

RESOLUTION 2020-093

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO CALLING FOR AND GIVING NOTICE OF A NOVEMBER 3, 2020 ELECTION ON A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL TO REENACT THE EXISTING TRANSACTIONS AND USE (SALES) TAX FOR TEN YEARS AT ONE-HALF OF ONE PERCENT (0.50%) FOR FIVE YEARS, REDUCING TO ONE-QUARTER OF ONE PERCENT (0.25%) FOR THE NEXT FIVE YEARS, THEN TERMINATING ALTOGETHER, TO FUND GENERAL MUNICIPAL SERVICES; ESTABLISHING THE POLICIES AND PROCEDURES FOR SUCH AN ELECTION; AND REQUESTING THAT CONTRA COSTA COUNTY CONSOLIDATE A MUNICIPAL ELECTION ON A LOCAL MEASURE WITH OTHER ELECTOINS TO BE HELD ON NOVEMBER 3, 2020

WHEREAS, following a declaration of fiscal emergency by the City Council of the City of San Pablo, the City Council approved a local revenue measure, which was approved by the City of San Pablo voters (73.56%) at the June 5, 2012 election (“Measure Q”); and

WHEREAS, the overall purpose of the Measure Q temporary sales tax measure, proposed in 2012 as a general municipal tax, was to provide a critical annual revenue stream for general municipal services to mitigate cuts to local City services caused by State of California takeaways, counteract the fiscal impacts of the Great Economic Recession of 2007-2009, and to minimize impacts from the dissolution of all redevelopment agencies in California; and

WHEREAS, Measure Q established a general transactions and use tax (“sales tax”) of one half of one percent (0.5%) (a half cent for each dollar) for the first 5 years and then decreasing to one-quarter of one percent (0.25%) (a quarter cent for each dollar) for the next 5 years, which is codified in Chapter 3.25 of the San Pablo Municipal Code; and

WHEREAS, since its passage by local voters in June 2012, the Measure Q sales tax measure revenue stream has generated approximately \$8.4M in annual revenue to the City’s General Fund through the period ending June 30, 2019 according to independent audited financial statements; and

WHEREAS, the Measure Q revenue stream has enabled the City to maintain funding for general municipal services, including but not limited to the following: public safety, gang prevention, youth services, job creation and job training programs for local residents (including the disenfranchised) and all other general City services; and

WHEREAS, during the ensuing years of 2012-2016, City staff with assistance of the City’s consultant, Strategy Research Institute, Inc., have extensively reviewed three (3) potential types of tax funding measures to bring in necessary revenue sources to the

City which includes: a temporary sales tax, an increase in the utility user's tax, or a parcel tax; and

WHEREAS, a temporary sales tax measure has been the preferred funding mechanism supported by the community at-large and electorate over-time since original adoption of the Measure Q sales tax measure by the local voters in June 2012; and

WHEREAS, on March 14, 2016, upon being presented these most recent analysis and findings on potential funding mechanisms by SRI, Inc., the City Council adopted Resolution No. #2016-139 which authorized the City Manager to proceed with prioritization and planning of an extension of the Measure Q Sales Tax Measure Funding Mechanism (i.e. extension beyond 2022); and

WHEREAS, beginning in March 2019, fiscal impacts from the COVID-19 pandemic and shelter-in-place orders have resulted in a significant decline in City revenues including a loss of approximately \$2.34 million for each month Casino San Pablo was closed, and \$1.3 million every month from other City revenue sources, including sales tax through period ending June 30, 2020, with losses anticipated in subsequent months that the Contra Costa County shelter-in-place orders are continued and local businesses are impacted; and

WHEREAS, for FY 2020/21, due to a high degree of uncertainty when City General Fund revenues will return to pre-COVID-19 pandemic crisis levels, the City Manager indicates that the City programs and services funded by Measure Q sales tax revenue would be substantially reduced or eliminated if the sales tax is not reenacted; and

WHEREAS, examples of the City programs and services funded by the current Measure Q revenue stream in FY 2018/19 are listed below which are at substantial risk of elimination, or reduction if the new temporary sales tax measure is not reenacted by local voters beyond the current sunset date of September 30, 2022:

1. **Job Training and Readiness Programs: \$187,500**
Total # of San Pablo Residents Served: 90 (FY 2018/19; Audited)
2. **Youth Services: Childhood Obesity Prevention Grant Program: \$176,111**
Total # of San Pablo Residents Served: 3,240 (FY 2018/19; Audited)
3. **Youth Services: Beacon Community School Initiative Grantees: \$894,288**
Total # of San Pablo Residents Served: 3,758 (FY 2018/19; Audited)
4. **San Pablo Police Department Community Policing/P.O.P. Unit Programs: \$350,496**
Total # of San Pablo Residents Served: 3,758 (FY 2018/19; Audited)

WHEREAS, in adopting the amended budget for Fiscal Years 2019-20 and 2020-21, the City Council formally recognized a summary of findings, and the need to continue the current Measure Q funding revenue stream for the next ten (10) year period from October 1, 2022 until September 30, 2032, in part due to a projected 50% annual sales tax revenue loss due to COVID-19 during the economic recovery period from COVID-19 pandemic per adopted Resolution No. #2020-074 approved on June 15, 2020; and

WHEREAS, all funds from a local revenue measure must stay in San Pablo to maintain local services and cannot be taken by the State; and

WHEREAS, the reenactment of Measure Q would ensure fiscal accountability by requiring independent citizens' oversight, mandatory financial audits, and yearly reports to the community on how the funds were spent; and

WHEREAS, at a meeting on July 20 2020, the City Council determined to place a ballot measure before the voters at the November 3, 2020 general election to reenact the current temporary Transactions and Use (Sales) Tax Ordinance, as authorized by Revenue and Taxation Code section 7285.9 and attached as Exhibit A; and

WHEREAS, the tax, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property, at one-half of one percent (0.5%) (a half cent for each dollar) for the first 5 years starting upon the expiration of the initial Measure Q sales tax and decreasing to one-quarter of one percent (0.25%) (a quarter cent for each dollar) for the next 5 years, then terminating altogether in 2032; and

WHEREAS, the transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular actions or purposes, and the specific purposes recited in the ballot measure are non-restricted and non-exclusive examples only. The tax is a general tax and shall be approved if the measure receives at least a simple majority of affirmative votes; and

WHEREAS, alternatively, if the current Sales Tax Measure Q is not reenacted by local voters beyond September 30, 2022 for the next ten (10) year period (from 2022-2032), the City would have to eliminate or reduce all Measure Q funded programs and services, or realize a potential General Fund deficit shortfall (losses) totaling approximately (\$1.5M) annually beginning in FY 2022/23 relative to predicted levels, and further deficits (losses) in subsequent years. Thereby, further straining the City's General Fund, and resulting in a recurring, structural deficit in future years, if appropriate adjustments to the City's General Fund revenue estimates are not implemented.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN PABLO DOES RESOLVE AS FOLLOWS:

Section 1. Call for Election

Pursuant to California Constitution Article XIII C, Section 2, Government Code Section 53724, and Elections Code Section 9222, the City Council of the City of San Pablo hereby calls an election at which it shall submit to the qualified voters of the City a measure that would extend and impose a temporary general transactions and use tax, as authorized by Revenue and Taxation Code section 7285.9. A majority vote is required for passage of the ballot measure. Pursuant to Election Code Section 10400 et seq., the election for this measure shall be consolidated with the established election to be conducted on November 3, 2020.

Section 2. Ballot Language

The question to be presented to the voters shall be as follows:

<p><u>Reenact Temporary Sales Tax Measure for San Pablo:</u></p> <p>“To continue funding that cannot be seized by the State, but stays in San Pablo for Public Safety, gang prevention, youth services, job creation, training and job placement for local residents (including the disenfranchised) and all other general city services, shall San Pablo reenact a half-cent sales tax for 5 years (generating approximately \$1,450,000 annually), then reduced to one-quarter cent for 5 years (generating approximately \$725,000 annually), then terminate; and include citizen oversight and annual audits?”</p>	<p>YES</p>	
	<p>NO</p>	

This measure shall be designated by letter by the Contra Costa County Elections Department.

Section 3. Proposed Ordinance

The Ordinance authorizing the extension and imposition of the general tax to be approved by the voters is set forth in Exhibit A to this resolution and incorporated by reference. The City Council hereby approves the Ordinance and its submission to the voters of the City at the November 3, 2020 election, as required by Revenue and Taxation Code section 7285.9. The Ordinance specifies that the rate of the transactions tax shall be one-half of one percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City. It specifies that the rate of the use tax shall be one-half of one percent (0.5%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. Commencing on October 1, 2022, the tax shall be in effect for five years, after which it shall be reduced to one-quarter of one percent (0.25%) for the next five years, then terminated altogether on September 30, 2032. The

State Department of Tax and Fee Administration shall collect the tax from retailers subject to the tax and remit the funds to the City.

Section 4. Full Text of the Measure

The Ordinance attached as Exhibit A to this Resolution is available at no cost from the City Clerk's Office at (510) 215-3000, or on the City's website at www.sanpabloca.gov.

The Board of Supervisors of the County of Contra Costa is requested to order the County Clerk to set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the primary arguments for and against the measure, and to provide absent voter ballots for the election for use by qualified electors of the City who are entitled thereto in the manner provided by law.

Section 5. Request to Consolidate, Conduct Election and Canvass Returns

As also requested in San Pablo City Council Resolution No. 2020-079 dated June 22, 2020 and pursuant to California Elections Code section 10403, the City Council requests that the Contra Costa County Board of Supervisors consolidate the election called by this Resolution with the election to be conducted on November 3, 2020 and order the election to be conducted by the Registrar of Voters. The City Council also requests that the Board of Supervisors of the County of Contra Costa authorize the County Clerk and all other appropriate County staff to render all services necessary and proper for the conduct of the election called by this Resolution. The ballots to be used in the election shall be in form and content as required by law. The Contra Costa County Elections Department is authorized to canvass the returns of the election.

The City Clerk is authorized, instructed and directed to work with the County Elections Division as needed in order to properly and lawfully conduct the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 6. Filing Resolution with the County

The City Clerk is directed to file certified copies of this Resolution with the Board of Supervisors and the County Clerk of the County of Contra Costa, and the Registrar of Voters, together with the attached ballot measure.

Section 7. Publication of Measure

The City Clerk is hereby directed to cause notice of the measure to be published once in accordance with Section 12111 of the Elections Code.

Section 8. Submission of Ballot Arguments

The last day for submission of arguments for or against the measure shall be by 6:00 p.m. on August 19, 2020. The direct arguments shall not exceed three hundred (300) words, and shall not be signed by more than five (5) persons. The City Council does not adopt the provisions of Elections Code Section 9285(a); there shall be no rebuttal arguments.

Section 9. Council Preparation of Argument In Support of Measure

Pursuant to California Elections Code Section 9282, the City Council hereby authorizes the Mayor and Vice-Mayor to prepare a written argument in favor of the proposed measure, not to exceed three hundred (300) words. At the discretion of such two councilmembers, the argument may also be signed by other members of the City Council, bona fide associations of citizens, or by individual voters who are eligible to vote.

Section 10. Impartial Analysis

Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit the impartial analysis to the Elections Division by no later than 6:00 p.m. on August 13, 2020.

Section 11. Time and Place of Election

The polls for the election shall be open at 7:00 a.m. on the day of the election and shall remain open continuously from that time until 8:00 p.m. that same day, when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California. The notice of the time and place of holding the election is hereby given, and the City Clerk is authorized to give further notice of the election, as required by law.

Section 12. Implementation.

The City Manager and City Clerk, or his or her designee, are authorized and directed, on behalf of the City, to take all actions necessary to place the measure on the ballot and to cause the ordinance or measure to be printed, including but not limited to executing documents and appropriating the necessary funds to pay the City's cost of placing the measure on the ballot. The City will reimburse the County for the actual cost incurred by the county elections official in conducting the election upon receipt of a bill stating the amount due as determined by the Elections Official.

Section 13. Jurisdictional Boundaries

The jurisdictional boundaries of the City of San Pablo have not changed since the last general municipal election.

Section 14. Passage of this Measure.

This tax is a general tax requiring the approval of a majority of qualified electors casting votes. While the measure lists several of the various municipal purposes to be funded, the list is illustrative only and the Council retains complete discretion to expend the tax proceeds for any lawful purpose of the City of San Pablo.

Section 15. CEQA

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"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines section 15060 review under CEQA is not required.

* * * *

Adopted the 20th day of July 2020, by the following vote:

AYES: COUNCILMEMBERS:	Kinney, Pineda, Xavier, Pabon-Alvarado and Cruz
NOES: COUNCILMEMBERS:	None
ABSENT: COUNCILMEMBERS:	None
ABSTAIN: COUNCILMEMBERS:	None

ATTEST: APPROVED:

/s/ LaTanya Fisher
LaTanya Fisher, Acting Deputy City Clerk

/s/ Arturo M. Cruz
Arturo M. Cruz, Mayor