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CARMEN A. TRUTANICH
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REPORT NO. R 1 2 - 0 3 5 5

NOV 07 2012

REPORT RE:

BALLOT RESOLUTIONS AND BALLOT TITLE RESOLUTION REGARDING A PROPOSED MEASURE TO PROVIDE FUNDING FOR DEPARTMENT OF RECREATION AND PARKS PROGRAMS THROUGH A PARCEL TAX, AND AN ORDINANCE CALLING A SPECIAL ELECTION AND CONSOLIDATING IT WITH THE CITY PRIMARY NOMINATING ELECTION TO BE HELD ON MARCH 5, 2013

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

On October 31, 2013, your Honorable Body requested that this Office prepare the documents necessary to place a recreation and parks funding measure on the March 5, 2013, ballot. The measure would impose an annual \$39 per parcel tax on real properties within the City of Los Angeles to help fund the operations of the Los Angeles Department of Recreation and Parks (Department). This Office now transmits, approved as to form and legality, the ballot resolutions and election ordinance necessary to place the measure on the ballot.

Summary of Measure's Provisions

The ballot measure would provide funding for the operations of the Department through imposition of an annual \$39 tax on each parcel of real property in the City of Los Angeles. The measure would provide for adjustments to the tax rate based on increases in the consumer price index and would provide exemptions for properties owned by governmental agencies or by organizations described in Sections 501(c), 501(d) and 401(a) of Title 26 of the United States Code.

The measure specifies the specific purposes for which tax proceeds would be used. The specific purposes include, but are not limited to: after school programs, anti-gang and anti-bullying programs, programs to address childhood obesity, repairing playground equipment, cleaning restrooms, and operating and maintaining parks and recreation centers. The measure would create a special fund into which tax proceeds would be deposited to be used exclusively for the purposes specified in the measure. Proceeds deposited in this fund would not be subject to reversion to the City's reserve fund.

The measure would provide that the Board of Recreation and Park Commissioners shall adopt an annual Expenditure Plan to ensure that proceeds are expended exclusively for the purposes set forth in the measure. The measure would require that tax proceeds be allocated to recreation and parks programs throughout the various regions of the City based on an allocation plan established by the Board of Recreation and Park Commissioners and approved by the Council. The measure would provide that the Controller shall perform annual audits consistent with the Charter.

Election Requirements

The ballot measure imposes a special parcel tax and therefore must be approved by two-thirds of the voters of the City at the March 5, 2013, election. Cal. Const., Article XIII C, § 2(d).

Council must adopt all resolutions and election ordinances necessary to place a measure on the ballot by no later than 110 days before the election. City Election Code § 601. With regard to the March 5, 2013, election, that deadline for Council action is November 14, 2013.

CEQA

It is the opinion of this Office that adoption of the attached ballot resolutions and election ordinance does not constitute approval of a project for purposes of compliance with the California Environmental Quality Act, and therefore, their adoption does not require preparation of an environmental document at this time.

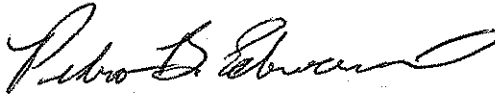
Rule 38 Referral

In compliance with Council Rule 38, the proposed measure has been circulated to the Department, City Administrative Office and Chief Legislative Analyst, and their input has been incorporated.

If you have any questions regarding this matter, please contact Assistant City Attorney Marilyn Garcia at (213) 978-7782. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 
PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:MG:sl
Transmittals

cc: Gerry F. Miller, Chief Legislative Analyst
Miguel A. Santana, City Administrative Officer
June Lagmay, City Clerk
Jon Kirk Mukri, General Manager, Department of Recreation and Parks

RESOLUTION

Resolution providing that a ballot measure be submitted to the qualified voters of the City of Los Angeles.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LOS ANGELES AS FOLLOWS:

Section A. The following ordinance of the City of Los Angeles is hereby proposed to be submitted for approval by a two-thirds vote of the qualified voters of the City of Los Angeles at a Special Election to be called on March 5, 2013, and consolidated with the City Primary Nominating Election to be held on the same date:

ORDINANCE NO. _____

An ordinance amending Chapter II of the Los Angeles Municipal Code by adding a new Article 1.19 to provide funding for Los Angeles recreation and parks services and programs through the imposition of a Special Recreation and Parks Programs Tax on real property parcels within the City of Los Angeles.

WHEREAS, parks, recreation and community facilities in the City of Los Angeles comprise the City's youth infrastructure and are an important part of providing positive alternatives for youth; and

WHEREAS, the City's parks serve millions of people of all ages each year for free or for a fee; and

WHEREAS, State budget cuts have caused the City to make major cuts to its recreation and parks programs, and if the City does not raise additional funds it will be required to continue to cut recreation and park services throughout the City; and

WHEREAS, in response to these drastic cuts and to stabilize its funding, it is hereby proposed to place a "Recreation and Parks Programs Funding Measure" before the voters; and

WHEREAS, an annual \$39 parcel tax with inflation adjustments would help restore and maintain recreation and parks services, such as, but not limited to, after-school programs, anti-gang and anti-bullying programs, programs to address childhood obesity park improvements, repairing playground equipment, cleaning restrooms and operating and maintaining parks recreation centers; and

NOW THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Article 1.19 is added to Chapter II of the Los Angeles Municipal Code to read:

ARTICLE 1.19

SPECIAL RECREATION AND PARKS PROGRAMS PARCEL TAX

SEC. 21.19.1. DEFINITION.

As used in this article, a Parcel shall mean a unit of real property as shown on the last equalized assessment roll of the County of Los Angeles.

SEC. 21.19.2. SPECIAL RECREATION AND PARKS PROGRAMS TAX.

(a) There is hereby imposed a Special Recreation and Parks Programs Parcel Tax (Special Tax) on each Parcel within the City of Los Angeles. The Special Tax shall be levied and imposed each fiscal year, commencing with the fiscal year 2013-14.

(b) This Special Tax is enacted under of the authority of Los Angeles City Charter Section 101, California Government Code Sections 50075 through 50077.5 and 53717, and as otherwise authorized by California law.

SEC. 21.19.3. PURPOSE.

The purpose of this Special Tax is to fund programs and services of the City of Los Angeles Department of Recreation and Parks (Department). Funding shall be used for Department purposes and services, including but not limited to:

- (1) To provide programs for youth, including after-school programs, anti-gang and anti-bullying programs, and programs to address childhood obesity;
- (2) To improve park facilities, such as parks improvements, repairing playground equipment, and cleaning restrooms; and
- (3) To operate and maintain parks and recreation centers, including but not limited to ballfields, playground equipment and swimming pools.

SEC. 21.19.4. EXPENDITURE PLAN, ALLOCATION OF TAX PROCEEDS AMONG CITY REGIONS, AND RELATED COSTS.

The Board of Recreation and Park Commissioners shall develop a plan to allocate equitably tax proceeds to recreation and parks programs throughout various regions of the City, which plan shall be subject to approval by the Council. The allocation plan shall define boundaries for the regions to be used, and shall take into account population, density and the number of Parcels in each region. In connection with the annual budget process, the Board of Recreation and Park Commissioners shall develop and adopt an Expenditure Plan based on the allocation plan, allocating the proceeds of the Special Tax to fund programs and services eligible under this Article and to ensure that the revenues are expended exclusively for the purposes set forth in Section 21.19.3 and not for any other purposes.

SEC. 21.19.5. TAX RATE.

The Special Tax imposed on each Parcel shall be \$39.00 per fiscal year. At least ninety (90) days prior to the start of fiscal year 2014-2015 and the start of each subsequent fiscal year to which the Special Tax applies, the Office of Finance shall determine the Consumer Price Index (CPI) for the calendar year preceding the fiscal year. The City Administrative Officer shall annually compute an increase in the Special Tax imposed on each Parcel by the increase in the CPI of the preceding calendar year. The increase of the Special Tax imposed on each Parcel shall be reported to the Council and approved by ordinance in time to be effective prior to the start of the fiscal year.

SEC. 21.19.6. EXEMPTIONS.

(a) Nothing in this Article shall be construed as imposing a tax upon any person when imposition of that tax upon that person would be in violation of either the Constitutions of the United States or the State of California.

(b) The tax imposed by this Article shall not be levied upon the federal government, the state government, any state agency, or any local government agency.

(c) The tax imposed by this Article shall not be levied upon a Parcel that is owned and used by an organization described in Sections 501(c), 501(d) or 401(a) of Title 26 of the United States Code. All sections of the United States Code shall mean those sections as they exist on the effective date of this Article and as they may be amended thereafter.

SEC. 21.19.7. RECREATION AND PARKS PROGRAMS SPECIAL TAX FUND.

(a) A special fund is hereby established in the City Treasury entitled Recreation and Parks Programs Special Tax Fund (Special Tax Fund). The funds collected pursuant to this Article shall be placed in this Special Tax Fund to be used exclusively for the purpose for which the tax is imposed, and for no other purpose. Funds deposited in this Special Tax Fund shall not be subject to reversion to the Reserve Fund, established under Charter Section 302. This Special Tax Fund may be an interest bearing account. Nothing in this Section shall prevent the use of these funds to reimburse the General Fund when money is advanced from the General Fund to pay for the purposes provided for in this Article. All interest earnings generated by funds on deposit in the Special Tax Fund shall remain in the Special Tax Fund to be used only for the purpose of the Special Tax.

(b) If at the end of any fiscal year, any unencumbered money raised by the Special Tax remains, it may be used in a succeeding fiscal year for the purposes stated in this article.

SEC. 21.19.8. ANNUAL AUDIT AND EVALUATION.

The City Controller shall audit expenditures of revenues received under the provisions of this Article consistent with the City Charter and report thereon to the Council and Mayor on an annual basis.

SEC. 21.19.9. ANNUAL REPORT.

The City Administrative Officer, as the chief fiscal officer of the City of Los Angeles, shall file a report with the Council no later than January 1, 2014, and each year thereafter, which report shall contain: (i) the amount of Special Tax funds collected and expended; and (ii) the status of any program and services funded in part or in whole by Special Tax funds.

SEC. 21.19.10. ADJUSTMENTS AND REFUNDS.

(a) Requests for adjustments involving imposition of the tax under this Article may be filed with the Department. Upon sufficient evidence of error in the computation of the tax, the Los Department shall cause the tax to be recalculated, and shall so advise the Los Angeles County Tax Assessor or other appropriate official.

(b) Whenever it is alleged that the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this Article, the refund procedure shall be as follows:

(i) No claim for refund shall be allowed in whole or in part unless filed with the Department within a period of one year from the date of the claimed overpayment, and each claim for refund of the amount of the overpayment must be filed

on forms furnished, and in the manner prescribed, by the Department. Refunds may be made from the Special Tax Fund.

(ii) If the Department or the Council denies the claim, the Department shall notify the claimant pursuant to California Government Code Section 913.

(c) The Department shall have the same power to compromise claims involving the Special Tax, and the same power to accept and record underpayments or overpayments of the tax, as is granted to the Office of the Controller under Subsections (f) and (g) of Section 21.15 of the Los Angeles Municipal Code with respect to Business Taxes. The Department shall have the same authority to make refunds of this tax as is provided in Section 22.13 of the Los Angeles Municipal Code.

(d) If the County of Los Angeles does not attempt to collect any tax due under this Article, then the Department shall have the power and duty to enforce all of the provisions of this Article. In that case, the Department may make an assessment for taxes not paid against the owner of a Parcel in the manner provided in Section 21.16 of the Los Angeles Municipal Code.

(e) The Special Tax shall be due in two equal installments in accordance with the collection procedures of the Los Angeles County Tax Collector with the first installment due November 1st and the second installment due February 1st in each fiscal year. The owner of a Parcel at the time set forth in California Revenue and Taxation Code Sections 405, shall have a personal obligation to the City of Los Angeles until the tax is paid for each fiscal year.

SEC. 21.19.11. SUBMISSION TO VOTERS.

The ordinance enacting this Article shall be submitted to the voters of the City of Los Angeles at the Special City Election held on March 5, 2013, and consolidated with the City primary nominating election held on the same date. The taxes determined and proposed by this Article shall be levied only if the ordinance is approved by a vote of not less than two-thirds of the voters voting. If the ordinance is approved by the requisite number of voters, the Article shall thereafter be considered a part of the Los Angeles Municipal Code. Amendments to procedural provisions of this Article may be made by ordinance adopted by the Council.

SEC. 21.19.12. SEVERABILITY CLAUSE.

If any provision of this Article is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Sec. B. The City Clerk is hereby authorized and directed to publish a notice containing the proposed ballot measure, specifying the date of March 5, 2012 as the date the measure is to be voted upon by the qualified voters of the City of Los Angeles. The notice shall be published once in a newspaper of general circulation in the City of Los Angeles, and in each edition thereof during that day of publication. The City Clerk is authorized and directed to prepare and keep in the City Clerk's office a sufficient supply of copies of the proposed ballot measure and to distribute the proposed ballot measure to any and all persons requesting a copy. Further, the City Clerk is authorized and directed to mail copies of the proposed ballot measure to each of the qualified voters of the City of Los Angeles.

Sec. C. The City Clerk is hereby authorized and directed to cause a notice to be published once in a newspaper of general circulation that copies of voter information pamphlets containing the proposed ballot measure may be obtained upon request in the City Clerk's office.

Sec. D. The City Clerk shall file a duly certified copy of this Resolution forthwith with the Board of Supervisors and with the Registrar-Recorder of the County of Los Angeles.


I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 
MARILYN GARCIA
Assistant City Attorney

Date November 7, 2012

C.F. No. 13-1100S2

RESOLUTION

WHEREAS, the Council of the City of Los Angeles has adopted a resolution to place an ordinance before the qualified voters of the City of Los Angeles at the March 5, 2013, Special Election to be consolidated with the City Primary Nominating Election to be held on the same date; and

WHEREAS, the City Election Code requires the City Attorney to prepare and present a ballot title and question consisting of an impartial statement of the measure; and

WHEREAS, the City Attorney has presented the following ballot title and question for the proposed measure:

**RECREATION AND PARKS PROGRAMS FUNDING.
PROPOSITION ____.**

To restore and maintain services administered by the City's Department of Recreation and Parks, such as but not limited to, after-school programs, anti-gang and anti-bullying programs, programs to address childhood obesity, repairing playground equipment, cleaning restrooms and maintaining parks and recreation centers, shall an annual tax of \$39 with adjustments for inflation, be levied on each parcel of real property in the City of Los Angeles, where the taxes generated shall be equitably allocated to programs throughout various regions of the City, and with mandatory financial audits of the overall program?

NOW, THEREFORE, BE IT RESOLVED that the ballot title and question presented by the City Attorney be adopted by the City Council.

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

C.F. No. 13-1100S2

ORDINANCE NO. _____

An ordinance calling a Special Election to be held on Tuesday, March 5, 2013, for the purpose of submitting to the qualified voters of the City of Los Angeles a certain tax measure and consolidating this Special Election with the City's Primary Nominating Election to be held on the same date.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A Special Election is hereby called to be held in the City of Los Angeles on March 5, 2013, for the purpose of submitting to the qualified voters of the City a certain measure ordered submitted by the Council of the City of Los Angeles.

Sec. 2. The ballot title and question to be used at the Special Election for the measure to be submitted to the qualified voters of the City of Los Angeles shall be:

**RECREATION AND PARKS PROGRAMS FUNDING.
PROPOSITION ____.**

To restore and maintain services administered by the City's Department of Recreation and Parks, such as but not limited to, after-school programs, anti-gang and anti-bullying programs, programs to address childhood obesity, repairing playground equipment, cleaning restrooms and maintaining parks and recreation centers, shall an annual tax of \$39 with adjustments for inflation, be levied on each parcel of real property in the City of Los Angeles, where the taxes generated shall be equitably allocated to programs throughout various regions of the City, and with mandatory financial audits of the overall program?

Sec. 3. The measure shall be designated on the ballot or ballot pages by a letter or number determined by the City Council in accordance with applicable City and state laws. Upon the designation by the proper officials of the letter or number to be assigned to the measure, that letter or number is hereby adopted and shall be the designation for the ballot title.

Sec. 4. To vote on the measure, the voter shall mark the ballot next to the word "Yes" or the word "No." A "Yes" vote shall be counted in favor of adoption of the measure, and a "No" vote shall be counted against adoption of the measure.

Sec. 5. The Special Election hereby called shall be, and hereby is ordered to be, consolidated with the City's Primary Nominating Election to be held in the City of Los Angeles on Tuesday, March 5, 2013.

Sec. 6. The voting polls on election day shall open at 7:00 a.m., March 5, 2013, and shall remain open until 8:00 p.m. of the same day when the voting polls shall be closed, except as provided in City Election Code Section 857.

Sec. 7. The election precincts, polling places, and officers of election for the Special Election shall be the same as those provided in the City of Los Angeles for the Primary Nominating Election, and the elections shall be held in all respects as if there were only one election. Furthermore, for the precincts, polling places, and officers of election, reference is hereby made to the list that will be prepared and approved by the City Clerk and filed in the City Clerk's Office not later than February 3, 2013, and that list is incorporated into and made part of this ordinance.

Sec. 8. In all other particulars, the Special Election shall be held and conducted as provided by law for the conduct of the Primary Nominating Election in the City of Los Angeles.

Sec. 9. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 
MARILYN GARCIA
Assistant City Attorney

Date November 7, 2012

File No. C.F. No. 13-1100S2