File #: 2017-645, **Version:** 1

Report to Mayor and City Council

Monday, August 07, 2017

Discussion

SUBJECT:

AMENDED STAFF REPORT: CONSIDER ADOPTING RESOLUTION NO. 17-111 REAFFIRMING RESOLUTION NO. 17-079 AND DECLARING A FISCAL EMERGENCY, RESOLUTION NO. 17-112 CALLING FOR A SPECIAL ELECTION, RESOLUTION NO. 17-113 REQUESTING THE LOS ANGELES COUNTY BOARD OF SUPERVISORS TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF THE SPECIAL ELECTION, RESOLUTION 17-114 SETTING PRIORITIES FOR WRITTEN ARGUMENTS AND REQUESTING IMPARTIAL ANALYSIS, AND RESOLUTION NO. 17-115 AUTHORIZING REBUTTALS, REGARDING A BALLOT MEASURE TO ESTABLISH A BUSINESS LICENSE TAX ON PERSONS ENGAGED IN THE BUSINESS OF OPERATING ANY FACILITY WHERE PETROLEUM OR PETROLEUM PRODUCTS ARE BLENDED, MIXED, OR REFINED AND/OR ANY FACILITY THAT STORES PETROLEUM PRODUCTS.

I. SUMMARY

During the last decade, the City has faced budget challenges resulting from the impacts of the Great Recession, dissolution of redevelopment agencies, and costs increasing at a faster rate than revenues. Carson's assessed property values have not increased at the same rate as those of neighboring cities, resulting in slower property tax revenue growth. The former Carson Redevelopment Agency generated $30 million annually that is no longer available for capital improvement projects. As a result, the City has adopted deficit budgets for 8 of the last 11 years. The current structural deficit is estimated to be approximately $8 million per year.

As a no- and low-property tax city allocated a relatively small portion of the 1% property tax permitted by Prop. 13 and having one of the lowest, if not the lowest, utility user tax rate in the region, Carson will continue to face budget challenges unless new revenues are identified. The City has sought to reduce the structural deficit by reducing services and such temporary measures as an employee hiring freeze. Since the Great Recession, City full-time staff has been reduced by 102 positions, or by 26%. Challenges to the City's ability to maintain services to residents, businesses and property owners are plain.

After studying various revenue options, the City has found that it receives a low amount of taxes from the petroleum industry in comparison to other cities in California that host this industry. This industry also places relatively high demands on the City and the community it serves as compared to other businesses with lesser impacts. In order to avoid further deterioration of City services and civic infrastructure, staff recommends the City Council consider placing a tax measure on the November 2017 ballot. Staff proposes a rate of 0.25% of gross receipts of petroleum related businesses, which is estimated to generate approximately $24 million of General Fund revenue annually.

In order to allow voters to consider the proposed measure, the City Council must take the following actions, and in the following order:

1. Adopt a resolution reaffirming Resolution No. 17-079 and declaring a fiscal emergency pursuant to article XIII C, section 2(b) of the California Constitution.

2. Adopt a resolution calling and giving notice of the holding of a special municipal election on November 7, 2017, for the purpose of submitting to the voters a measure to impose a business license tax of one quarter of one percent of gross receipts on persons engaged in the business of operating any facility where petroleum or petroleum products are blended, mixed, processed, or refined and/or any facility that stores petroleum products.

3. Adopt a resolution requesting the Board of Supervisors of the County of Los Angeles to render specified services to the city relating to the conduct of a special municipal election to be administered by the City's election official on Tuesday, November 7, 2017

4. Adopt a resolution setting priorities for filing written argument(s) regarding a city measure and directing the city attorney to prepare an impartial analysis.

5. Adopt a resolution providing for the filing of rebuttal arguments for the oil industry business license tax measure.

II. RECOMMENDATION

TAKE the following actions:

1. ADOPT RESOLUTION 17-111 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, REAFFIRMING RESOLUTION NO. 17-079 AND DECLARING A FISCAL EMERGENCY PURSUANT TO ARTICLE XIII C SECTION 2(b) OF THE CALIFORNIA CONSTITUTION

2. ADOPT RESOLUTION 17-112 OF THE CITY COUNCIL OF THE CITY OF CARSON,

CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 7, 2017, FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A MEASURE TO ESTABLISH A BUSINESS LICENSE TAX OF ONE QUARTER OF ONE PERCENT OF GROSS RECEIPTS ON PERSONS ENGAGED IN THE BUSINESS OF OPERATING ANY FACILITY WHERE PETROLEUM OR PETROLEUM PRODUCTS ARE BLENDED, MIXED, PROCESSED, OR REFINED AND/OR ANY FACILITY THAT STORES PETROLEUM PRODUCTS

3. ADOPT RESOLUTION 17-113 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A SPECIAL MUNICIPAL ELECTION TO BE ADMINISTERED BY THE CITY'S ELECTION OFFICIAL AND HELD ON TUESDAY, NOVEMBER 7, 2017

4. ADOPT RESOLUTION 17-114 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

5. ADOPT RESOLUTION 17-115 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR BUSINESS LICENSE TAX MEASURE SUBMITTED AT SPECIAL MUNICIPAL ELECTION

III. ALTERNATIVES

1. Provide alternative direction to staff. These might include alternative revenue measures or other means to resolve the structural deficit, such as further reductions in services to residents, businesses and property owners in the City.

IV. BACKGROUND

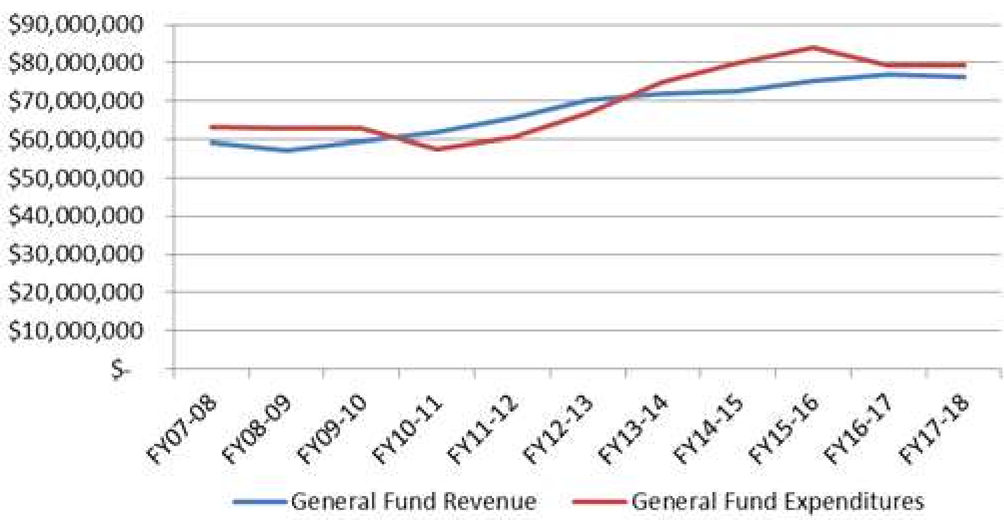
A. Fiscal Challenges

The City of Carson is facing budget challenges due to a number of factors. Over the last decade the City has been unable to balance its budget, as required by State law, in eight of the last eleven years except by drawing down reserves. The City has reduced and eliminated services. As a result, some service levels are at historic lows. Full-time City employees have dropped from a high of 399 prior to the Great Recession to 297 full-time employees funded in FY17-18 - a decline of 26%. Increases in cost for public safety of the Los Angeles County Sheriff's Department and the fire provider, and employee benefit costs, such as rising PERS payment obligations, leave less revenue for City services.

The City adopted a deficit General Fund budget of $3.4 million for FY17-18, which included temporary measures to help close the budget gap. Absent these temporary measures, the structural General Fund deficit is closer to $8 million.

Net FY17-18 General Fund Activity	**$ (3,452,227)**
Temporary Hiring Freeze	(3,197,372)
Temporary Additional UUT Revenue	(350,000)
One-Time Use of Trust Investment Earnings	(1,000,000)
Structural Deficit	**$ (7,999,599)**

In 8 of the last 11 years, the General Fund has operated with a deficit. The chart below includes 9 years of actual data, and 2 years of budget data for the current and immediately past fiscal years.

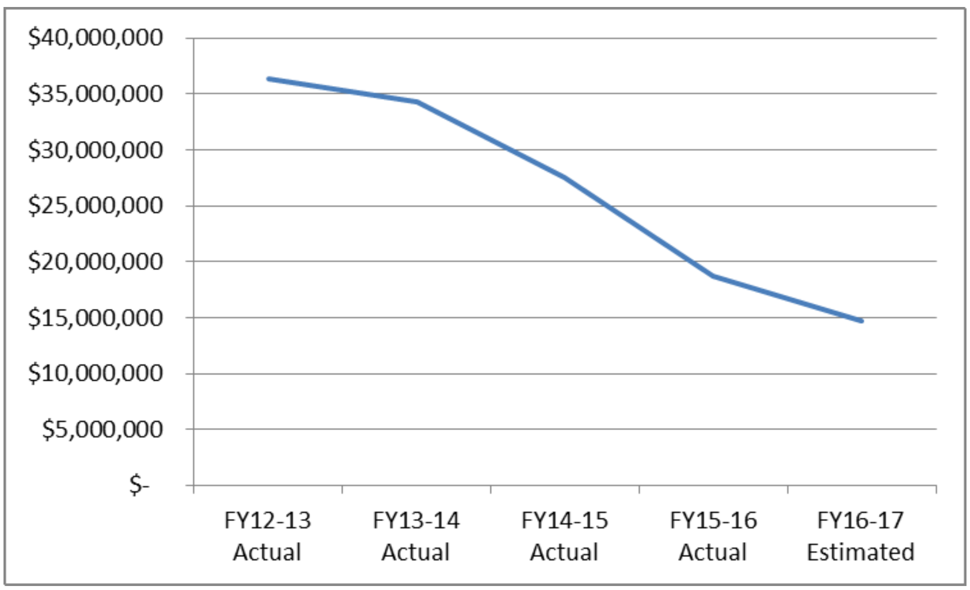


One of the major reasons for the ongoing budget deficit is that costs are growing faster than revenue. The charts below illustrate the increases and decreases in revenue and expenditures over the last 5 years. A number of services are fixed and difficult to adjust, including the costs of providing law enforcement in the community. For example, the Los Angeles County Sherriff's contract costs have increased on average of 3% annually for the last decade, while holding staffing levels constant.

	General Fund Revenue		Increase
FY13-14	$	71,975,708	2.2%
FY14-15	$	72,470,288	0.7%
FY15-16	$	75,295,883	3.9%
FY16-17 est.	$	76,906,298	2.1%
FY17-18 est.	$	76,167,709	-1.0%
		Average	**1.6%**

	General Fund Expenditures		Increase
FY13-14	$	74,905,905	12.0%
FY14-15	$	80,098,302	6.9%
FY15-16	$	83,971,737	4.8%
FY16-17 est.	$	79,303,099	-5.6%
FY17-18 est.	$	79,162,237	-0.2%
		Average	**3.6%**

As a result, General Fund reserves ("fund balance") have decreased significantly over the last 5 years, as can be seen in the following chart:



This pattern is unsustainable.

B. Carson is a Low Property Tax and Low Utility User's Tax City

Carson is a no-low property tax city, meaning it had no local property rate in the three years preceding the adoption of Prop. 12 in 1978 and therefore has a permanently small share of the 1% property tax allowed by Prop. 13 as compared to other cities. Its assessed property values have not increased at the same rate as neighboring cities in part due to the heavy industrial presence in the City of petroleum and other industrial and manufacturing uses, resulting in slower property tax revenue growth. Carson also has one of, if not the lowest, utility users tax in the region. Prior to the 1950s the County of Los Angeles allowed cities to incorporate as full property tax cities. Carson incorporated in 1968 and was required to accept low property tax status in order for the County to agree to city formation. Although, many cities use these two taxes to fund City services, but, due to the low tax property tax and low utility user's tax rates, Carson's fiscal challenges are amplified. While Carson was long able to rely on redevelopment revenues to fund capital costs in the City, the State's decision to terminate redevelopment, has stripped the City of those revenues, too.

1. Low Property Tax

Carson's share of the 1% property tax rate is 6.7%. By comparison, Torrance's share of property taxes is 13.6% and Long Beach's is 20.45%. The balance of resident's and property owners' taxes fund Los Angeles County, K-14 school districts, and other special districts. Carson residents pay the same taxes as residents of neighboring cities, but see far less local benefit from those taxes.

2. Low Utility Users Tax

Carson's Utility Users Tax is at 2% with a cap of $1,000,000 per taxpayer, a figure relevant only to the largest industrial businesses. The average rate in the region is 5.9%. Also, other cities levy the UUT on all utilities, including cable television, cell phones, while Carson's UUT does not include those. Last year, in light of the fiscal emergency, the City tried to pass a UUT measure which would have included those services and other ones, but the measure failed by the voters. Below is a chart reflecting utility users tax rates in neighboring cities:

City	Utility Users Tax Rate		City	Utility Users Tax Rate
Carson	**2.0%**		**Carson**	**2.0%**
Compton	10%		Norwalk	5.5%
Bell	10%		Paramount	5.5%
Long Beach	5%		Hermosa Beach	6%
Torrance	6.5%		Torrance	6.5%
LA County (Unincorporated)	4.5%		Bellflower	7%
Redondo Beach	4.75%		Lynwood	9%
Gardena	5%		Inglewood	10%
Downey	5%		LA City	10%
Hawthorne	5%		Seal Beach	11%
Lawndale	5.5%			

Indeed, Carson's is one of the lowest utility taxes in California.

C. Tax Revenues from Oil Refineries and Oil Related Facilities

When examined in the context of other California cities with substantial oil industry presence, the differences in tax revenue are even starker. The chart below compares the total tax revenue received from oil refineries by Carson with that of other jurisdictions in California with similar refineries:

City	Refinery	Barrels Per Day	Total City Taxes	Tax Per Capita
Carson	Tesoro	257,300	$3,265,011	$ 35.26
Carson	Phillips 66	139,000	$1,830,817	$ 19.77
Benicia	Valero	145,000	$5,147,853	$ 186.39
Torrance	PBF Energy	149,500	$10,936,106	$ 74.15
Richmond	Chevron	245,271	$32,910,133	$ 303.14
El Segundo	Chevron	269,000	$11,600,000	$ 685.42

As seen above, in terms of revenue generated from oil refineries, the tax revenue that Carson receives is less than half the next lowest City's receipts and a tiny fraction of receipts to El Segundo and Richmond. Torrance only has one facility (which processes approximately 149,500 barrels per day), but generates approximately $10 million dollars in tax revenue. This is in stark contrast to Carson, which generates only about $5 million in tax revenue even though it has two refineries (which, together, process approximately 396,300 barrels per day), which one of the refineries recently received approvals for an expansion that will make it the largest refinery on the West Coast.

Another stark difference can be seen when comparing the total land occupied by oil refineries and major oil facilities against Carson's total land mass, a significant factor in depressing property tax revenues in the City given that these industrial facilities rarely change hands to allow the tax assessment to reflect market values unlike residential property which changes hands and is reassessed far more frequently:

City	Refinery/Facility	Land Ratio	Total City Taxes
Carson	Tesoro	8%	$3,265,011
Carson	Phillips 66	2%	$1,830,817
Carson	Shell	2.1%	$150,243
Benicia	Valero	8%	$5,147,853
Torrance	PBF Energy	6%	$10,936,106
Richmond	Chevron	9%	$32,910,133
El Segundo	Chevron	24%	$11,600,000

The oil refineries and facilities in Carson account for approximately 12.1% of Carson's land area, but only contribute approximately $5 million in tax revenue while Torrance's refinery occupies 6% of Torrance's land area and generates approximately $10,000,000 in tax revenue for that City. Shell's oil-related facilities occupies 2.1% of Carson, but Shell only pays a total of $150,243 in total City taxes compared to Shell's neighbor in Carson, Phillips 66, which occupies 2% of the City, and pays $1,830,817.

Furthermore, according to a 2016 report by the Washington Research Council, oil refineries that refine 160,000 barrels per day in Washington State pay 37% more in state and local taxes than do refineries in California. Carson is not only receiving less in taxes compared to its surrounding municipalities, but the oil industry is paying far less overall in California as compared to Washington. The obvious conclusion is that, when compared to its neighbors, Carson is not receiving its fair share of tax revenue in relation to the substantial presence of the oil industry within its borders, especially in light of the significant impacts of that industry on the environment, people, and City services of Carson.

D. Cities in Los Angeles County with Additional Local Sales Tax Rates

Faced with increasing budgetary pressures, voters in 15 cities in Los Angeles County have approved additional local sales tax rates (technically, transactions and use taxes) in addition to the 1% local sales tax imposed under the Bradley-Burns Act to fund municipal services. Carson, on the other hand, has no such additional local sales tax rate, and relies completely on the base 1% local sales tax allocation authorized under the Bradley-Burns Act:

City	Rate		City	Rate
Avalon	0.5%		Long Beach	1.0%
Commerce	0.5%		Lynwood	1.0%
Compton	1.0%		Pico Rivera	1.0%
Culver City	0.5%		San Fernando	0.5%
Downey	0.5%		Santa Monica	0.5%
El Monte	0.5%		South El Monte	0.5%
Inglewood	0.5%		South Gate	1.0%
La Mirada	1.0%			

This is yet another traditional source of revenue that many cities rely upon to fund city services that Carson does not receive.

E. Impact of Oil Industries upon Carson

1. Impacts of Oil Industries on Carson

The oil industry has a long history in Southern California and in Carson in particular. Carson was primarily an agricultural center prior to the discovery of oil in the Signal Hill/Long Beach field in 1921. The discovery of oil in nearby Signal Hill prompted oil companies to search for oil in Carson. Oil was discovered in 1923 in Carson, in what is known as the Dominguez Field. Oil was then discovered in the south Carson area in 1932, also in the Wilmington Field. These three fields were prolific and supplied as much of half of the oil used in the nation in the first half of the 20th Century. Oil production and the refining of crude oil were located in close proximity to the wellhead and each other in these early years to minimize transportation costs. The Phillips 66 Refinery in Carson was originally constructed in 1917 by Union Oil. Shell Oil constructed its refinery and a chemical plant in Carson in 1928. The existing Tesoro Refinery in Carson was originally constructed by Richfield Oil in 1938.

Largely unregulated in the early years, it was not uncommon for refineries to store oil in earthen-bottomed tanks. Carson is dealing with a legacy of ground water pollution from the unregulated use of large storage tanks, where both crude oil and refined petroleum products leached into groundwater. Several large clean-up programs are underway in the community, including the remediation of the Carousel Tract, which is a large residential subdivision constructed atop a former Shell tank farm where the underlying petroleum impacted soils were not properly remediated before homes were constructed. This environmental legacy also depresses property values in Carson, reducing property tax revenues to the City to fund services.

Over the last nine decades, major transmission pipelines were constructed to serve the oil industry. As a result, the City has over 784,075 feet of petroleum and petroleum product transmission pipelines in City streets and highways, as well as miles of pipelines within the major refining, mixing, blending and storage businesses located in Carson. These pipelines are subject to leaks, creating additional soil and ground water contamination. A number of pipelines have been abandoned when companies go out of business and the City has been left to fund the removal of pipelines and the cleanup of surrounding soil.

2. Air Quality Impacts

The unregulated refining of petroleum also created air quality issues for the community. The refining process not only created unpleasant odors, but human health impacts as well. For example, Carson operates only one of two municipal stroke centers to deal with the health impacts from environmental pollution. Early gasoline production added lead to gasoline, from 1924 to the 1970's, when lead was slowly phased out of gasoline due to the health and environmental risks it posed. It is estimated that over seven million tons of lead was deposited in the environment in the United States alone during the five decades that lead was added to gasoline. Cities are still dealing with lead contaminated soils at roadside construction projects. In 1942, during the height of World War II, Southern California's economy was in high gear for the war production. This included the petroleum industry, from pumpers, to businesses that refined, mixed, stored and transported oil. On July 26, 1943 the region was gripped in a heat wave and smog. Visibility was only three city blocks.

That October, the Los Angeles County Board of Supervisors appointed a Smoke and Fumes Commission to study the problem. The studies identified the smoke stack businesses contributing the problems, including oil refineries. The report was opposed by the Los Angeles City Chamber of Commerce and the oil industry. However, the County Board and the League of California Cities sponsored legislation to allow the establishment of unified air pollution control districts. The bill cleared the Assembly 73-1 and the Senate by 20-0 votes, with Governor Earl Warren signing the legislation. Major industries were required to obtain air pollution permits, but the regulations were in their infancy. Real action began after a killer smog enveloped London in December 1952, claiming over 4,000 lives. The scientific study from this public health disaster made several recommendations, including reducing vapor leaks of hydrocarbon emissions from refineries and fueling stations. The oil industry estimated that over 120,000 gallons of gasoline were evaporating daily in Southern California from refineries and filling stations. The South Coast Air Quality Management District (SCAQMD) is the successor to the Smoke and Fumes Commission, with over fifty years of government action needed to address the harmful human health and environment impacts from air pollution. That work continues today.

The federal government enacted its first air pollution regulations in 1955, primarily focusing on scientific research (Air Pollution Control Act). The Clean Air Act was adopted in 1963, aimed at controlling air pollution. Much of the current air quality regulations stem from the Clean Air Act of 1970, which coincided with the first Earth Day. The regulation sought to stem emissions from both stationary and mobile sources of air pollution. A series of air quality plans were proposed and adopted, focusing on reducing ozone, suspended particles, carbon monoxide, nitrogen dioxide, sulfur dioxide and lead. In 1987, the State required that emitters of toxic pollutants assess and make public health risk assessments of their emissions.

Several innovative programs have been developed over the years to deal with air pollution, including RECLAIM, which incentivizes petroleum industries to capture and make useful products of what had previously been waste emissions, thereby reducing emissions and increasing profits. For example, ARCO constructed a facility at the Carson refinery to recover propylene from crude oil to make polypropylene, a material used in a wide range of consumer plastics including carpeting, upholstery, clothing and twine. The facility removes sulfur and other polluting byproducts that would have been burned, with the intent of reducing sulfur and nitrogen oxide emissions. Other innovative programs designed to deal with air pollution and green-house gasses (GHGs) have been adopted by the State, including AB 32 (2006) and SB 535 (2012).

AB 32 established GHG reduction targets for various sectors of the economy. The law created the “cap and trade” system, which allows businesses to purchase extra GHG credits when their emissions exceed their targets. The State recently extended the “cap and trade” system to 2030. However, AB 32 did not include a plan to allocate funds collected under the cap and trade program. This year’s SB 535 addressed funding guidelines by focusing on people who live in communities of color, low-income and disadvantaged communities which, like Carson, bear a heavier burden of environmental contamination than other communities. This policy focus was based on State studies which have found that there is a great abundance of harmful air pollution around non-white and poorer communities, than in white and wealthier communities. Also, State studies also show that people that live near to refineries are likely to breathe more nickel and vanadium than other Californians.

In order to implement SB 535, the Legislature tasked the Office of Environmental and Human Health Risk Assessment with developing an assessment tool, known as CalEnviroScreen. Based on a comprehensive examination of all of the risks facing disadvantaged communities, including health risks like cancer and strokes, CalEnviroScreen aggregates this data on the Census Tract level, resulting in a combined pollution score. According to the most recent version of CalEnvironScreen, nineteen of Carson’s twenty-one Census Tracts have very high pollution scores. Many of these Census Tract are adjacent to the refineries and businesses that mix, blend, store and transport petroleum and petroleum products, due in part to the high level of stationary emission from these businesses. Residents in these areas also are exposed to high levels of pollution from industrial and trucking activities, as well as impacts from traffic and noise.

Recent studies by the SCAQMD indicate that air pollution from refineries and other petroleum-related facilities is substantially higher than previously estimated, increasing the concern about health impacts. The City has engaged with the SCAQMD in review of its proposed Rule 1180, which would require the installation of air quality monitoring at the fence line of the refineries. The City has been active in this rule making process, when it came to light in recent environmental studies that the SCAQMD does not operate any air quality monitoring stations in Carson. The closest air quality monitoring station to Carson is in the North Long Beach area. Over a dozen pre-schools and schools are located within a quarter of a mile of these petroleum refining and production businesses. These schools and the entire community would benefit from increased air quality monitoring devices located in Carson.

3. Soil and Other Contamination

Shell began to consider redevelopment of its refinery and chemical plant in 2014. As part of the redevelopment plan, Shell conducted a series of environmental studies. They reveal that the Shell facility discharged contaminated waste water into the local sewer systems and discharged contaminated storm water runoff. Cooling tower blowdown and tank wash water was also discharged into the local sewer system. Some sludge from the refinery and chemical plant process was treated and disposed in unlined pits on the site in the early part of the last century. Many pits were filled without record of their location, contents or extent of remediation. The environmental studies revealed that the main pollutants of concern were petroleum hydrocarbons, volatile organic compounds, including benzene, toluene and ethylbenzene. Elevated levels of chromium, lead, arsenic and antimony were found, along with organosulfur compounds. As a result of these studies a major remediation project began in 1985 under orders pf the Los Angeles Regional Water Quality Control Board. The remediation plan is still active, including ground water contamination monitoring and clean-up. The environmental legacy of Carson's industrial history is profound and efforts to mitigate it will be required for years to come.

4. Carson Community Member's Concerns

Carson community members have historically expressed concerns about the impacts of oil refineries and the chemical industry on the City, its environment and its residents. They have also expressed concerns about contaminated soil and ground water. They believe that local air and water quality are serious concerns. Residents have expressed other concerns, including noise and air pollution caused by truck traffic and damage to local streets and road caused by cargo trucks, including tanker trucks used by petroleum and petroleum products businesses to ship product. The City Council recently approved a comprehensive revision to its oil production code, which includes additional operational conditions and inspections designed to mitigate the harmful impacts of oil pumping operations.

5. Community Benefits and Unmet Needs

The City recently entered into a Community Benefits Agreement with Tesoro by which it agreed to provide the City $1 million a year over the next 15 years to fund the City's public services. The agreement provides an additional $9 million for environmental mitigation projects and Tesoro also agrees to pay beyond the $1 million a year UUT Cap for the next 15 years, which should raise approximately an additional $600,000 per year for the City. However, the City has identified through its Five Year Capital Improvement Program (CIP) over $155.6 million in capital improvement needs. These include improvements to parks, pools, park buildings and equipment, intersection and traffic signal improvements, bridge widenings, repairs to sidewalks, curb ramps, street reconstruction, landscape median restorations, a new City Corporate Yard to house the city's fleet and public works equipment and improvements to other civic buildings, including the installation of solar power to help Carson mitigate carbon emissions in the community.

The FY2017-2018 CIP identified $103.9 million in needed improvement projects, but only $11 million in available funding. Due the City's structural deficit, no General Funds are available for the CIP, which is limited to funding sources restricted to capital needs. The City is facing major funding shortfalls for streets, sidewalks and stormwater/drainage improvement projects. The City completed an assessment of its streets in January 2017. The assessment identified over $90 million in street repair projects necessary over the next decade in order to prevent the City's paving from deteriorating from "Fair" to "Poor" condition. Despite the passage of SB-1 in June, the City faces an annual shortfall of $4-5 million for street repairs. The City assessed streets adjacent to the refineries and major petroleum industries. Cost of repairs and maintenance in these areas is estimated at $10.6 million.

A similar funding gap exists in the City's program to maintain, repair and replace sidewalks, curbs, gutters and curb ramps for the disabled. The City completed an assessment of these conditions in May 2017 and determined that over $11 million in funding is needed. The City is also regulated under a storm water permit issued by the Los Angeles Regional Water Quality Control Board. The City is participating in the Dominguez Channel Enhanced Watershed Management Program, working with Los Angeles County and other cities in this watershed to implement the plan's requirements. The current estimate of the City's share of this cost is $221 million over the next twenty years. The plan estimates that Carson will need to invest over $8 million annually in the next decade to implement its share of the watershed plan. Pollutants of concern include zinc and other metals.

F. <u>Types of Taxes Available to the City</u>

The City Council might consider three types of business license taxes on the petroleum industry: a storage tax; an oil refinery tax measured on a per-barrel-refined basis; and a tax on gross receipts from petroleum related operations.

1. Storage Tank Tax

This would be imposed on the volume of actively used storage tanks. There would be no differentiation between what a particular storage tank stores, which could range from crude oil to gas oil, gasoline, diesel, jet fuel or other chemicals. However, this tax will be difficult to administer because, although storage tanks are listed as active and inactive on SCAQMD's website, the actual practice may vary and tracking the status of the storage tanks accurately is difficult. Moreover, Rialto's similar tax has been challenged as a property tax preempted by Prop. 13 even though it is limited to active tanks. The industry has also brought claims under the Commerce and Dormant Commerce Clause and apportionment claims against such taxes imposed elsewhere. This tax will require detailed apportionment guidelines to limit the tax to the City's tax jurisdiction and may invite expensive litigation. This tax will also be difficult to administer

2. Per-Barrel Oil Refinery Tax

This would be a tax per barrel of crude oil refined in Carson. It would measure petroleum business activity in the City by the number of barrels of crude oil refined. Staff has analyzed this tax fully. This tax would focus on Tesoro Carson Refinery and Philips 66 out of all the oil related industries in Carson because it would solely be applicable to refineries. Staff recommends a tax distributed more broadly among various oil related businesses in the City. A broader tax can have a lesser rate and thereby spread the burden and match the duty to pay with the ability to pay across a larger swath of the industry. Also, administration of this tax will be complicated because a refinery may produce a myriad of different products and at varying volumes depending on the type of crude mixes used. As an example, the Tesoro Carson Refinery produces gasoline, jet fuel, diesel fuel, petroleum coke, fuel oil, fuel gases, propylene and calcined coke. In order to tax the products, the City would have to receive an accounting of all products and their volumes. This can be complicated and the data regarding production of these products tends to be proprietary and difficult to acquire and validate.

3. Oil-related Industry Gross Receipts Tax ("Oil Industry Business License Tax")

Staff recommends a tax on the gross receipts of operators of facilities blending, mixing, processing, or refining petroleum or petroleum products and/or facilities storing petroleum products. This would be a general tax to fund City services generally, requiring majority voter approval. The proposed rate is 0.25% or ¼ of 1% of gross receipts from those business activities in the City. A tax on gross receipts is a common to measure business license taxes (note that the City currently imposes a business license tax based upon the number of employees). This type of tax is generally lawful and administrable. Such taxes have commonly been used by California cities and counties since the development of the modern industrial economy during and after World War II and a wealth of case law and other authorities exist to clarify and assist in the administration of such taxes. They directly match the ability to pay to the duty to pay as businesses which generate more revenues have greater ability to pay. Revenues also correlate to business activity, thus tying duty to pay to the demand for City services and the generation of impacts in the City. Because of the size of many operators within the City, auditing a particular business' reported gross receipts for compliance can require the support of outside auditors. In particular, the measurement of where and how income is generated so it can be apportioned to the City as constitutional law requires can also require discussions with taxpayers and audit support. These challenges are not unique to Carson or the petroleum industry and are true of taxing any business which is integrated into our increasingly global economy. If voters approve the tax, the City will establish apportionment guidelines in discussion with the industry based on best practices in California. These can simplify these taxes to apportion, report, and verify gross receipts and tax payments. The Ordinance before the Council establishes means to do so.

Since gross receipts information is proprietary, it is difficult to estimate the tax revenues which will be collected. The City's oil-industry consultant, MRS, provided an estimate of gross receipts and amount of tax revenue collected from the oil refineries in Carson using a report by the Washington Research Council, which is available from the City Clerk's office. Page 12 of that report states that a hypothetical 160,000 barrels per day refinery in 2015 has gross receipts, on refined products, of $4 billion per year. Using that calculation, MRS has estimated, with necessary and reasonable assumptions, that a tax rate of 0.25% upon gross receipts could conservatively be estimated to generate approximately $24 million per year in tax revenues for the City. The ordinance before the Council allows it to reduce tax rates (although only voters may increase them). This will allow the Council to adjust the tax rates if the ordinance produces more revenue than intended.

G. Recommendation

City staff recommends that the City Council present the Gross Receipts Tax to voters for their consideration. A business license tax on gross receipts is common, easy to understand and more easily administrable than the other options. Additionally, it is able to generate meaningful tax revenues commensurate to this industry's ability to pay and its impact on the City, its services, its environment and its residents while reaching a broader swath of the petroleum industry in the City than alternatives. The proposed ordinance to be presented to voters is attached as Exhibit No. 2. The ordinance would require the tax to be paid on a quarterly basis and includes audit rights for the City and appeal rights for taxpayers if City enforcement decisions are questioned. The Ordinance also allows "pro rata" payment of the tax.

H. Requirements for an Oil Industry Business License Tax Ballot Measure for a November 7, 2017 Special Election

Multiple resolutions are required to place the proposed Oil Industry Business License Tax Ballot Measure before the voters at a November 7, 2017 special election, pursuant to Proposition 218, the California Constitution and the Election and Government Codes.

The Oil Industry Business License Tax is a general tax (and not a special tax) because the revenue generated is deposited into the general fund and is available for any general governmental purpose the City Council determines to be appropriate. Under Proposition 218, increases and/or extensions of a general tax must be approved by a majority of voters. (Cal. Const., art. XIII C, § 2(b).).

Additionally, under Proposition 218, an election to increase a general tax must ordinarily be consolidated with the City's regularly scheduled general municipal election, when Council seats are on the ballot. (Cal. Const., art. 13C, § 2(b).). Since the City's next regular municipal election is not until November 2018, an exemption is necessary to place the proposed measure on the November 7, 2017 ballot.

An exemption is available "in cases of emergency declared by a unanimous vote of the governing body." (Cal. Const., art. 13C, § 2(b).) Carson's emergency is "fiscal" emergency described above and in findings the Council may adopt in a resolution supporting the declaration of a fiscal emergency. (See Exhibit No. 3)

Next, the Council should adopt a resolution calling the special election and submitting the Oil Industry Business License Tax (See Exhibit No. 4) to voters. This resolution must be passed by a two-thirds (i.e., 4 Councilmembers) vote of all members of the City Council. (Cal. Const., art. 13C, § 2(b) and Gov't Code § 53724(b) [1986's Proposition 64]). The resolution calling the special election contains the proposed ordinance and the ballot question to be considered by voters. (See Exhibit Nos. 2 and 4).

Because the City Clerk will administer this special election on a stand-alone basis, the City Council should also adopt a resolution requesting election services from the County. (See Exhibit No. 5).

The Council also should adopt a resolution to set priorities for written arguments pro and con on the ballot measure to allow the City Clerk to select among them if multiple arguments are submitted. As provided by the Elections code, if the (City Council wishes to author the "yes" argument for its proposal, it or any subset of its members designed by the Council may do so. The resolution also directs the City Attorney to prepare an impartial analysis of the ballot measure to be provided to voters via the ballot pamphlet. (See Exhibit No. 6).

Finally, the Council may adopt a resolution authorizing rebuttal arguments. (See Exhibit No. 7). Whether to do so is a policy judgment for the Council. It provides more information to voters, but also raises printing and mailing costs.

I. <u>Fiscal Emergency</u>

Facts and findings that support the declaration of a fiscal emergency include:

1. The FY 2017-18 Budget adopted for the General Fund includes a net deficit of $3,452,227.

2. The FY 2017-18 General Fund budget included temporary measures to reduce the budget deficit, including a $3,197,372 hiring freeze, a $1,000,000 transfer from the Internal Revenue Code Section 115 Trust account, and additional utility users tax revenue of $350,000 resulting from declaring a fiscal crisis thereby lifting a $1,000,000 cap on utility user tax paid by any one taxpayer, and

therefore, the structural budget deficit is $7,999,599.

3. The City's General Fund is the primary fund of the City and comprises 85% of the City's budget. In 7 of the last 10 fiscal years, the General Fund expenditures have exceeded the General Fund revenues. Over the past 5 years, the General Fund revenues have increased at an average of 1.6%. The General Fund expenditures have increased at an average of 3.6%.

4. The City Council has adopted a policy entitled "Reserve for Economic Uncertainties" setting a General Fund reserve threshold of 20% of annual budgeted expenditures. The FY 2017-18 policy reserve threshold is $16,134,647.

5. The estimated General Fund balance of $14,773,829 is $1,360,819 below the City's policy reserve threshold amount.

6. The FY 2017-18 Budget includes non-recurring items that decrease the General Fund expenditures in an effort to reduce the budget deficit, however, these items are only temporary fixes; and

7. The City has budgeted for 297 full-time employees, a 6-year low. The FY 2017-18 Budget does not include a cost-of-living increase for employees in a time of rising labor market rates. Also, due to the continued hiring freeze, the City will be unable to fill 38 full-time positions. This will save the City $3,197,372 but reduce City services to residents, business and property owners. The most noticeable impacts are in the public safety and public works departments. However, to sustain the current level of full-time employees, the City must consider reorganization and potentially further reducing service levels; and

8. Despite its smaller work force the City has two legacy costs related to employee retirement: (i) the unfunded liability of the employee pensions under PERS, and (ii) the health insurance costs for retirees. The retiree health insurance cost for FY 2017-18 is expected to be $2,200,000, which is partly met by a non-recurring $1,000,000 transfer from the Internal Revenue Code Section 115 Trust account; and

9. Property tax comprises approximately 21% of General Fund revenue. Property values and property tax revenues in the City have been slower to recover than neighboring cities; and

10. Sales tax comprises approximately 32% of General Fund revenue. The City's independent tax consultant estimated that sales tax will decrease by 0.3% for FY 2017-18 primarily due to expected reallocations and audit corrections that were recently detected; and

11. The FY2017-2018 CIP identified the need for $103.9 million in 2improvement projects, with only $11 million in funding identified. It should be noted that due the City's structural deficit, no General Funds are being invested into the CIP.

The City is facing major funding shortfalls in the areas of streets, sidewalks and stormwater/drainage improvement projects. The City completed an assessment of paving condition in January of 2017. The pavement management assessment identified over $90 million in street repair projects necessary over the next decade in order to prevent the City's paving condition from deteriorating further from "Fair" to "Poor" condition. The City is facing an annual shortfall between $4-5 million for the street repair program. The City completed an assessment of sidewalk, curb and curb ramp conditions in May of 2017 and determined that over $11 million in funding is necessary.

12. The City is regulated under the Dominguez Channel Enhanced Watershed Management Program of Federal and State requirements to improve surface waters. The current estimate for compliance with the program is $221 million over the next twenty-years for the City. Carson will need to invest over $8 million annually, during the next decade to implement the City's portion of the watershed plan. Many of the pollutants associated with environmental clean-up are legacy pollutants which can be traced back to industries and land uses that were not subjected to the Federal Clean Water Act and the Porter-Cologne Act until the 1970's.

13. The 5-year financial model indicates that there will be continued erosion of the General Fund balance, until it is extinguished toward the end of 2020. The City Council can avoid this outcome by continuing to make changes to the structural budget.

The above facts and findings reasonably warrant the declaration of a fiscal emergency.

V. FISCAL IMPACT

The estimated cost of the special election is $271,000. If directed by the City Council, staff would return with a separate agenda item to amend the budget for the election and related costs.

VI. EXHIBITS

1. Ordinance No. 17-1630, entitled "AN ORDINANCE OF THE PEOPLE OF THE CITY OF CARSON, CALIFORNIA ADDING A NEW CHAPTER 3.5 TO ARTICLE VI OF THE CARSON MUNICIPAL CODE TO ESTABLISH AND IMPOSE A BUSINESS LICENSE TAX ON OPERATORS OF ANY FACILITY WHERE PETROLEUM OR PETROLEUM PRODUCTS ARE BLENDED, MIXED, PROCESSED, OR REFINED AND/OR ANY FACILITY THAT STORES PETROLEUM PRODUCTS"

2. ADOPT RESOLUTION 17-111 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, REAFFIRMING RESOLUTION NO. 17-079 AND DECLARING A FISCAL EMERGENCY PURSUANT TO ARTICLE XIII C SECTION 2(b) OF THE CALIFORNIA CONSTITUTION

3. ADOPT RESOLUTION 17-112 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 7, 2017, FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A MEASURE TO ESTABLISH A BUSINESS LICENSE TAX OF ONE QUARTER OF ONE PERCENT OF GROSS RECEIPTS ON PERSONS ENGAGED IN THE BUSINESS OF OPERATING ANY FACILITY WHERE PETROLEUM OR PETROLEUM PRODUCTS ARE BLENDED, MIXED, PROCESSED, OR REFINED AND/OR ANY FACILITY THAT STORES PETROLEUM PRODUCTS

4. ADOPT RESOLUTION 17-113 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A SPECIAL MUNICIPAL ELECTION TO BE ADMINISTERED BY THE CITY'S ELECTION OFFICIAL AND HELD ON TUESDAY, NOVEMBER 7, 2017

5. ADOPT RESOLUTION 17-114 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

6. ADOPT RESOLUTION 17-115 OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR BUSINESS LICENSE TAX MEASURE SUBMITTED AT SPECIAL MUNICIPAL ELECTION

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Prepared by: Kenneth Farfsing, City Manager