



# City of Carson Report to Mayor and City Council

August 5, 2014  
New Business Discussion

**SUBJECT: RECONSIDER ADOPTING RESOLUTIONS DECLARING A FISCAL EMERGENCY, CALLING FOR A SPECIAL ELECTION/CONSOLIDATION, REQUESTING PREPARATION OF AN IMPARTIAL ANALYSIS, AND SETTING PRIORITIES FOR SUBMITTING ARGUMENTS RELATED TO EXTENDING THE TERM OF THE UTILITY USERS TAX FROM JUNE 30, 2016 BY SEVEN (7) YEARS TO JUNE 30, 2023**

Submitted by William W. Wynder  
City Attorney

Approved by Nelson Hernandez  
City Manager

## I. SUMMARY

This item is returned to the agenda at the direction of the City Council at its July 15, 2014 meeting and with the concurrence of Councilmember Davis-Holmes. This item is a companion item to the report on the results of a survey, performed by a professional survey research firm, of the residents of Carson regarding their support for a ballot measure in November, 2014, to consider the possible extension of the City's existing Utility Users' Tax ("UUT").

Following the failure to take action on the fiscal emergency resolution, the Council directed (with 1 nay vote by Councilmember Gipson) that this item and related resolutions be returned to the August 5, 2014 Council meeting *and further directed* that a professional survey research firm undertake a statistically valid poll of resident sentiments about placing consideration of extending the UUT on the November, 2014 ballot, and gauge resident support for extending the existing UUT for an additional term of years.

The day after that City Council meeting, we were contacted by Councilmember Gipson objecting to returning agenda item no. 23 and related resolutions to the August 5, 2014 Council agenda on the ground that this item would be subject to the municipal code rules regarding reconsideration.

His objections warranted our careful consideration of the applicability of the rule regarding reconsideration, particularly in the context that the vote by the City Council on the resolution declaring a fiscal emergency resulted in no action being taken. After analysis of the concerns raised by Councilmember Gipson, we are of the considered opinion this agenda item, and the companion resolutions, can be returned to the August 5, 2014 Council agenda notwithstanding the rule regarding reconsideration (a copy of our legal analysis of this issue is attached to this staff report).

The City Council, with the concurrence of Councilmember Davis-Homes (who voted with the prevailing side), is asked to again consider whether to place a

proposed measure before the voters that would extend the Cit’s existing UUT from the current expiration date of June 30, 2016 to June 30, 2023. The proposed measure would be placed before the voters at a special election, to be consolidated with the general election which will be held on November 4, 2014.

Placing the proposed measure before the voters on November 4, 2014 would require that the *following actions be taken and in the following order*:

(1) adopt a resolution declaring a fiscal emergency (declaring a fiscal emergency will require a *unanimous* vote of the entire City Council Members present for the vote);

(2) adopt a resolution calling for the special election and requesting consolidation with the County of Los Angeles (calling the special election will require a *4/5ths vote* of the entire City Council); and

(3) adopt resolutions requesting that the City Attorney’s office prepare an impartial analysis and setting priorities for filing written arguments for or against the proposed measure.

**II. RECOMMENDATION**

CONSIDER and PROVIDE direction.

**III. ALTERNATIVES**

1. WAIVE further reading and ADOPT (in the following order):

A. RESOLUTION NO. 14-066, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, UNANIMOUSLY DECLARING A FISCAL EMERGENCY PURSUANT TO ARTICLE XIII C § 2(b) OF THE CALIFORNIA CONSTITUTION;” *and*

B. RESOLUTION NO. 14-067, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, (1) CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON NOVEMBER 4, 2014, FOR THE PURPOSE OF SUBMITTING THE CARSON UTILITY USERS TAX EXTENSION MEASURE TO THE VOTERS OF THE CITY, AND (2) REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES CONSOLIDATE THE CITY’S SPECIAL ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE;” *and*

C. RESOLUTION NO. 14-068, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS AND SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING THE CARSON UTILITY USERS TAX EXTENSION MEASURE.”

D. RESOLUTION NO. 14-090, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING THE CARSON UTILITY USERS TAX EXTENSION MEASURE."

2. Take such other action as the City Council deems appropriate consistent with the requirements of law.

IV. **BACKGROUND**

***A. Measure C***

The City's current UUT was approved by the voters in 2009 ("Measure C"). The purpose of Measure "C" was to institute a two-percent (2%) tax on electric and gas uses. The revenue generated from the UUT would be used to provide basic services for residents, including but not limited to, law enforcement, gang intervention programs, graffiti removal, youth and senior programs, sidewalk and street repair, and staffing of public parks. Annually, the UUT generates around \$8M in general fund revenue. It was the intent and understanding of the City and well as the voters that Measure "C" deemed a *general tax* and not a *special tax*. Accordingly, increases to the UUT must be submitted to the voters as a general tax.

***B. Voter Threshold Limits General Municipal Election Requirements***

As a general tax, increases and extensions to the UUT must comply with the voter-approval requirements of Proposition 218 (*Cal Const art XIIC section 2(b)*). Under Proposition 218, increases to a general tax must be approved by a majority of voters. If Carson and the voters intended that Measure C be deemed a special tax, then the voter-approval threshold would have been approval by two-thirds of the voters. (*Cal Const art XIIC section 2(d)*).

Additionally, under Proposition 218, the election to increase a general tax UUT (must be consolidated with the City's regularly scheduled general municipal election. (*Cal Const art XIIC section 2(b)*). Special taxes may be approved at any election. Since the City's next general municipal election is not until March 2015, an exemption is necessary to place the proposed measure on the November 4, 2014 ballot.

***C. Process for Placing the Proposed Measure on the November 4, 2014 Ballot***

The City Council must take the following actions to place the UUT on the November 4<sup>th</sup> ballot:

First, the City Council must declare an emergency. Proposition 218 provides no definition for the term "emergency" that justifies calling a special election on a general tax, but most city attorneys believe that this term ought to be interpreted similar to the scope of a city's power to act by urgency ordinance under Gov't Code section 36937. With a UUT tax, the emergency would be a "fiscal"

emergency and the City Council would have to adopt facts and findings supporting the fiscal emergency. Relevant facts and findings that could support declaring a fiscal emergency for the proposed measure may include:

- (1) the loss of \$22M in redevelopment revenue that supported the reducing blight in the City; and
- (2) the loss of \$6M in housing set-aside funds that provided affordable housing in the City; and
- (3) cuts of \$2.5M to the proposed operating budget for fiscal year 2014-2015; and
- (4) the potential loss of \$8M annually in UUT revenue will exhaust the general fund balance.

Second, the City Council must unanimously approve the declaration of a fiscal emergency. Additionally, the resolution calling for the special election must be passed by a two-thirds vote. (*Cal Const art XIII section 2(b)* and Gov't Code section 53724(b)). Accordingly, the declaration of emergency must be approved unanimously by the members of the City Council present while the vote is taken. Also, the resolution calling for the special election must be passed by two-thirds of the City Council, which that equates to a four-fifths (4/5ths) vote for the City's five-member Council.

***D. Consolidation and Costs***

The City typically operates its own general municipal elections and does not consolidate with the County of Los Angeles. Since the November 4, 2014 election will be special election for the City, the City would more than likely request consolidation. The County of Los Angeles estimates that consolidation of the special election will cost \$95,000.

If Carson attempts to conduct the special election as a stand-alone, then a schedule would need to be created with the City Clerk's office, the City's election-operation consultant, Martin & Chapman, and with legal review by the City Attorney's office. Regardless of consolidation or stand-alone, the ***City Council must call the special election by August 8, 2014.***

***E. Timeline***

The ***current UUT expires on June 30, 2016.*** The City Council could attempt to extend the expiration date at the next general municipal election which takes place in March 2015. Doing so would not incur a \$95,000 consolidated special election costs since the City would operate its own general municipal election at that time. Additional special election election opportunities to extend the sunset date include June 2015, November 2015, March 2016, and June 2016.

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V. FISCAL IMPACT

The County of Los Angeles estimates the consolidated special election costs to be \$95,000. Allowing the current UUT to sunset on June 30, 2016 will cost the City around \$8M annually in general fund revenue.

VI. EXHIBITS

1. Resolution No. 14-066. (pgs. 6-9)
2. Resolution No. 14-067. (pgs. 10-13)
3. Resolution No. 14-068. (pgs. 14-15)
4. Resolution No. 14-090. (pgs. 16-17)
5. County of Los Angeles Special Election Cost Estimate. (pg. 18)
6. Legal Opinion. (pgs. 19-21)

Up- dated by: William W. Wynder, City Attorney

TO: Rev07-02-2014

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Public Works
Community Development	Community Services

Action taken by City Council

Date \_\_\_\_\_ Action \_\_\_\_\_

\_\_\_\_\_

RESOLUTION NO. 14-066

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CARSON, CALIFORNIA, UNANIMOUSLY DECLARING A  
FISCAL EMERGENCY PURSUANT TO ARTICLE XIII C §  
2(b) OF THE CALIFORNIA CONSTITUTION

WHEREAS, as recently as five years ago the City and the Nation underwent the worst financial crisis since the great depression and the remnants of the financial crisis impact city budgets today; and

WHEREAS, the City of Carson has a current 2014/2015 proposed operating budget deficit of \$2.5M; and

WHEREAS, the City has experienced a loss of \$6M in housing set-aside funds to assist with affordable housing efforts; and

WHEREAS, if the Utility Users Tax ("UUT") were allowed to expire, the City could experience a potential loss of around \$8M annually in general fund revenue; and

WHEREAS, the loss in general fund revenue will contribute to a substantial exhaustion of the general fund balance, which is used to fund law enforcement, gang intervention programs, graffiti removal, youth and senior programs, sidewalk and street repair, and staffing of public parks and also to address environmental issues and blight impacted by the dissolution of redevelopment and the loss of millions of dollars; and

WHEREAS, the City, like most other cities, has endured several years of damaging "money grabs" by the state of California, such as the \$22M loss of redevelopment funds that had been earmarked for Carson infrastructure projects by the Carson Redevelopment Agency ("RDA"), which, for the past 40 years, was one of the city's primary economic development tools designed to encourage the attraction, retention, and expansion of new and existing businesses to and throughout the City by mitigating the negative effects of physical and economic blight; and

WHEREAS, the City must set aside substantial funds to assist in the possible remediation of sites that may be affected by soil and groundwater issues, including 14 former landfills; and

WHEREAS, the loss of the RDA meant that the City lost an tool and fiscal recourse to remediate the 76 junkyards, the 14 former landfills, and other properties in the community; and

WHEREAS, although a Successor Agency was created to deal with remaining RDA issues, the Successor Agency is not the RDA, does not have access to the funds previously available to the RDA, and is not a viable economic development organization; and

WHEREAS, without a viable long-term alternative to the RDA, the City is left without any formal organizational approach to urban revitalization and urban economic development

EXHIBIT NO 01



efforts in the City; and

WHEREAS, there is a need for the City to generate substantial general fund revenue and reserves to deal with potential environmental emergencies and eliminate blight created by and related to unique land uses present within the City, including but not limited to the following: *first*, there are several crude oil and petroleum product pipelines that transect the City; *second*, there are several petroleum handlers within the City; *third*, the Southern Pacific Pipeline transports an unlimited amount of various products through the City from several locations; *fourth*, the City's geographical location is proximate to the Alameda Corridor rail lines, interstate and state freeways (I-405, I-110, I-710, CA-91), major airport (LAX and Long Beach), ports of Long Beach and San Pedro, and LA River and Dominguez Channel, making it vulnerable to unforeseen emergencies such as earthquakes and floods; and *finally*, the industries located in Carson are very unique and include coal 2 refineries, over 260 miles of active and inactive pipelines that include oil and gas products, over 600 abandoned oil wells, which industries could also cause hazardous and unforeseen situations; and

WHEREAS, the current number of pending public works projects under design or construction in the City amounts to some \$53,366,700, which represents a substantial fiscal responsibility of these projects; and

WHEREAS, the City currently has numerous employment vacancies for positions critical to the success of City operations, and the total cost of filling these vacancies is \$4,973,869.29; and

WHEREAS, the general fund revenue obtained through the UUT is crucial to funding these critical positions, and if the UUT were to expire, the loss of \$8M in general fund revenue would significantly impact the City's ability to fill these vacancies; and

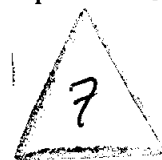
WHEREAS, all of the aforementioned services, projects and employment issues affect the City's ability to maintain the health, safety and welfare of its citizens, and the UUT contributes important revenue to the general fund that is crucial to the maintenance of the same; and

WHEREAS, because citizens repeatedly rank public safety and street maintenance as their top priorities, the city is proposing a solution that would help maintain these important services; and

WHEREAS, the City must create and adopt its budget before the end of the year, and will, at that time, need to plan to include or eliminate certain City programs and services based upon the City's current financial situation; and

WHEREAS, due to this budget deadline, the City cannot wait until the March 2015 general municipal election to place a UUT term extension measure on the ballot, as City staff must know in advance anticipated revenue levels so they can prepare for the many issues listed above; and

WHEREAS, the City Council desires to submit to the voters a proposed measure to



extend the term of the UUT from June 30, 2016 to June 30, 2023; and

WHEREAS, in submitting this measure to the voters, the City Council desires to ensure that the City is kept safe and well-maintained, crime rates and emergency response times are low, City property values are protected, and necessary City services and projects are maintained for the citizens of the City of Carson; and

WHEREAS, California Constitution Article XIII C, Section 2, provides that any general tax must be submitted to the electorate and approved by a majority vote; and

WHEREAS, based upon the foregoing, the City Council determines that it is appropriate to place before the voters, at a November 4, 2014 Special Municipal Election, a ballot measure submitting the question of whether to extend the term of the Carson UUT by seven (7) years from the current date of expiration to June 30, 2023;

NOW, THEREFORE, the CITY COUNCIL of the CITY OF CARSON, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE, and ORDER AS FOLLOWS:

**Section 1.** The forgoing recitals are true and correct and incorporated herein by this reference.

**Section 2.** Pursuant to Article XIII C § 2(b) of the California Constitution, the City Council hereby finds and declares, *by a unanimous vote*, that a fiscal emergency now exists in the City of Carson due to the continued impact of the Statewide budget crisis that still affects the municipal revenue necessary to provide an acceptable level of municipal services for Carson residents.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Carson, California, at a regular meeting held on the 5th day of August, 2014.

\_\_\_\_\_  
JIM DEAR, MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK OF THE CITY OF CARSON

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) SS

I, DONESIA GAUSE, City Clerk of the City of Carson, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of said City Council held on the 5th day of August, 2014; by the following roll call vote:





AYES:  
NOES:  
ABSENT:

COUNCIL MEMBERS:  
COUNCIL MEMBERS:  
COUNCIL MEMBERS:

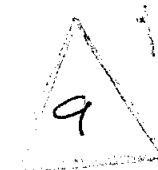
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DONESIA GAUSE, CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY



RESOLUTION 14-067

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, (1) CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON NOVEMBER 4, 2014, FOR THE PURPOSE OF SUBMITTING THE CARSON UTILITY USERS TAX EXTENSION MEASURE TO THE VOTERS OF THE CITY, AND (2) REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES CONSOLIDATE THE CITY'S SPECIAL ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

**WHEREAS**, in or about 2008, the City Council of the City of Carson determined at a regular City Council meeting that it should present to voters of the City of Carson the question of whether to establish a two percent (2%) citywide tax on electric and gas utilities for the purpose of raising general fund revenue to provide basic services for residents, including but not limited to, law enforcement, gang intervention programs, graffiti removal, youth and senior programs, sidewalk and street repair, and staff of public parks (the "Utility Users Tax"); and

**WHEREAS**, on March 3, 2009, the voters of the City of Carson approved the Utility Users Tax by a simple majority; and

**WHEREAS**, the term of the Utility Users Tax is set to expire on June 30, 2016; and

**WHEREAS**, the City Council of the City of Carson would like to extend the term of the Utility Users Tax by seven (7) years from the current date of expiration to June 30, 2023; and

**WHEREAS**, extending the term of the Utility Users Tax requires approval of the majority of voters at either a general or special municipal election; and

**WHEREAS**, the City Council of the City of Carson approved a resolution declaring a fiscal emergency, which allows the City Council of the City of Carson to call for a special election to take place on November 4, 2014; and

**WHEREAS**, the City Council is authorized and directed by statute to submit a measure extending the Utility Users Tax to the voters (the "Utility Users Tax Extension Measure"), all prerequisites for this proposed measure have been met, and the City Council therefore wishes to have the voters consider the Utility Users Tax Extension Measure at a special election to be held on November 4, 2014 (the "Special Municipal Election");

**WHEREAS**, it is desirable that the Special Municipal Election be consolidated with the Statewide General Election (the "Elections") such that:

- (1) the Elections are held on the same date,
- (2) within the city, the precincts, polling places and election officers of the Elections be the same,

EXHIBIT NO 02



(3) the county election department of the County of Los Angeles (“County Election Department”) canvass the returns of the General Municipal Election, and

(4) the Elections be held in all respects as if there were only one election; and

**WHEREAS**, Section 10403(a) of the California Elections Code provides that “whenever a [city] election . . . is to be consolidated with a statewide election,” at least eighty-eight (88) days prior to the date of the election, the City is required to prepare and submit to the Board of Supervisors of the County of Los Angeles (“Board of Supervisors”) “a resolution of its governing board that does all of the following”:

(1) “[r]equests that the [city’s] election be consolidated with the statewide election (Elec. Code § 10403(a)(1));

(2) “[s]ets forth the exact form of the question, proposition, or office to be voted upon at the election, as it is to appear on the ballot” (Elec. Code § 10403(a)(2));

(3) “[a]cknowledges that the consolidated election will be held and conducted in the manner prescribed in [California Elections Code] Section 10418” (Elec. Code § 10403(a)(3);

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** Pursuant to the requirements of the California Elections Code, Sections 306, 9222 and 1301, there is called and ordered to be held in the City of Carson, California, on Tuesday, November 4, 2014, a Special Municipal Election for the purpose of submitting to the voters of the City of Carson the Utility Users Tax Extension Measure. Pursuant to Elections Code Section 9222, it is the intent of the City Council the measure be submitted to the voters of Carson at the aforementioned Special Municipal Election. As required by Elections Code Section 13247, the abbreviated form of the measure to appear on the ballot is specified below in Section 2 of this Resolution. The City Clerk is hereby authorized and directed to make any changes to the text of the proposition or this resolution as required to conform to any requirements of the Los Angeles County Registrar of Voters.

**Section 2.** The City Council hereby orders the following measure be submitted to the voters at the aforementioned Special Municipal Election:

Shall the Carson Utility Users Tax be extended to June 30, 2023 and continue at a two-percent (2%) rate so that the City of Carson may continue to provide basic services for residents, including law enforcement, gang intervention programs, graffiti removal, youth and senior programs, sidewalk and street repair, and staffing of public parks and also address environmental issues and blight impacted by the dissolution of redevelopment and the loss of millions of dollars?	YES
	NO



**Section 3.** The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

**Section 4.** That pursuant to the requirements of Section 10403(a) of the California Elections Code, the Los Angeles County Board of Supervisors is hereby requested to consent and agree to the consolidation of the Special Municipal Election with the Statewide General Election to be held on Tuesday, November 4, 2014.

**Section 5.** The Los Angeles County Registrar of Voters is authorized to canvass the returns of the Special Municipal Election.

**Section 6.** The Elections shall be held and conducted in the manner prescribed in California Elections Code § 10418 and in accordance with the provisions of law regulating statewide elections, as if there were only one election, and only one form of ballot shall be used. The ballots to be used at the Elections shall be in form and content as required by law.

**Section 7.** The Los Angeles County Board of Supervisors is requested to issue instructions to the Los Angeles County Registrar of Voters to take any and all necessary steps for the holding of the consolidated Elections.

**Section 8.** The City of Carson recognizes additional costs will be incurred by the County of Los Angeles by reason of this consolidation, and agrees to reimburse the County for any such additional costs.

**Section 9.** In accordance with Section 10403 of the California Elections Code, the City Clerk is hereby directed to file a certified copy of this Resolution with the Los Angeles County Board of Supervisors and the Los Angeles County Registrar of Voters.

**Section 10.** The City Council authorizes the City Clerk to administer the election, including but not limited to, contracting with the County of Los Angeles, and otherwise take all reasonable necessary steps to ensure the proper handling and conduct of the Special Election authorized by this Resolution, and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

**Section 11.** The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**Section 12.** This Resolution shall be effective immediately upon passage and adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Carson, California, at a regular meeting held on the 5th day of August, 2014.

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JIM DEAR, MAYOR



ATTEST:

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CITY CLERK OF THE CITY OF CARSON

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) SS

I, DONESIA GAUSE, City Clerk of the City of Carson, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of said City Council held on the 5th day of August, 2014; by the following roll call vote:

AYES:                    COUNCIL MEMBERS:  
NOES:                    COUNCIL MEMBERS:  
ABSENT:                 COUNCIL MEMBERS:

\_\_\_\_\_  
DONESIA GAUSE, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
WILLIAM WYNDER, CITY ATTORNEY



RESOLUTION 14-068

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, SETTING PRIORITIES FOR FILING A WRITTEN ARGUMENT REGARDING THE CARSON UTILITY USERS TAX EXTENSION MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

**WHEREAS**, an election is to be held in the City of Carson, California, on November 4, 2014, at which there will be submitted to the voters a ballot measure to consider the question of whether to extend the term of the Carson Utility Users Tax by seven (7) years from the current date of expiration to June 30, 2023; and

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** Pursuant to Election Code §§ 9282 and 9287, the City Council hereby authorizes, but does not require, any or all members of the City Council to file a written argument for or against the foregoing measure.

**Section 2.** In the event that more than one argument for or against the foregoing measure is timely submitted, the City Clerk, acting as the city elections official, shall give preference and priority first, to arguments submitted by a member of the City Council, as authorized by this Resolution, and second, to individual voters, bona fide associations, or a combination thereof, in the order set forth at California Elections Code § 9287.

**Section 3.** In accordance with the requirements of Division 9, Chapter 3, Article 4 of the California Elections Code, all written arguments for or against the foregoing measure: (1) shall not exceed three hundred (300) words in length; (2) shall be filed with the City Clerk; (3) shall be accompanied by the printed name(s) and signature(s) of the person(s) 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 the principal officers who is the author of the argument; and (4) shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument. All written arguments may be changed or withdrawn until and including the date fixed by the City Clerk, after which time no arguments for or against the foregoing measure may be submitted to the City Clerk.

**Section 4.** The City Council hereby directs the City Clerk to transmit a copy of the foregoing measure to the City Attorney. In accordance with California Elections Code § 9280, the City Attorney is hereby directed to prepare an impartial analysis of the measure, not to exceed five hundred (500) words in length, showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

EXHIBIT NO 03



**Section 5.** The City Clerk shall cause the City Attorney's Impartial Analysis, and duly selected arguments, to be printed and distributed to voters in accordance with State law regarding same.

**Section 6.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Carson, California, at a regular meeting held on the 5th day of August, 2014.

\_\_\_\_\_  
JIM DEAR, MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK OF THE CITY OF CARSON

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) SS

I, DONESIA GAUSE, City Clerk of the City of Carson, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of said City Council held on the 5th day of August, 2014; by the following roll call vote:

AYES:                    COUNCIL MEMBERS:  
NOES:                    COUNCIL MEMBERS:  
ABSENT:                 COUNCIL MEMBERS:

\_\_\_\_\_  
DONESIA GAUSE, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
WILLIAM WYNDER, CITY ATTORNEY



RESOLUTION 14-090

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING THE CARSON UTILITY USERS TAX EXTENSION MEASURE

**WHEREAS**, an election is to be held in the City of Carson, California, on November 4, 2014, at which there will be submitted to the voters a ballot measure to consider the question of whether to extend the term of the Carson Utility Users Tax by seven (7) years from the current expiration date of June 30, 2023; and

**WHEREAS**, California Elections Code § 9285 authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments regarding city measures submitted at the election;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** Pursuant to Elections Code § 9285, when the City Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not to exceed two hundred and fifty (250) words in length. The rebuttal arguments shall be filed with the City Clerk not more than ten (10) days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

**Section 2.** All previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

**Section 3.** The provisions of Section 1 of this Resolution shall apply only to the election to be held on November 4, 2014, and shall then be repealed.

**Section 4.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Carson, California, at a regular meeting held on the 5th day of August, 2014.

\_\_\_\_\_  
JIM DEAR, MAYOR

EXHIBIT NO 09





ATTEST:

\_\_\_\_\_  
CITY CLERK OF THE CITY OF CARSON

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) SS

I, DONESIA GAUSE, City Clerk of the City of Carson, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of said City Council held on the 5th day of August, 2014; by the following roll call vote:

AYES:                    COUNCIL MEMBERS:  
NOES:                    COUNCIL MEMBERS:  
ABSENT:                 COUNCIL MEMBERS:

\_\_\_\_\_  
DONESIA GAUSE, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
WILLIAM WYNDER, CITY ATTORNEY



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Los Angeles County Registrar-Recorder/County Clerk

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Dean C. Logan  
Registrar-Recorder/County Clerk

May 19, 2014

Ms. Donesia Gause, City Clerk  
City of Carson  
701 East Carson Street  
Carson, CA 90745

**ESTIMATED COST FOR THE NOVEMBER 4, 2014 GENERAL ELECTION**

Dear Ms. Gause:

As requested, the estimated cost for the City of Carson to participate in the November 4, 2014 General Election with one measure is \$95,000.

The estimated cost is based on the following estimated statistics: 55,576 registered voters, 13,662 permanent vote-by-mail voters, 53 precincts, 8 pages per measure, and 4 other jurisdictions sharing the prorated costs with your City. Changes in any of these factors and overall election statistics, as well as unanticipated increases in labor rates and cost of materials, will have a significant impact on the final costs.

If you have any questions or need additional information, please contact Bernice Liang of my staff at (562) 462-2690.

Sincerely,

DEAN C. LOGAN  
Registrar-Recorder/County Clerk

a n k )

ANN SMITH, Manager  
Fiscal Operations

EXHIBIT NO 05



# MEMORANDUM

July 23, 2014

**TO:** Honorable Mayor & Councilmembers,  
Carson City Council

**FROM:** William W. Wynder, Esq.  
City Attorney *W. Wynder*

**SUBJECT:** *Utility Users' Tax Agenda Item; August 5, 2014 Council Meeting*

**COPIES:** Mr. Nelson Hernandez,  
City Manager  
Mr. Cecil Rhambo,  
Assistant City Manager  
Honorable Donesia Gause,  
City Clerk

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## **I. INTRODUCTION.**

At the last City Council meeting, agenda item no. 23 presented the City Council with a series of actions necessary to declare a fiscal emergency and place consideration of extending the existing Utility Users' Tax ("UUT") on the November, 2014, ballot. The motion to declare a fiscal emergency, the predicate act to placing a ballot measure before the voters in November, was not adopted on a vote of 3 ayes, 1 nay (Councilmember Gipson), and 1 abstention (Councilwoman Davis-Holmes).

Following your failure to adopt a resolution declaring a fiscal emergency, the Council directed (with 1 nay vote by Councilmember Gipson) that the item and related resolutions be returned to the August 5, 2014 Council meeting *and further directed* that a professional survey research firm undertake a statistically valid poll of resident sentiments about placing consideration of extending the UUT on the November, 2014 ballot, and gauge resident support for extending the existing UUT for an additional term of years.

The day after that City Council meeting, we were contacted by Councilmember Gipson objecting to returning agenda item no. 23 and related resolutions to the August 5, 2014 Council agenda on the ground that this item would be subject to the municipal code rules regarding reconsideration. His objections warranted our careful consideration of the applicability of the rule regarding reconsideration, particularly in the context that the vote by the City Council on the resolution declaring a fiscal emergency resulted in no action being taken.

EXHIBIT NO 08



After analysis of the concerns raised by Councilmember Gipson, we are of the considered opinion that agenda item no 23, and the companion resolutions, can be returned to the August 5, 2014 Council agenda notwithstanding the rule regarding reconsideration. Accordingly, the results of the professional poll, the staff report, and the prior resolutions which constituted agenda item no. 23, will be approved by our office for inclusion on the August 5, 2014, City Council agenda.

## II. ANALYSIS

1. Section 2409(F) of the municipal code provides: “A motion to reconsider any *action taken* by the Council *may be made on the day the vote to be considered was taken or at the next succeeding meeting* or at a recessed or adjourned meeting thereof. Such motion must be *made by one (1) of the prevailing side*, but may be seconded by any member; it may be made at any time and have precedence over all other motions; it shall be debatable.” (Emphasis added.)

2. CMC § 2904(F), by its express terms applies only to “action taken.” Since the City Council vote prevented the adoption of a declaration of fiscal emergency, no action was taken that would trigger application of the rule regarding reconsideration. This reading of your municipal *code* is consistent with the commentators’ analysis of the rule regarding reconsideration codified in Robert’s Rules of Order (the default body of parliamentary rules that are followed when your Municipal Code is silent).

3. In explaining the purpose behind Robert’s Rules of Order, Rule No. 36 (the rule regarding reconsideration), the commentators conclude: “[t]he [e]ffect of [m]aking this motion [to reconsider] is to *suspend all action that the original motion would have required* until the reconsideration is acted upon.” (Emphasis added.) Based on this commentary, it seems that a motion to reconsider is ineffective (and, therefore, inapplicable) for purposes of suspending any action when the original vote was to take no action.

4. Finally, even if CMC § 2904(F) applied to this agenda item, there were two members of the City Council who voted on the “prevailing” side of the motion to declare a fiscal emergency – Councilmember Gipson (voting no) and Councilwoman Davis-Holmes (abstaining). Since the resolution declaring a fiscal emergency required a unanimous vote, an abstention had the legal effect of being a no vote – thereby placing Councilwoman Davis-Holmes on the prevailing side. We have conferred with Councilwoman Davis-Holmes and she desires to place the UUT agenda item back on the August 5, 2014 agenda along with the results of the resident poll regarding voter sentiment for the same.

5. In addition, there are two other methods to bring the UUT agenda item back on the agenda for August 5, 2014. First, under Robert’s Rules of Order, Rule No. 37, any vote taken by may be rescinded by a majority vote of the City Council, provided notice of the motion has been given at the previous meeting or in the call for this meeting; or it may be rescinded without notice by a two-thirds vote of the City Council. A motion to rescind may be made by any member; it is debatable, and yields to all privileged and incidental motions.



6. Finally, under Robert's Rules of Order, Rule No. 38, when a main motion or amendment has been adopted, or rejected, it may be introduced again at any future "session" as a renewed motion. The commentators on Robert's Rules of Order opine that a regular weekly, or monthly, or quarterly meeting with an established order of business in a single afternoon or evening, constitutes a separate "session." (*See, The New Robert's Rules of Order (1993) p. 212* ["regular meetings every week, month, or year, for example, each meeting constitutes a separate session . . ."]; *Robert's Rules of Order (10th ed.), p. 79*). Accordingly, each Council meeting can be considered, for purposes of applying Robert's Rules of Order, as a new session and renewed motions regarding the UUT can be placed on the next "session's" agenda.

[END OF MEMORANDUM]

