,000,000 in each subsequent calendar year, until the amount of the maximum annual payment does not exceed \$30,000,000. The proceeds of the annual payment shall be used to maintain local general purposes as the City Council may by budget or other appropriation direct including but not limited to 911 response, fire, paramedic, police, street repairs, parks, senior and/or disabled services, homelessness services, and other general services.*



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## COMPLIANCE WITH SETTLEMENT AGREEMENT

**b) The Fiscal Responsibility Act of 2021**

*Shall the measure, **adopting Section 1204.2 to the Charter**, beginning January 2022, **approving** the 11.5% tax on electricity, **not to exceed an annual** \$38 million fixed amount transferred from Riverside Public Utility to the unrestricted general fund which amount will be reduced annually by \$1 million until this reduction reaches **a not to exceed annual cap of** \$30 million and continuing until ended by the voters, be adopted?*



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## COMMUNITY ISSUES SURVEY

1. June 2021 – City retained FM3 to conduct a survey of 605 registered voters to assess community response to The Riverside Services Protection Measure and the Charter Review Committee's recommended measure.
2. Two-thirds of respondents (60%) initially support the Riverside Services Protection Measure and indicated they would vote in favor of re-authorizing the transfer:
  - a) 22% of respondents indicated they would oppose it and 12% were undecided
3. Just over a third of respondents (36%) indicated they would vote to support the Charter Review Committee's recommended measure:
  - a) 35% of respondents indicated they would vote against it and 30% were undecided



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## GFT IMPACT TO RPU

1. If RPU reduced or stopped collecting the 11.5% electric GFT, it would require new rates to be established and approved by the RPU Board and City Council through a new rate setting process, including public meetings, rate adoptions, and potential new challenges.
2. The current electric GFT is 11.5% of the electric rates. Any reduction to the electric GFT could result in a very similar reduction to the currently approved electric rates.
3. The Electric GFT supports staff and services in the General Fund Departments that provide internal services for the entire City, including RPU (i.e. Finance, HR, IT, General Services). If reductions occur to any of these departments, the efficiencies realized through using the internal service departments will be lost, which will negatively impact RPU's project timelines and require RPU to fund additional staff or outsource of these functions.
4. Any reductions to the primarily General Funded portion of the One Stop Shop would reduce RPU's ability to support new businesses development in Riverside.



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## BALLOT ARGUMENTS

1. Elections Code Section 9282 provides that a member(s) of the legislative body may file a written argument for or against any city measure to be printed in the voter information guide.
2. Ballot arguments must be accompanied by the printed name(s) and signature(s) of the author(s), with no more than five signatures on any argument.
3. If more than one argument for or against any measure is submitted, one will be selected based on the following preference and priority:
  - a) The City Council, or one or more Councilmembers authorized by the Council
  - b) An individual voter, or bona fide association of citizens, or combination of voters and associations who are sponsors or proponents of the measure
  - c) Bona fide association of citizens
  - d) Individual voters who are eligible to vote on the measure



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## RECOMMENDATIONS

That the City Council:

1. Adopt the attached Resolution proposing an amendment to the City Charter, with the option of selecting the:
  - a. "The Fiscal Responsibility Act of 2021" as proposed by the Charter Review Committee; OR
  - b. "The Riverside Services Protection Measure" as referred by the City Council to the Charter Review Committee on April 27, 2021; OR
  - c. Both; OR
  - d. Consider other options as stated in this report;



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## RECOMMENDATIONS CONTINUED

2. Adopt the attached Resolution calling a special municipal election to be held on November 2, 2021, for the purpose of submitting to the qualified electors of the City of Riverside an amendment to the City Charter with the option of selecting either:

a. "The Fiscal Responsibility Act of 2021" as proposed by the Charter Review Committee; OR

b. "The Riverside Services Protection Measure" as referred by the City Council to the Charter Review Committee on April 27, 2021; OR

c. Both; OR

d. Consider other options as stated in this report

3. Determine if the Mayor or Members of the City Council wish to author ballot arguments.



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