



# REQUEST FOR COUNCIL ACTION

PREPARED BY: City Manager

DATE OF MEETING: 3/3/2014

DATE: February 18, 2014

PHONE: 215-3001

**SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO CALLING FOR AND GIVING NOTICE OF A JUNE 3, 2014 ELECTION ON A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL OF A ONE-QUARTER OF ONE PERCENT (0.25%) TRANSACTIONS AND USE (SALES) TAX TO FUND EMERGENCY MEDICAL SERVICES AT SAN PABLO FIRE STATION #70, ESTABLISHING THE POLICIES AND PROCEDURES FOR SUCH AN ELECTION AND REQUESTING THAT THE COUNTY OF CONTRA COSTA CONDUCT SUCH AN ELECTION**

**AND, AN ORDINANCE OF THE CITY OF SAN PABLO IMPOSING A TRANSACTIONS AND USE TAX FOR EMERGENCY MEDICAL SERVICES TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

APPROVED:   
DEPARTMENT HEAD CITY MANAGER

  
CITY ATTORNEY

## RECOMMENDED ACTION

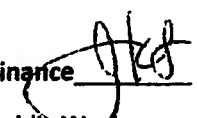
1. Adopt resolution by a 2/3 vote of all members of the Council (i.e. 4 votes).
2. Designate two Councilmembers to author the ballot argument in favor of the measure. The designation will be inserted into the adopted resolution.
3. Move to receive and file the 2013 Survey Report presented by Strategic Research Institute, Inc, and post it on the City's website.
4. Waive first reading and introduce ordinance, subject to approval by electorate.

## CITY COUNCIL PRIORITY WORKPLAN

In its 2013-15 Council Priority Work Plan, PUBLIC SAFETY, the City Council directed staff to consider the feasibility of Fire Safety Assessment/Evaluation Services, and also the feasibility of a Public Safety Funding Mechanism.

### Departmental Coordination

Comm. Services \_\_\_\_\_  
 Police \_\_\_\_\_

Finance   
 Public Works \_\_\_\_\_

Staff retained the firm of Strategic Research Institute to conduct a survey in late 2013, which indicated that the community looked favorably towards a ¼ % sales tax measure to fund Emergency Medical Services (EMS) at Station 70 in San Pablo.

**CEQA COMPLIANCE**

Approval of this Resolution to place on the ballot a special tax that will provide funding for an EMS squad to use smaller EMS vehicles to respond to EMS calls in the City of San Pablo, as opposed to more expensive, larger fire rigs, is exempt from the California Environmental Quality Act under CEQA Guidelines § 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. ConFire will respond to the same medical emergencies as before. The funds raised will be restricted to funding an EMS squad which will respond to emergency medical calls in the City via smaller EMS vehicles rather than larger fire vehicles that get worse gas mileage and emit more emissions. In addition, the activity is not a project under CEQA pursuant to Guidelines Section 15378(b)(5): Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

The resolution directs the City Manager to ensure that a notice of exemption is filed immediately with the County Clerk.

**BACKGROUND**

**Urgent Need For Emergency Medical Services Funding.**

San Pablo residents are serviced by the Contra Costa County Fire Protection District (ConFire) for their emergency medical and fire protection services. ConFire is currently in a financial crisis. Since 2008, it has seen a \$32 million decline in property tax revenue. In January 2012, the County Board of Supervisors approved a Fire Station Closure Plan for County Fire Stations which has closed five (5) fire stations to date (23 Engine Companies Remain). In November, 2012, a County-wide parcel tax measure (Measure Q) failed to garner sufficient 2/3rds vote to pass a \$75.00 per residential parcel tax to fund Fire and EMS Services Countywide (\$17 million annually if adopted; \$68 million over 4 years). ConFire is therefore facing insolvency in FY 2017, with a structural deficit of six million dollars to ten million dollars each year.

There is only one county fire station in the City of San Pablo, Fire Station #70 in the middle of San Pablo. Station 70 provides San Pablo with both fire and emergency medical services. Due to mutual aid agreements, Station 70 also provides service to seven other county unincorporated areas -- (i) Bayview, (ii) Mifflin-Barranca, (iii) North Richmond, (iv) Montalvin Manor, (v) Rollingwood, (vi) Tara Hills, and (vii) portions of El Sobrante/East Richmond Heights; and to the City of Richmond through automatic aid agreements;

**Departmental Coordination**

**Comm. Services** \_\_\_\_\_

**Finance** \_\_\_\_\_

**Police** \_\_\_\_\_

**Public Works** \_\_\_\_\_

The current annual operating expenses required to fund Fire Station 70 amount to \$2.8 million per year. The City of San Pablo is able to contribute only approximately \$811,000 annually.

San Pablo's Station 70 is the busiest fire station in Contra Costa County. In 2012, for example, Station 70 responded to a total of 3,672 incidents in its service area. Of that total, 3,147, or 86%, were San Pablo calls. **82.5% of the service calls in San Pablo were EMS calls for Emergency Medical Services.** Due to this overwhelming need for emergency medical services for its residents, and the extremely high cost of fire engines responding not to fire calls, but to EMS calls in the City of San Pablo, it is essential for the public health, safety and welfare for City residents that a funding method be found to support and ensure adequate EMS response in the City of San Pablo through smaller EMS vehicles to complement more expensive fire vehicles. This is particularly so in light of the threatened, impending closure of Doctor's Medical Center.

It is therefore recommended that the City Council place a Transactions and Use (Sales) Tax Ordinance, as authorized by Revenue and Taxation Code section 7285.9 and attached hereto as Exhibit A, as a measure before the voters at the June 3, 2014 special election. **Such tax shall be a special tax, the revenues of which shall only be used to fund Emergency Medical Services at Fire Station #70 in the City of San Pablo;** should the County close Station 70, the revenues could only be used to provide alternative EMS services for the City of San Pablo. All funds from this local revenue measure are required to stay in San Pablo to provide EMS services and cannot be taken by the State. Fiscal accountability will be ensured by requiring independent citizens' oversight, mandatory financial audits, and yearly reports to the community.

**Ballot Measure Language**

The attached resolution proposes to place on the June ballot an ordinance that would implement a local sales tax (transactions and use tax), in the amount of ¼ (0.25) percent. This will be a special tax, legally restricting the funds generated from the tax to the purposes set forth in the measure. Passage requires a two-thirds vote of the electorate, and the City Council must determine by a two-thirds vote to place it on the ballot. The question to be placed before the voters is:

*"To ensure continued and adequate Emergency Medical Services for San Pablo residents, given the recent threat that County Fire Station #70, which is located in San Pablo, may be downsized or closed and given that Station 70 presently provides 100% of the EMS services for all San Pablo residents, shall San Pablo increase its sales tax by one-quarter percent to fund the creation of an Emergency Medical Services Squad, with mandatory audits, community oversight, and annual reporting."*

Again, this is a special tax requiring the approval of two-thirds of qualified electors casting

**Departmental Coordination**

**Comm. Services** \_\_\_\_\_

**Finance** \_\_\_\_\_

**Police** \_\_\_\_\_

**Public Works** \_\_\_\_\_

votes. The attached ordinance, Exhibit A, at Section 3.26.140, provides for mandatory audits, and community oversight and reporting, through appointment of a committee consisting of San Pablo residents and business representatives. The committee's report and recommendations shall be completed by a date to allow for it to be considered as part of each annual budget process.

### **Transactions and Use Tax**

In California there are approximately 100 cities and counties with local sales tax measures, and many more special districts and counties. In fact, 90% of the State's population resides in at least one district that has a local sales tax (transactions and use tax). Several cities in West Contra Costa County impose additional transactions and use (sales) taxes. This additional tax revenue stays in each city, and cannot be taken by the County or State. Richmond has a ½ cent tax, imposed in 2005. Pinole has a ½ cent tax, imposed in 2007. El Cerrito has two separate ½ cent taxes, imposed in 2008 and 2011. Concord approved a ½ cent tax increase in 2010. San Pablo has a ½ cent tax approved in 2012; the tax decreases to ¼ cent after five years, and sunsets after 10 years. Antioch and Pittsburg adopted ½ cent sales taxes in 2012. Hercules also adopted a temporary ½ cent sales tax in June 2012 sales tax increase 0.50% (8.25% to 8.75%).

As explained in more detail below, sales tax is paid by purchasers of retail taxable goods from businesses located in San Pablo. Thus, the tax is imposed on purchasers of goods, whether San Pablo residents or not. In this way the tax burden is not imposed exclusively on San Pablo residents. Local sales tax measures have enjoyed recent popularity because the cost increment is low, it is not a property-based tax, out-of-town visitors share in the cost, and the sales tax is not applied to groceries or prescription medication.

Statutory authority to schedule an election for a special tax is set forth in the State Revenue and Taxation Code, section 7285.91, which provides:

*As an alternative to the procedure set forth in Section 7285.9, the governing body of any city may levy, increase, or extend a transactions and use tax for specific purposes. The tax may be levied, increased, or extended at a rate of 0.125 percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:*

*(a) The ordinance proposing that tax is approved by a two-thirds vote of all members of the governing body and is subsequently approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue.*

*(b) The transactions and use tax conforms to the Transactions and Use Tax Law Part 1.6 (commencing with Section 7251).*

*(c) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.*

Although referred to as a "local sales tax" throughout this staff report, this revenue source

#### **Departmental Coordination**

**Comm. Services** \_\_\_\_\_

**Finance** \_\_\_\_\_

**Police** \_\_\_\_\_

**Public Works** \_\_\_\_\_

is formally known as a "transactions and use tax" in State law. A transaction and use tax is imposed on the same goods and merchandise as sales tax; however, a sales tax (formally known in State law as a Bradley Burns sales and use tax) is allocated to the jurisdiction where the sale is negotiated or the order for the sale is taken. A transactions and use tax, on the other hand, is allocated to the City where the goods are delivered or placed into use. Merchandise purchased in a "walk-in" retail store is assumed by the state to be used within the city in which the store is located, unless the retailer is asked to ship the merchandise outside the city as part of the sale or it is a motor vehicle that can be driven away. For sales contracts that require shipment of merchandise, the local sales tax (transactions and use tax) is levied for the city to where the merchandise is shipped. A similar situation exists with vehicles that require registration: the local sales tax (transactions and use tax) of the city in which the vehicle is registered applies, regardless of where it was purchased.

If this local revenue measure passes, San Pablo will enter into two contracts with the State: the first to set up the tax and the second for ongoing administration. The tax will not be operative until the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance at the election. This means that a tax passed in June, 2014, would not be imposed and collected until the beginning of the last quarter of the year on October 1, 2014.

Staff considered three potential types of tax measures to bring in the necessary revenue: a temporary sales tax, an increase in the utility user's tax, or a parcel tax. For the following reasons, staff considers a temporary sales tax as the best approach:

**Participant Diversity:**

Sales tax is paid on a wide variety of goods, excluding (primarily) groceries and medicine. It is therefore a highly diversified source of revenue. A sales tax would be paid by a wide variety of individuals, including residents, local businesses, and workers in the City, and individuals from outside the City who purchase taxable goods in the City. Sales tax on motor vehicle purchases would be paid only by individuals registering the vehicle in San Pablo, regardless of where the vehicle was purchased. The sales tax would be paid by the highest number of payers relative to other revenue options such as a parcel tax or increase in the utility user's tax, and therefore has the most participant diversity of the three options.

**Impact on Low/Fixed Income:**

A sales tax increase would be paid only by purchasers of taxable goods in San Pablo. Because low income and fixed income individuals spend a large proportion of their incomes on non-taxable goods and services, a sales tax increase would not have as significant an impact on these individuals. Further, many purchases subject to sales tax are discretionary purchases, allowing low and fixed income individuals to minimize the impact of the new tax.

**Impact on Business Community:**

A sales tax increase would have a low impact on the business community, as the tax would

**Departmental Coordination**

**Comm. Services** \_\_\_\_\_

**Finance** \_\_\_\_\_

**Police** \_\_\_\_\_

**Public Works** \_\_\_\_\_

be paid by purchasers of taxable goods rather than the business itself. Most office and service businesses would see little impact except for their own purchases of taxable goods in San Pablo. Anecdotal data from other California counties where city sales tax measures have been adopted indicates these measures had virtually no impact on the retail sales volumes in those cities, when comparing periods prior to and after adoption of a sales tax.

Impact on Residential Community:

A sales tax would have a medium to low impact on residents. It would apply only to taxable purchases and not to mortgage, other debt payments, utilities, services, medicine and most grocery purchases, which make up the majority of resident spending. Individuals purchasing a vehicle that is registered in San Pablo would pay the increased tax, regardless of whether the vehicle was purchased in San Pablo or another city.

**ELECTION PROCEDURES**

Submission of Ballot Arguments

Deadlines established by the County Elections Department require that arguments for or against the measure must be submitted by 5:00 p.m. on March 14, 2014. Arguments may not exceed three hundred (300) words, and cannot be signed by more than five (5) persons. The City Council has determined in the past not to adopt the provisions of Elections Code Section 9285(a) allowing for rebuttal arguments.

Council Preparation of Argument In Support of Measure

Under Elections Code section 9282, a ballot argument on this city council-sponsored measure may be authored by the city council, or any members of the council authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations. The City Council is asked to designate, by motion, two of its members to author the ballot argument in support of the measure. The argument may not exceed three hundred (300) words. Those two members may solicit up to three additional signatories.

Impartial Analysis

The City Attorney will 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 March 14, 2014.

Roles and Limitations During Ballot Measure Campaign Period

The City can provide educational materials to the public, informing them about the Measure. But the City cannot expend any time, money or effort advocating a position supporting passage of the ballot measure. Council members and staff can work on the campaign on their own time and at their own expense, provided it is made clear that they are doing so on their own time and not with City resources.

**Departmental Coordination**

**Comm. Services** \_\_\_\_\_

**Finance** \_\_\_\_\_

**Police** \_\_\_\_\_

**Public Works** \_\_\_\_\_

**FISCAL IMPACT**

As sales tax is paid only on the purchase of taxable goods from businesses in San Pablo, this revenue would fluctuate in response to changes in the local, state and national economy, as well as the relocation of retailers into and out of the City's boundaries. As the economy continues to fluctuate, the City would see both positive and negative variations in this revenue source. However, the Finance Department currently estimates that a one-quarter cent sales tax would raise approximately \$500,000 per year.

The County has estimated that the cost for placing this measure on the June ballot will be \$2.00 per registered voter. San Pablo has 8,271 registered voters (increase of 616 registered voters since the last special election in June, 2012), for a total estimated cost of \$16,542.00. Due to efficiency changes at the County, this is substantially less than the \$2.75 per registered voter (\$21,051.25) estimated by the County for the June 2012 election. The actual cost per voter is dependent on the number of other jurisdictions on each ballot type within the district. The actual cost may be significantly more or less than this estimate, and will depend on supply and paper costs, fuel costs, labor costs and the number of jurisdictions consolidating with the election. The elections official will bill the city for the actual costs of the election conducted or a pro rata share of the actual costs if the election is consolidated.

s/cclk/cals/2014Election/CAF2014EMS Special SalesTax.Reso

**Departmental Coordination**

**Comm. Services** \_\_\_\_\_

**Finance** \_\_\_\_\_

**Police** \_\_\_\_\_

**Public Works** \_\_\_\_\_

