



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 6 - 0 3 4 6
NOV 0 3 2016

REPORT RE:

**BALLOT RESOLUTIONS REGARDING A PROPOSED CHARTER AMENDMENT
CHANGING THE MAXIMUM LENGTH OF FRANCHISES, CONCESSIONS,
PERMITS, LICENSES AND LEASES THAT MAY BE ISSUED BY
THE HARBOR DEPARTMENT FROM FIFTY TO SIXTY-SIX YEARS,
AND ORDINANCE CALLING AN ELECTION FOR THE MEASURE ON MARCH 7, 2017**

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 November 2, 2016, your Honorable Body requested this Office prepare the documents necessary for a proposed Charter amendment changing the maximum allowable length of leases that may be issued by the Harbor Department from fifty to sixty-six years. This Office hereby transmits, approved as to form and legality, the ballot resolutions and election ordinance necessary to place the proposed Charter amendment on the ballot at the March 7, 2017 Primary Nominating Election. (See Attachment 1)

Background and Summary of the Proposed Measure

City Charter Section 607 currently provides that the City's three proprietary departments may issue franchises, concessions, permits, licenses and leases for terms that shall not exceed 30 years or the term specified by applicable federal or state law, whichever is less. Section 607 also provides, however, that if Council makes a finding that a term longer than 30 years would be in the best interest of the City, Council may by a two-thirds vote, subject to Mayoral veto, or three-fourths vote over the veto of the Mayor, authorize a term up to 50 years, or the maximum period allowed by any federal or state law, whichever is less.

Prior to October 2015, State law provided in Section 1 of Chapter 651 of the Statutes of 1929 that the City could grant franchises, permits and leases of Harbor Department lands for limited periods not to exceed 50 years. In October 2015, the Governor approved SB399, which amended Section 1 of Chapter 651 of the Statutes of 1929 to allow the City to grant franchises, permits and leases of Harbor Department lands for terms not to exceed 66 years.

On October 28, 2016, Councilmember Buscaino introduced a motion, seconded by Council President Wesson, proposing a Charter amendment to increase the maximum allowable term of Harbor Department leases to track the changes SB399 made to State law. The motion called on the City Council to request "the City Attorney to prepare and present the necessary documents to place a charter Amendment on the March 7, 2017, Primary Nominating Election ballot to amend the City Charter to allow the Harbor Department to approve lease contracts for a term of up to 66 years, consistent with State law and with Council approval."

The proposed Charter amendment, if approved by the voters, would amend Section 607 of the City Charter to increase the maximum length of the terms of franchises, concessions, permits, licenses and leases issued by the Harbor Department from the current maximum of 50 years to a new maximum of 66 years. This change would realign the maximum term length for Harbor Department leases in the Charter with the maximum term length provided in the recently-amended State law. The proposed Charter amendment would not change the maximum term length for the Airports Department or the Department of Water and Power. The proposed Charter amendment would retain the language in Section 607(a) requiring Council approval of long term leases, and also continue to provide that if a shorter maximum term length is specified in federal or State law, that shorter term length limit would govern over the Charter's term length limit.

Election Deadline

City Election Code Section 601 requires that final resolutions to place a measure on the ballot be adopted no less than 110 days before the election. With regard to the March 7, 2017 Primary Nominating Election, and in light of Council's upcoming recess, the last date for Council to take action to place a measure on the ballot is November 9, 2016.

The Honorable City Council
of the City of Los Angeles
Page 3

If you have any questions regarding this matter, please contact Assistant City Attorney Christopher B. Bobo at (310) 732-3750. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By

A handwritten signature in dark ink, appearing to read "D. Michaelson", written over a horizontal line.

DAVID MICHAELSON
Chief Assistant City Attorney

DM:CBB:pj
Transmittal

Attachment 1

RESOLUTION

WHEREAS, the Council of the City of Los Angeles has adopted a resolution to place a Charter amendment before the qualified voters of the City of Los Angeles at a Special Election to be called and consolidated with the City's Primary Nominating Election held on March 7, 2017; 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 measure:

MAXIMUM TERM OF HARBOR DEPARTMENT LEASES. CHARTER AMENDMENT ____.

Shall the City Charter be amended to increase the maximum term for franchises, concessions, permits, licenses and leases that may be entered into by the Harbor Department from the current maximum of 50 years to a new maximum of 66 years, to be consistent with recent changes to state law?

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 _____.

HOLLY L. WOLCOTT, City Clerk

By _____
Deputy

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 amendment to the Charter of the City of Los Angeles is hereby proposed to be submitted for approval by a majority of the qualified voters of the City of Los Angeles at a Special Election to be called and consolidated with the City's Primary Nominating Election on March 7, 2017:

CHARTER AMENDMENT _____

Section 1. Section 607 of the Charter of the City of Los Angeles is amended to read as follows:

Sec. 607. Limitations on Franchises, Concessions, Permits, Licenses and Leases.

Franchises, concessions, permits, licenses and leases shall be subject to further limitations specified in this Article for each Proprietary Department and the following:

(a) **Length.** The term shall not exceed 30 years or the term specified by applicable federal or state law, whichever is less. If Council makes a finding that a term longer than 30 years would be in the best interest of the City, Council may, by a two-thirds vote, subject to Mayoral veto, or three-fourths vote over the veto of the Mayor, authorize a term up to 50 years for the Airports Department and Department of Water and Power and a term up to 66 years for the Harbor Department, or the maximum period allowed by any federal or state law, whichever is less.

(b) **Compensation Adjustments.** Every franchise, concession, permit, license, or lease shall include a procedure to adjust the compensation periodically but in no case shall the period between adjustments exceed five years.

Sec. B. The City Clerk is hereby authorized and directed to publish a notice containing the proposed ballot measure, specifying the date of March 7, 2017, 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 _____.

HOLLY L. WOLCOTT, City Clerk

By _____ Deputy

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
DAVID MICHAELSON
Chief Assistant City Attorney

Date 11-3-16

ORDINANCE NO. _____

An ordinance calling a Special Election to be held on Tuesday, March 7, 2017, for the purpose of submitting to the qualified voters of the City of Los Angeles a certain amendment to the City Charter 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 7, 2017, for the purpose of submitting to the qualified voters of the City a certain amendment to the City Charter ordered to be placed on the ballot 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 ballot measure to be submitted to the qualified voters of the City of Los Angeles shall be:

**MAXIMUM TERM OF HARBOR DEPARTMENT LEASES. CHARTER
AMENDMENT ____.**

Shall the City Charter be amended to increase the maximum term for franchises, concessions, permits, licenses and leases that may be entered into by the Harbor Department from the current maximum of 50 years to a new maximum of 66 years, to be consistent with recent changes to state law?

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 voting polls on election day shall open at 7:00 a.m., March 7, 2017, 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 and State Elections Code Section 14401.

Sec. 6. 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 7, 2017.

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 City's 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 7, 2017, 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 City's Primary Nominating Election in the City of Los Angeles.

Sec. 9. In the event that the County of Los Angeles calls a Countywide Special Election to be held on the same date as the City's Primary Nominating Election, the City Council may resolve to consolidate the City's Special Election for this ballot measure with the Countywide Special Election, notwithstanding Sections 6, 7 and 8 above. If the elections are consolidated: (1) the election precincts, polling places, and officers of the City Special Election shall be the same as those provided in the City of Los Angeles for the Countywide Special Election; (2) for the precincts, polling places, and officers of election, reference is hereby made to the Order of the Registrar-Recorder of the County of Los Angeles to be adopted for the Countywide Special Election and that Order is incorporated into and made part of this ordinance; (3) the City Clerk shall cause a Voter Information Pamphlet to be prepared and mailed to the voters in accordance with the requirements of the City Election Code; (4) the elections shall be held in all respects as if there were only one election; and (5) the Board of Supervisors of the County of Los Angeles shall have authority to canvass the returns of the election, and the City Council of the City of Los Angeles upon receipt of the certified results of the canvass of election returns shall declare the results thereof consistent with the Charter and other applicable law.

Sec. 10. The City Council may resolve to request that the Registrar-Recorder of the County of Los Angeles provide election services to the City related to the City's Special Election for this ballot measure, including to conduct some or all of the City's Special Election for this ballot measure.

Sec. 11. 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 _____.

HOLLY L. WOLCOTT, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
HARIT U. TRIVEDI
Deputy City Attorney

Date November 3, 2016

File No. _____