



# CITY COUNCIL REPORT

8A

**DATE:** JUNE 19, 2018

**TO:** HONORABLE MAYOR AND COUNCIL MEMBERS

**FROM:** ERIC S. CASHER, CITY ATTORNEY

**COPY:** MICHELLE FITZER, CITY MANAGER

**SUBJECT:** ADOPT RESOLUTION AUTHORIZING THE SUBMISSION TO VOTERS OF A BALLOT MEASURE SEEKING VOTER AUTHORIZATION TO AMEND MUNICIPAL CODE CHAPTER 3.26 TO EXTEND THE TERM OF THE CITY'S EXISTING UTILITY USERS TAX WITHOUT A RATE INCREASE AT THE REGULARLY SCHEDULED NOVEMBER 6, 2018 STATEWIDE GENERAL ELECTION

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## **RECOMMENDATION**

It is recommended that the City Council adopt a resolution authorizing the submission to voters of a ballot measure seeking voter authorization to amend Municipal Code Chapter 3.26 to extend the term of the City's existing Utility Users Tax ("UUT") without a rate increase at the regularly scheduled November 6, 2018 statewide general election.

## **BACKGROUND**

The UUT was approved by Pinole voters in 1998, and went into effect on December 1<sup>st</sup> of that year. Municipal Code Chapter 3.26 contains the City's existing UUT tax of eight percent (8%). The UUT is paid by recipients of telephone, electric and gas utility services, and is collected by the utilities as part of regular billing. The utilities then remit the tax revenue to the City. Pinole voters have approved extensions of the UUT in 2004 and 2012. Under current law, the UUT will be automatically repealed on December 31, 2020 unless extended by the voters.

The UUT currently raises approximately two million dollars (\$2,000,000) annually for the City of Pinole's General Fund, which is equivalent to roughly fourteen percent (%14) of the City's General Fund Budget. The UUT tax revenue is used to support a wide range of City services including police and fire protection, 9-1-1 emergency services, park maintenance and repair, youth and senior recreation services, and other community services.

## **DISCUSSION**

The proposed resolution, if adopted by the City Council, will direct submission of a measure to the voters of the City of Pinole to decide whether or not to extend the City's existing eight percent (8%) UUT until voters otherwise decide (the "Measure"). Codified as Chapter 3.26 of the Municipal Code, the UUT raises a significant amount of revenue for the City's General Fund, as described above. This revenue funds, among other things, Police and Fire protection, 9-1-1 emergency services, park maintenance and repair, youth and senior recreation services, and other community services. Importantly, this locally generated revenue is also locally controlled, and cannot be taken by the State to balance the State budget.

Since the Great Recession a decade ago, the City of Pinole has cut costs and reduced the City's workforce in order to balance the City's budget. The City is a prudent manager of tax revenue, and strives to provide public services in the most fiscally responsible and efficient manner possible. Extension of the UUT is critical to ensure the City's continued financial health.

If the Measure does not pass, the existing UUT will remain in effect until December 31, 2020. However, after that date, the UUT will expire, which would result in a significant decrease in General Fund revenue for the City. Ultimately, that loss of revenue would result in the reduction of critical services to Pinole citizens, including public safety and recreation services.

As set forth in the proposed resolution, the ballot language shall state:

### **"Extension of Locally Controlled Funding Measure**

Without raising current tax rates, and to maintain City services including Police and Fire protection, 9-1-1 emergency services, park maintenance and repair, youth and senior recreation services, other community services, and for unrestricted general revenue purposes, shall an ordinance be adopted to continue the existing Utility Users Tax at the current rate of 8%, until voters otherwise decide, providing approximately \$2,000,000 annually that cannot be taken by the State?"

The UUT is a general tax, which means that, under existing law, the Measure to extend the UUT requires approval from a majority of voters casting a vote on the Measure. However, there is a proposed amendment to the California Constitution that is likely to be voted on by California voters as part of the November 2018 election. If adopted, that constitutional amendment would require two-thirds voter approval for the enactment, increase or extension of all taxes, including general taxes. This constitutional amendment would be retroactive to all taxes enacted or extended after January 1, 2018. Accordingly, if this constitutional amendment passes, the Measure to extend the UUT would require approval from two-thirds of voters to pass.

The proposed resolution requests that the Contra Costa County Registrar of Voters consolidate the Measure with the regularly scheduled statewide general election on November 6, 2018. The City will have to reimburse the Registrar of Voters for its costs in placing the Measure on the November 6, 2018 ballot. Those costs are estimated to be approximately three thousand dollars (\$3,000).

The proposed resolution instructs the City Clerk to take all action necessary and required by law to ensure the Measure appears on the November 6, 2018 ballot, and to coordinate with the County Registrar of Voters as appropriate. Additionally, the resolution instructs the City Attorney to prepare an impartial analysis of the Measure.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The approval of this resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”), based on the general rule set forth in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

### **FISCAL IMPACT**

If the measure is approved by the voters, the extension of the UUT is estimated to generate approximately two million dollars (\$2,000,000) annually in revenue for the General Fund. Additionally, the City will be responsible for reimbursing the Contra Costa County Registrar of Voters for the cost of placing this Measure on the November 6, 2018 Ballot. That cost is estimated to be approximately three thousand dollars (\$3,000).

### **ATTACHMENTS**

Attachment A: Resolution Authorizing Submission of Measure to Voters  
Attachment B: Text of Ordinance Extending Term of Utility Users Tax