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Superior Court Of California
County Of Los Angeles

FEB 25 2014

Sherri R. Carter, Executive Officer/Clerk
By: Judi Lara, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 GLENDALE COALITION FOR BETTER)
12 GOVERNMENT,)

CASE NO:

BS147376

13 Petitioner,

14 vs.

15 CITY OF GLENDALE and DOES 1)
16 through 10, inclusive,)

PETITION FOR WRIT OF MANDATE,
FOR WRIT OF PROHIBITION AND
FOR DECLARATORY RELIEF

17 Respondents.
18

19
20 COMES NOW, Petitioner, Glendale Coalition for Better Government, [hereinafter "Petitioner"]
21 and complains and alleges against Respondents, and each of them, as follows:

22
23 INTRODUCTORY STATEMENT

24
25 1. The true names or capacities, whether individual, corporate, associate or otherwise
26 of Does 1 through 10, inclusive, are unknown to Petitioner who therefore sues said Respondents
27 by such fictitious names and Petitioner will amend this petition to show their true names and
28 capacities when the same have been ascertained.

1 2. Petitioner, Glendale Coalition for Better Government, is a nonprofit corporation
2 duly incorporated in the State of California and operates within the City of Glendale, County of
3 Los Angeles, State of California. Glendale Coalition for Better Government consists of numerous
4 residents and taxpayers who reside within the City of Glendale.

5 3. Respondent, City of Glendale (“City”), is a charter city within the County of Los
6 Angeles, State of California. All Charter section references are to Article XI of the Glendale City
7 Charter.

8 Section 14 is attached hereto as Exhibit 1 and is by reference incorporated herein.

9 Section 15 is attached hereto as Exhibit 2 and is by reference incorporated herein.

10 Section 17 is attached hereto as Exhibit 3 and is by reference incorporated herein.

11 Section 20 is attached hereto as Exhibit 4 and is by reference incorporated herein.

12 Section 21 is attached hereto as Exhibit 5 and is by reference incorporated herein.

13 Section 22 is attached hereto as Exhibit 6 and is by reference incorporated herein.

14 4. Glendale Water and Power (“GWP”) is a City owned utility consisting of a
15 waterworks and an electric works.

16 5. Petitioner is informed and believes and thereupon alleges that, at all times herein
17 mentioned, Respondents, and each of them, were the agents, servants and employees of the
18 remaining co-Respondents, and each of them, and in doing the things hereinafter alleged were
19 acting within the purpose and scope of said agency, service and employment.

20 6. Section 20 of the Charter entitled **Waterworks revenue fund; electric works**
21 **revenue fund** provides that all receipts by the department of GWP from the sale of water or
22 otherwise derived from the waterworks of the city and from the sale of electric energy or
23 otherwise derived from the electric works of the city shall be credited to the waterworks revenue
24 fund and electric works revenue fund, respectively. After disbursement of such receipts, Section
25 20 provides, in pertinent part:

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1 **The credit balance, if any, or any part thereof, in each of said**
2 **funds at the end of any fiscal year, the amount of which is in**
3 **excess of the amount of all outstanding demands and liabilities**
4 **unpaid from said fund on account of budget appropriations**
5 **therefrom, shall be transferred to the Glendale Water and**
6 **Power surplus fund [see Section 22].**

7
8 7. The Charter provides, among other things, that income from the waterworks
9 revenue fund and electric works revenue fund is to be (a) set aside and transferred to the
10 waterworks depreciation fund and electric works depreciation fund, respectively, sufficient to
11 meet normal depreciation (Section 17), (b) set aside and transferred to the GWP sinking fund to
12 service GWP bonds (Section 21), and (c) used to meet outstanding demands and liabilities on
13 account of budgeted appropriations (Section 20).

14 8. Section 22 of the Charter establishes the **GWP surplus fund** which provides that it
15 is to be credited from the waterworks and electric works revenue funds with any amounts in
16 excess of the requirements set forth in Paragraph 7 hereinabove.

17 9. Section 22 further provides that all GWP surplus fund monies be devoted to GWP
18 purposes *except* as provided as follows:

19
20 **At the end of each fiscal year an amount equal to twenty-five**
21 **(25) percentum of operating revenues of the Department of**
22 **Glendale Water and Power for such year...shall be transferred**
23 **from said Glendale Water and Power surplus fund to the**
24 **general reserve fund.**

25
26 10. Section 15 of the Charter establishes the **general reserve fund** which provides, in
27 pertinent part:

28 ///

1 **The council shall maintain the permanent revolving fund now**
2 **established and known as the general reserve fund, for the**
3 **purpose of keeping the payment of the running expenses of the**
4 **city on a cash basis. Said fund shall be maintained in an amount**
5 **sufficient to meet all legal demands against the treasury for the**
6 **period of each fiscal year prior to the collection of ad valorem**
7 **taxes.**

8
9 11. Section 14 of the Glendale City Charter entitled **General budget fund** provides, in
10 pertinent part:

11
12 **All receipts from the general tax levy, licenses, fines, permits,**
13 **and interest on bank deposits, and all other receipts *except those***
14 ***from the department of Glendale Water and Power, and those***
15 **which are collected for a specific purpose, or are herein ordered**
16 **to be credited to some other fund, shall be credited to said**
17 **[general budget] fund, and all disbursements, on account of**
18 **general budget appropriations, excepting such appropriations as**
19 **are payable out of special funds, shall be charged to said general**
20 **budget fund. The credit balance, if any, in said general budget**
21 **fund, at the end of any fiscal year...shall be transferred to the**
22 **general reserve fund. [*Emphasis added*]**

23
24 12. Petitioner is informed and believes and thereupon alleges that there were no excess
25 funds in either the electric works revenue fund or the waterworks revenue fund, but,
26 notwithstanding that, the City transferred in excess of \$19.1 million, annually, during the years
27 2010, 2011, 2012, and 2013 from the electric works revenue fund and in excess of \$4.1 million,

28 ///

1 annually, during the years 2010 and 2011 from the waterworks revenue fund, directly to the
2 general budget fund in violation of the aforementioned sections of the Charter.

3 13. Demand has been made that the City return all monies transferred to the general
4 budget fund in violation of the Charter to the electric works revenue fund and waterworks revenue
5 fund, respectively, but the City has failed and refused to do so.

6
7 **FIRST CAUSE OF ACTION**

8 **[Petition for Writ of Mandate**

9 **Electric Works Revenue Fund**

10 **Fiscal Year Ending June 30, 2010]**

11 14. Petitioner refers to and realleges the allegations set forth in Paragraphs 1 through
12 13, inclusive, of the introductory statement as though set forth herein at length.

13 15. Petitioner is informed and believes and thereupon alleges that the City transferred
14 in excess of \$19.1 million for the fiscal year ending June 30, 2010 from the electric works revenue
15 fund to the general budget fund in violation of the Charter.

16 16. Petitioner has a clear, present and beneficial right that the City comply with the
17 Glendale City Charter and return to the electric works revenue fund all monies illegally transferred
18 to the general budget fund during the fiscal year ending June 30, 2010 for the purposes specified
19 in said revenue fund.

20 17. Petitioner has no adequate remedy at law.

21 18. Petitioner is entitled to a writ of mandate pursuant to Code of Civil Procedure
22 §1085.

23
24 **SECOND CAUSE OF ACTION**

25 **[Petition for Writ of Mandate**

26 **Electric Works Revenue Fund**

27 **Fiscal Year Ending June 30, 2011]**

1 15. Petitioner refers to and realleges the allegations set forth in Paragraphs 1 through
2 13, inclusive, of the introductory statement as though set forth herein at length.

3 16. Petitioner is informed and believes and thereupon alleges that the City transferred
4 in excess of \$19.1 million for the fiscal year ending June 30, 2011 from the electric works revenue
5 fund to the general budget fund in violation of the Charter.

6 17. Petitioner has a clear, present and beneficial right that the City comply with the
7 Glendale City Charter and return to the electric works revenue fund all monies illegally transferred
8 to the general budget fund during the fiscal year ending June 30, 2011 for the purposes specified
9 in said revenue fund.

10 18. Petitioner has no adequate remedy at law.

11 19. Petitioner is entitled to a writ of mandate pursuant to Code of Civil Procedure
12 §1085.

13
14 **THIRD CAUSE OF ACTION**

15 **[Petition for Writ of Mandate**

16 **Electric Works Revenue Fund**

17 **Fiscal Year Ending June 30, 2012]**

18 20. Petitioner refers to and realleges the allegations set forth in Paragraphs 1 through
19 13, inclusive, of the introductory statement as though set forth herein at length.

20 21. Petitioner is informed and believes and thereupon alleges that the City transferred
21 in excess of \$21.1 million for the fiscal year ending June 30, 2012 from the electric works revenue
22 fund to the general budget fund in violation of the Charter.

23 22. Petitioner has a clear, present and beneficial right that the City comply with the
24 Glendale City Charter and return to the electric works revenue fund all monies illegally transferred
25 to the general budget fund during the fiscal year ending June 30, 2012 for the purposes specified
26 in said revenue fund.

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1 23. Petitioner has no adequate remedy at law.

2 24. Petitioner is entitled to a writ of mandate pursuant to Code of Civil Procedure
3 §1085.

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5 **FOURTH CAUSE OF ACTION**
6 **[Petition for Writ of Mandate**
7 **Electric Works Revenue Fund**
8 **Fiscal Year Ending June 30, 2013]**

9 25. Petitioner refers to and realleges the allegations set forth in Paragraphs 1 through
10 13, inclusive, of the introductory statement as though set forth herein at length.

11 26. Petitioner is informed and believes and thereupon alleges that the City transferred
12 in excess of \$20.8 million for the fiscal year ending June 30, 2013 from the electric works revenue
13 fund to the general budget fund in violation of the Charter.

14 27. Petitioner has a clear, present and beneficial right that the City comply with the
15 Glendale City Charter and return to the electric works revenue fund all monies illegally transferred
16 to the general budget fund during the fiscal year ending June 30, 2013 for the purposes specified
17 in said revenue fund.

18 28. Petitioner has no adequate remedy at law.

19 29. Petitioner is entitled to a writ of mandate pursuant to Code of Civil Procedure
20 §1085.

21
22 **FIFTH CAUSE OF ACTION**
23 **[Petition for Writ of Mandate and/or Prohibition**
24 **Electric Works Revenue Fund**
25 **Fiscal Year Ending June 30, 2014]**

26 30. Petitioner refers to and realleges the allegations set forth in Paragraphs 1 through
27 13, inclusive, of the introductory statement as though set forth herein at length.

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1 31. Petitioner is informed and believes and thereupon alleges that the City has
2 budgeted in excess of \$20.6 million for the fiscal year ending June 30, 2014 to be transferred from
3 the electric works revenue fund to the general budget fund in violation of the Charter.

4 32. Petitioner has a clear, present and beneficial right that the City comply with the
5 Glendale City Charter and not illegally transfer revenue from the electric works revenue fund to
6 the general budget fund during the fiscal year ending June 30, 2014.

7 33. Petitioner has no adequate remedy at law.

8 34. Petitioner is entitled to a writ of mandate and/or prohibition pursuant to Code of
9 Civil Procedure §§1085 and 1103 preventing the City from illegally transferring revenue from the
10 electric works revenue fund to the general budget fund during the fiscal year ending June 30, 2014
11 and thereafter.

12
13 **SIXTH CAUSE OF ACTION**

14 **[Petition for Writ of Mandate**

15 **Waterworks Revenue Fund**

16 **Fiscal Year Ending June 30, 2010]**

17 35. Petitioner refers to and realleges the allegations set forth in Paragraphs 1 through
18 13, inclusive, of the introductory statement as though set forth herein at length.

19 36. Petitioner is informed and believes and thereupon alleges that the City transferred
20 in excess of \$4.1 million for the fiscal year ending June 30, 2010 from the waterworks revenue
21 fund to the general budget fund in violation of the Charter.

22 37. Petitioner has a clear, present and beneficial right that the City comply with the
23 Glendale City Charter and return to the waterworks revenue fund all monies illegally transferred to
24 the general budget fund during the fiscal year ending June 30, 2010 for the purposes specified in
25 said revenue fund.

26 38. Petitioner has no adequate remedy at law.

27 39. Petitioner is entitled to a writ of mandate pursuant to Code of Civil Procedure
28 §1085.

1 **SEVENTH CAUSE OF ACTION**

2 **[Petition for Writ of Mandate**

3 **Waterworks Revenue Fund**

4 **Fiscal Year Ending June 30, 2011]**

5 40. Petitioner refers to and realleges the allegations set forth in Paragraphs 1 through
6 13, inclusive, of the introductory statement as though set forth herein at length.

7 41. Petitioner is informed and believes and thereupon alleges that the City transferred
8 in excess of \$4.1 million for the fiscal year ending June 30, 2011 from the waterworks revenue
9 fund to the general budget fund in violation of the Charter.

10 42. Petitioner has a clear, present and beneficial right that the City comply with the
11 Glendale City Charter and return to the waterworks revenue fund all monies illegally transferred to
12 the general budget fund during the fiscal year ending June 30, 2011 for the purposes specified in
13 said revenue fund.

14 43. Petitioner has no adequate remedy at law.

15 44. Petitioner is entitled to a writ of mandate pursuant to Code of Civil Procedure
16 §1085.

17
18 **EIGHTH CAUSE OF ACTION**

19 **[Declaratory Relief re Electric Rate Increase**

20 **In Violation of Article XIII C of State Constitution]**

21 45. Petitioner refers to and realleges the allegations set forth in Paragraphs 1 through 5,
22 inclusive, of the introductory statement as though set forth herein at length.

23 46. Article XIII C of the California State Constitution defines a "tax" as "any levy,
24 charge, or exaction of any kind imposed by a local government" subject to certain exceptions,
25 none of which are applicable herein.

26 47. Article XIII C (b) provides, in pertinent part:
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No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote.

48. On or about August 13, 2013, the City increased electric rates charged to city rate payers without submitting the increase to a vote of the electorate in violation of Article XIIC of the California State Constitution.

49. An actual, present and substantial controversy exists between Petitioner and Respondents. Petitioner contends that the City has violated and will continue to violate Article XIIC of the California State Constitution and that said increase in electric rates constituted an impermissible tax not subject to an exception set forth in Article XIIC. The City contends that it has and will comply with Article XIIC and that it is not subject to the vote requirements of Article XIIC (2)(b).

50. A declaration of the rights and obligations of the parties is necessary and appropriate.

NINTH CAUSE OF ACTION

**[Petition for Writ of Mandate and/or Prohibition re Electric Rate Increase
In Violation of Article XIIC of State Constitution]**

51. Petitioner refers to and realleges the allegations set forth in Paragraphs 1 through 5, inclusive, of the introductory statement and Paragraphs 46 through 49 of the Eighth Cause of Action as though set forth herein at length.

52. Petitioner has no adequate remedy at law.

53. Petitioner is entitled to a writ of mandate and/or prohibition pursuant to Code of Civil Procedure §§1085 and 1103 preventing the City from increasing electric rates charged to city rate payers without first submitting the increase to a vote of the electorate pursuant to Article XIIC of the California State Constitution.

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TENTH CAUSE OF ACTION

**[Petition for Writ of Mandate re Water Fees
In Violation of Article XIII D of State Constitution
Fiscal Year Ending June 30, 2010]**

54. Petitioner refers to and realleges the allegations set forth in paragraphs 1 through 5, inclusive, of the introductory statement as though fully set forth herein.

55. Fees paid by ratepayers to GWP for water services are fees for property related services within the meaning of California Constitution, Article XIII D.

56. California Constitution, Article XIII D (6) (b), provides, in pertinent part, that property related fees must satisfy the following requirements:

- (1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.**
- (2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.**
- (5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.**

57. Petitioner is informed and believes and thereupon alleges that the City transferred in excess of \$4.1 million for the fiscal year ending June 30, 2010 from the GWP waterworks revenue fund to the general budget fund to pay for City general services.

58. The transfer from the GWP waterworks revenue fund to the general budget fund to pay for City general services is in direct conflict with Article XIII D (6) (b) of the California Constitution.

1 59. Petitioner has a clear, present and beneficial right that the City comply with the
2 California Constitution and return to the waterworks revenue fund all monies transferred to the
3 general budget fund in violation of Article XIIIID of the California Constitution during fiscal year
4 ending June 30, 2010 to be used for the purposes set forth therein.

5 60. Petitioner has no remedy at law.

6 61. Petitioner is entitled to a writ of mandate pursuant to Code of Civil Procedure
7 section 1085.

8
9 **ELEVENTH CAUSE OF ACTION**

10 **[Petition for Writ of Mandate re Water Fees**

11 **In Violation of Article XIIIID of State Constitution**

12 **Fiscal Year Ending June 30, 2011]**

13 62. Petitioner refers to and realleges the allegations set forth in paragraphs 1 through 5,
14 inclusive, of the introductory statement as though fully set forth herein.

15 63. Fees paid by ratepayers to GWP for water services are fees for property related
16 services within the meaning of California Constitution, Article XIIIID.

17 64. California Constitution, Article XIIIID (6) (b), provides, in pertinent part, that
18 property related fees must satisfy the following requirements:

19
20 **(1) Revenues derived from the fee or charge shall not exceed the**
21 **funds required to provide the property related service.**

22 **(2) Revenues derived from the fee or charge shall not be used for any**
23 **purpose other than that for which the fee or charge was imposed.**

24 **(5) No fee or charge may be imposed for general governmental**
25 **services including, but not limited to, police, fire, ambulance or**
26 **library services, where the service is available to the public at**
27 **large in substantially the same manner as it is to property**
28 **owners.**

1 65. Petitioner is informed and believes and thereupon alleges that the City transferred
2 in excess of \$4.1 million for the fiscal year ending June 30, 2011 from the GWP waterworks
3 revenue fund to the general budget fund to pay for City general services.

4 66. The transfer from the GWP waterworks revenue fund to the general budget fund to
5 pay for City general services is in direct conflict with Article XIID (6) (b) of the California
6 Constitution.

7 67. Petitioner has a clear, present and beneficial right that the City comply with the
8 California Constitution and return to the waterworks revenue fund all monies transferred to the
9 general budget fund in violation of Article XIID of the California Constitution during fiscal year
10 ending June 30, 2011 to be used for the purposes set forth therein.

11 68. Petitioner has no remedy at law.

12 69. Petitioner is entitled to a writ of mandate pursuant to Code of Civil Procedure
13 section 1085.

14
15 **WHEREFORE**, Petitioner, Glendale Coalition for Better Government, prays for judgment
16 against Respondents, and each of them, as follows:

17 1. For the issuance of a writ of mandate directing the City of Glendale to return to the
18 electric works revenue fund all monies illegally transferred to the general budget fund during the
19 fiscal year ending June 30, 2010 pursuant to the First Cause of Action.

20 2. For the issuance of a writ of mandate directing the City of Glendale to return to the
21 electric works revenue fund all monies illegally transferred to the general budget fund during the
22 fiscal year ending June 30, 2011 pursuant to the Second Cause of Action.

23 3. For the issuance of a writ of mandate directing the City of Glendale to return to the
24 electric works revenue fund all monies illegally transferred to the general budget fund during the
25 fiscal year ending June 30, 2012 pursuant to the Third Cause of Action.

26 4. For the issuance of a writ of mandate directing the City of Glendale to return to the
27 electric works revenue fund all monies illegally transferred to the general budget fund during the
28 fiscal year ending June 30, 2013 pursuant to the Fourth Cause of Action.

1 5. For the issuance of a writ of mandate and/or prohibition preventing the City of
2 Glendale from illegally transferring revenue from the electric works revenue fund to the general
3 budget fund during the fiscal year ending June 30, 2014 and thereafter pursuant to the Fifth Cause
4 of Action.

5 6. For the issuance of a writ of mandate directing the City of Glendale to return to the
6 waterworks revenue fund all monies illegally transferred to the general budget fund during the
7 fiscal year ending June 30, 2010 pursuant to the Sixth Cause of Action.

8 7. For the issuance of a writ of mandate directing the City of Glendale to return to the
9 waterworks revenue fund all monies illegally transferred to the general budget fund during the
10 fiscal year ending June 30, 2011 pursuant to the Seventh Cause of Action.

11 8. For a declaration that the August 13, 2013 City of Glendale increase in electric
12 rates charged to city rate payers without submitting the increase to a vote of the electorate
13 constituted a violation of Article XIIC of the California State Constitution pursuant to the Eighth
14 Cause of Action.

15 9. For the issuance of a writ of mandate and/or prohibition preventing the City of
16 Glendale from increasing the electric rates charged to city rate payers without submitting the
17 increase to a vote of the electorate in accordance with Article XIIC of the California State
18 pursuant to the Ninth Cause of Action.

19 10. For the issuance of a writ of mandate directing the City to return to the waterworks
20 revenue fund all monies illegally transferred to the general budget fund during the fiscal year
21 ending June 30, 2010 in violation of Article XIID of the California Constitution pursuant to the
22 Tenth Cause of Action.

23 11. For the issuance of a writ of mandate directing the City to return to the waterworks
24 revenue fund all monies illegally transferred to the general budget fund during the fiscal year
25 ending June 30, 2011 in violation of Article XIID of the California Constitution pursuant to the
26 Eleventh Cause of Action.

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- 12. For all costs of suit incurred herein;
- 13. For reasonable attorney fees pursuant to California Code of Civil Procedure §1021.5
- 14. For such other and further relief as this court deems just and proper.

LAW OFFICES OF ARTHUR JARVIS COHEN


By: 
Arthur Jarvis Cohen,
Attorney for Petitioner,
Glendale Coalition for Better Government

EXHIBIT 1

Sec. 14. General budget fund.*

A fund to be known as the general budget fund is hereby created. All receipts from the general tax levy, licenses, fines, permits, and interest on bank deposits, and all other receipts except those from the department of Glendale Water and Power, and those which are collected for a specific purpose, or are herein ordered to be credited to some other fund, shall be credited to said fund, and all disbursements, on account of general budget appropriations, excepting such appropriations as are payable out of special funds, shall be charged to said general budget fund. The credit balance, if any, in said general budget fund, at the end of any fiscal year, the amount of which is in excess of the amount of all outstanding demands and liabilities unpaid on account of general budget appropriations for said fiscal year, shall be transferred to the general reserve fund.

* It was held in the case of *Marr v. Southern California Gas Co., et al.*, 198 Cal. 278, 245 P. 179, that interest received on money from the sale of assessment bonds pending action to test validity of assessment may be paid into the general fund of the city.

In the case of *City of Glendale v. Crescenta Mutual Water Co.*, 135 Cal. App. (2d) 784, 288 P. (2d) 105, it was held that receipts from an excise tax on use of water need not be credited to the general budget fund, since the collection was for a specific purpose, i.e., payments to the Metropolitan Water District in lieu of the ad valorem taxation.

EXHIBIT 2

Sec. 15. General reserve fund.

The council shall maintain the permanent revolving fund now established and known as the general reserve fund, for the purpose of keeping the payment of the running expenses of the city on a cash basis. Said fund shall be maintained in an amount sufficient to meet all legal demands against the treasury for the period of each fiscal year prior to the collection of ad valorem taxes. The council shall have power to transfer from the general reserve fund to any fund or funds, such sum or sums as may be required for the purpose of placing such fund or funds, as nearly as possible, on a cash basis. It shall be the duty of the council to provide that all money so transferred from the general reserve fund be returned thereto on or before the end of the fiscal year in which said transfers are made; provided, that in any fiscal year in which the total balance in said general reserve fund exceeds fifty (50) percent of the total amount of the anticipated ad valorem tax receipts for that year, the council may appropriate such excess for any city purpose without returning the same. (1921; 1949.)

EXHIBIT 3

Sec. 17. Waterworks depreciation fund; electric works depreciation fund.*

The council shall annually set aside from the income of the department of Glendale Water and Power derived from the waterworks of the city and paid into the waterworks revenue fund, a fund which, according to the estimates of the city manager, shall be sufficient to meet the normal depreciation of such waterworks. It shall also annually set aside from the income of the department of Glendale Water and Power derived from the electric works of the city and paid into the electric works revenue fund, a fund which, according to the estimates of the city manager, shall be sufficient to meet the normal depreciation of such electric works. Each of such funds shall be used only for the repair, replacement, betterment and extensions of the plants and equipment of the waterworks or electric works, as the case may be, from which said revenue is derived. Nothing herein contained shall limit the right to vote and issue bonds of the city for said purposes or any thereof or to issue revenue bonds of said city for said purposes or any thereof. (1921; 1931; 1941; 1949.)

* In connection with this section, see Charter, Art. XXVI, § 5.

Editor's Note: The catchline of this section originally read as follows: "Depreciation funds."

EXHIBIT 4

Sec. 20. Waterworks revenue fund; electric works revenue fund.

All receipts by the department of Glendale Water and Power from the sale of water or otherwise derived from the waterworks of the city shall be credited to a fund hereby created to be known as the waterworks revenue fund. All receipts by the department of Glendale Water and Power from the sale of electric energy or otherwise derived from the electric works of the city shall be credited to a fund hereby created to be known as the electric works revenue fund. All disbursements (except those payable from the waterworks depreciation fund) provided in the Glendale Water and Power budget on account of said waterworks shall be charged to said waterworks revenue fund and all disbursements (except those payable from the electric works depreciation fund) provided in said budget on account of the electric works shall be charged to said electric works revenue fund. The credit balance, if any, or any part thereof, in each of said funds at the end of any fiscal year, the amount of which is in excess of the amount of all outstanding demands and liabilities unpaid from said fund on account of budget appropriations therefrom, shall be transferred to the Glendale Water and Power surplus fund.

Editor's Note: The catchline of this section originally read as follows: "Revenue funds."

EXHIBIT 5

Sec. 21. Glendale Water and Power sinking fund.*

For the payment of principal and interest of all Glendale city or municipal improvement district bonds heretofore issued for the acquisition, improvement or extension of waterworks or electric works operated by the city, the council shall transfer from time to time from the waterworks revenue fund or the electric works revenue fund, or both thereof, to the Glendale Water and Power sinking fund a sufficient amount each year to cover the total amount of payments falling due that year for principal and interest of said bonds. Nothing in this section shall impair the power of the council to levy such taxes as may be necessary to provide for the payment of interest and principal of such bonds, or the power of the council to pay from the waterworks revenue fund the principal and interest of any general obligation bonds of the city hereafter issued for waterworks purposes or to pay from the electric works revenue fund the principal and interest of any general obligation bonds of the city hereafter issued for electric works purposes.

* In connection with this section, see Charter, Art. XXVI, § 5.

EXHIBIT 6

Sec. 22. Glendale Water and Power surplus fund--Generally.*

A fund to be known as the Glendale Water and Power surplus fund is hereby created, to which fund shall be credited from the receipts of the department of Glendale Water and Power in the waterworks revenue fund and the electric works revenue fund, any amounts in excess of the requirements of the several funds as hereinbefore set forth. Except as otherwise provided in this section, disbursements from said Glendale Water and Power surplus fund may be made by the council by special appropriation for waterworks or electric works purposes only, which shall include payment of all or any portion of the tax of the Metropolitan Water District of Southern California, or its successors in interest, which the council may elect to pay out of the funds of the City of Glendale.

At the end of each fiscal year an amount equal to twenty-five (25) percentum of the operating revenues of the department of Glendale Water and Power for such year, excluding receipts from water or power supplied to other cities or utilities at wholesale rates, shall be transferred from said Glendale Water and Power surplus fund to the general reserve fund; provided, that the council may annually, at or before the time for adopting the general budget for the ensuing fiscal year, reduce said amount or wholly waive such transfer if, in its opinion, such reduction or waiver is necessary to insure the sound financial position of said department of Glendale Water and Power and it shall so declare by resolution. (1921; 1931; 1941; 1946; 1949.)

* In connection with this section, see Charter, Art. XXVI, § 5.

It was held in the case of *City of Glendale v. Crescenta Mutual Water Co.*, 135 Cal App. (2d) 784, 288 P. (2d) 105, that the council has discretion to pay all or a portion of the payments to the Metropolitan Water District from the public service surplus fund in lieu of the ad valorem tax of the district.

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have read the foregoing Petition for Writ of Mandate, for Writ of Prohibition and for Declaratory relief and know its contents.

CHECK APPLICABLE PARAGRAPHS

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am ~~an Officer a partner~~ a Board Member of Glendale Coalition for Better Government, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for _____ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing documents are true.

Executed on February 21, 2014, at Glendale, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

HARRY ZAVOS

Printed Name

Harry Zavos
Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the _____ . I am over the age of 18 and not a party to the within action; my business address is _____.

On, _____, 2014, I served the foregoing document described as _____ on interested parties in this action by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list: by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL

*I deposited such envelope in the mail at _____, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on _____, at _____.

** (BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on _____, at _____, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this courts at whose direction the service was made.

Printed Name

Signature

*(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX OR BAG)

** (FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)