

Adoption of Resolution Calling an Election in the City of Alameda to be Consolidated with the City's Next General Municipal Election on November 6, 2018, and Submitting to the Electors A Ballot Measure, "City of Alameda Essential Services Protection Measure", Seeking Enactment of a One-Half of One Percent Transactions and Use (Sales) Tax by Amending the Alameda Municipal Code by Adding "Chapter 3-63, Transactions and Use Tax", Establishing the Policies and Procedures for such an Election and Requesting that the County of Alameda Conduct such an Election. (City Manager 2110)

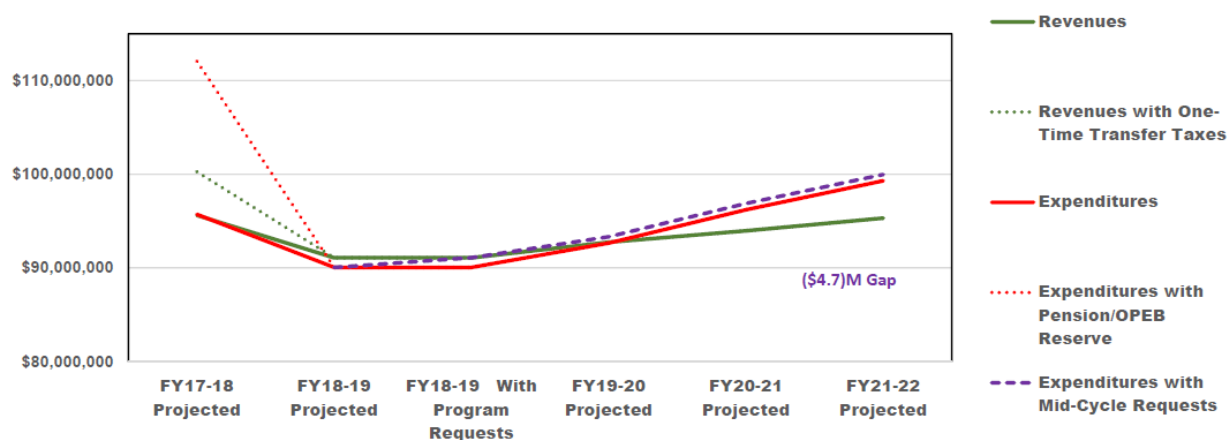
To: Honorable Mayor and Members of the City Council

From: Elizabeth D. Warmerdam, Acting City Manager

Re: Adoption of Resolution Calling an Election in the City of Alameda to be Consolidated with the City's Next General Municipal Election on November 6, 2018, and Submitting to the Electors A Ballot Measure, "City of Alameda Essential Services Protection Measure", Seeking Enactment of a One-Half of One Percent Transactions and Use (Sales) Tax by Amending the Alameda Municipal Code by Adding "Chapter 3-63, Transactions and Use Tax", Establishing the Policies and Procedures for such an Election and Requesting that the County of Alameda Conduct such an Election

BACKGROUND

While the City of Alameda has a history of taking proactive measures aimed at fiscal discipline and is currently meeting its policy of a 25% General Fund available reserve, significant financial challenges exist. The General Fund is projected to be in deficit in five years. As shown in the chart below, which was a part of the City Council's June 19 budget adoption, the City's budget is projected to be in deficit by \$4.7 million annually by Fiscal Year (FY) 2021-22, in part due to unfunded liabilities. Liabilities include those resulting from California Public Employees Retirement System's (CalPERS) recent changes to its longevity assumptions and discount rate, and the City's nearly \$300 million in infrastructure needs identified in a [February 20, 2018](#) staff report.



Funding gaps of this magnitude require difficult choices including potential reductions in service levels or an increase in revenues. These challenges are not new. The City of Alameda has been identifying and addressing these challenges since at least 2009, with the Fiscal Sustainability Committee's *Long Range Financial Forecast 2009-2019* and the last two biennial budget processes. In addition, the City typically holds contractual expenditures flat or with little growth and is strategic (if not conservative) about staffing changes, equipment acquisitions, and capital maintenance. With City Council's leadership, the new Pension and Other Post-Employment Benefits (OPEB) policy was adopted to address unfunded liabilities which has already yielded results. (See the FY 18-19 budget document.) The policy provides for the General Fund to maintain reserves and allocates half of the excess for use in paying down Pension and OPEB liabilities.

- **Council's Consideration of Potential Revenue Measures**

Given this backdrop, and to provide and protect services valued by Alamedans, the City Council has been exploring revenue measures to submit to the voters that would generate locally-controlled funding. At the May 18, 2018 budget workshop, the City Council considered four options: (1) not placing a measure on the November 2018 ballot; (2) placing a cannabis tax on the November 2018 ballot; (3) placing an infrastructure bond on the November 2018 ballot; and (4) placing a half cent transaction and use (sales) tax on the November 2018 ballot. A majority of the City Council expressed an interest in the options of placing an infrastructure bond or half cent sales tax on the November 2018 ballot.

On June 5, 2018, the City Council provided further direction to prepare the half cent sales tax for the November 2018 ballot. While the need for infrastructure dollars is still strong, the City Council felt that the effort could be better informed by additional public outreach as well as the updated Climate Plan that will be presented to Council in early spring 2019.

- **Sales Tax Measure**

Should the City Council choose to place a sales tax measure on the November ballot and it succeeds, the rate in the City of Alameda would increase from 9.25% to 9.75%, and generate approximately \$5 million annually. It would become effective on April 1, 2019, and the California Department of Tax and Fee Administration would issue the first monthly payment to the City in June 2019. Given the measure is a general tax, the revenue would be deposited in the City's General Fund, used for either operating and/or capital purposes, and protected from the State of California taking it away. To be approved, a majority (50% +1) of Alameda's voters would have to vote yes on the measure.

Revenue from the current sales tax generates \$10.4 million, which is 11% of the City's FY 2018-19 General Fund revenue. As shown in the 5-Year General Fund Forecast presented at the June 19 City Council meeting, the sales tax is expected to stay relatively flat in the future years. It is capped at 9.25% with the State of California receiving 6%, Alameda County 2.25%, and the City of Alameda 1.00%. (The latter is referred to as the Bradley Burns sales tax.) Assembly Bill ([AB 366](#)), with the assistance of Assembly member Bonta, was adopted by the California legislature and signed by the Governor in

2016. It authorizes the City of Alameda to submit to its voters in any general election before January 1, 2025, a request to raise its add-on sales tax above the cap by one half cent.

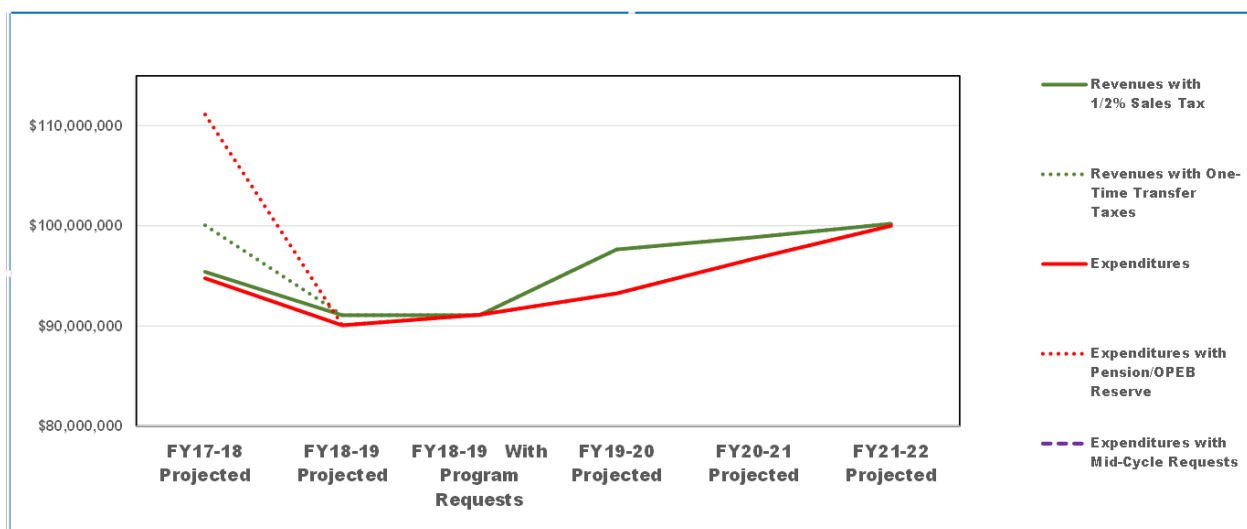
While the City of Alameda does not currently have an add-on sales tax, many cities in Alameda and Contra Costa counties do. These taxes vary between half and full cent in Albany, Antioch, Concord, El Cerrito, Hayward, Hercules, Martinez, Moraga, Newark, Orinda, Pinole, Pittsburgh, Pleasant Hill, Richmond, San Leandro, San Pablo, and Union City.

Alameda has placed only four (4) revenue measures before the voters since 2000. During this same period, the cities of Berkeley (19), Oakland (14), and San Leandro (7) placed considerably more revenue measures before their voters.

DISCUSSION

Staff recommends placing a half cent sales tax on the November 2018 ballot. The sales tax benefits both the City's forecasted operating deficits and its capital needs, and its placement on the ballot in November 2018 is one of a limited number of elections during which the City has the State's permission to submit the issue to voters. To be placed on the ballot, a majority of the City Council have to affirmatively vote to approve it.

As the chart below shows, a half-cent sales tax measure that is approved by a majority of Alamedans would eliminate the \$4.7 million deficit projected for Fiscal Year 2021/2022.



By ensuring the City of Alameda's revenue and expenses are balanced, the measure would maintain essential city services, such as public safety, 9-1-1- response times, and park maintenance. It would help reduce the backlog of repairs in our public infrastructure, and save taxpayers from the escalating cost of future, more serious repairs. The measure would also keep the City's finances stable, out of deficit for the foreseeable future, and capable of meeting the City Council's policy of a 25% reserve. It should be noted that

beyond 5 years, deficits will continue if no other action is taken. However, the City has a proven history of prudent fiscal planning that if continued, will ensure shortfalls are addressed. Finally, the measure supports the goal of ensuring recurring revenues (versus one-time revenues) meet expenditures (i.e., a structurally balanced budget) and of continuing to meet, and perhaps even help reduce, the City's annual contributions to OPEB and CalPERS.

There is community support for the half cent sales tax. A [community survey in summer 2017](#) found that Alamedans prioritize maintaining public safety services and financial stability. When considering a measure similar to the one worded below, 65% of Alamedans supported such a measure in the 2017 survey and 63% supported it in a 2015 survey.

Ballot Question

City Council's adoption of the resolution tonight would approve the following 75-word ballot question:

City of Alameda Essential Services Protection Measure. Shall the measure maintaining the City of Alameda's financial stability and protecting services and infrastructure such as police response to violent crimes and burglaries; 9-1-1 emergency medical and fire response; maintaining neighborhood parks; repairing potholes, maintaining streets and protecting the Bay from pollution by enacting a 0.5% sales tax until repealed by voters, providing approximately \$5,000,000 annually in locally controlled revenues, requiring independent audits and public spending review, be adopted?

~~**City of Alameda Essential Services Protection Measure.** Shall the measure maintaining the City of Alameda's financial stability and protecting services and infrastructure such as police response to violent crimes/burglaries; 9-1-1 emergency medical/fire response; maintaining neighborhood parks; repairing potholes/streets/protecting the Bay from pollution by enacting a 0.5% sales tax until repealed by voters, providing approximately \$5,000,000 annually in locally controlled revenues for unrestricted general revenue purposes, requiring independent audits/public spending review, be adopted?~~

If the City Council approves placing the measure on the ballot, the next step will be to develop a plan for informational outreach and public engagement. TBWB Strategies, a consulting firm, is developing a public communication plan. The plan will include outreach to stakeholders, a dedicated page on the City's website, and informational communication through direct mail, online, and social media engagement. Advocacy by City staff for or against the measure is not permitted.

This ballot question has been crafted with help from TBWB Strategies. In a tracking survey conducted June 22-24, 60% of Alamedans stated they would vote yes to the ballot question above.

Staff originally prepared the struck-through ballot question above to comply with the statewide initiative titled the Tax Fairness, Transparency, and Accountability Act of

2018⁹. However, since this staff report was published, Governor Brown signed Assembly Bill 1838, which instituted a statewide moratorium on new taxes on “groceries” – specifically soda taxes – assessments—until January 1, 2031, in exchange for backers of the Taxpayer Fairness, Transparency, and Accountability Act withdrawing their initiative. Given the initiative’s withdrawal, there is no need for Alameda’s ballot question to comply with the initiative’s requirements.

~~Given Alamedans’ likely support for the measure, it is possible that the actual vote may exceed two-thirds support, even though, under current law, the measure only requires majority support for approval. As discussed on May 18, the Tax Fairness, Transparency, and Accountability Act of 2019 is a statewide initiative that is expected to qualify for placement on the November 2018 ballot. If approved by California voters, it would require a local tax measure be approved by a two-thirds vote of a city’s electorate. Additionally, the ballot question and ordinance for the local tax measure would need to state that the revenue received from the tax can be used for “unrestricted general revenue purposes,” if such is the case. The Act also seeks to apply these requirements retroactively to local measures enacted in 2018. Given the possibility that Alameda’s vote may exceed two-thirds, the City of Alameda Essential Services Protection Measure’s ballot question and ordinance include the phrase, “unrestricted general revenue purposes,” in the event that the Tax Fairness, Transparency, and Accountability Act of 2019 is approved by California voters.~~

The ballot question includes all of the required information under Election Code § 13119, including the duration of the tax—“until repealed by the voters.” Staff had previously contemplated using another way to indicate duration, such as the word “ongoing,” however, on the advice of the City Attorney, the phrase “until repealed by the voters” was retained to ensure clarity.

Any action taken by the City Council this evening to advance this measure to the November ballot is not a vote to support or oppose the measure. While the Council has the right to take a formal position on this measure if it chooses, tonight’s action is simply whether to advance the measure forward so Alameda voters have the opportunity to consider it and decide.

City Attorney Impartial Analysis

Per California Elections Code §9280, the City Attorney will prepare an impartial analysis of the measure showing the effect of the measure on the existing laws and the operation of the measure. The analysis will include a statement indicating the measure was placed on the ballot by the Alameda City Council. The analysis cannot not exceed 500 words in length and must be printed on the ballot preceding the arguments for or against the measure.

Ballot Argument

State election law allows the City Council to determine its interest in authoring an argument regarding the measure for printing in the sample ballot. Arguments of no more than 300 words signed by no more than five registered voters are filed with the City Clerk

as the Elections Official. Ballot arguments for and against the measure are due in the City Clerk's Office by 6:00 p.m. on Monday, July 23, 2018. Rebuttal arguments, which cannot exceed 250 words, are due in the City Clerk's Office by 6:00 p.m. on Thursday, August 2, 2018.

Based on the consultant's recommendation and the common practice in many cities, staff proposes that the City Council authorize up to two Councilmembers to assist in drafting an argument and determine eligible signors.

If not, City Council can decide to authorize up to two Councilmembers to meet as a subcommittee of the City Council to draft an argument and have the entire Council sign; authorize up to two Councilmembers to draft an argument and have a combination of Councilmembers and other eligible voters sign; or not decide to pursue any of these options and allow members of the public to author arguments. In the latter case, if more than one argument for or against is timely filed, the City Clerk shall give preference to arguments according to California Elections Code section 9287.

FINANCIAL IMPACT

Since the City is already holding an election in November, placing one revenue measure on the November 2018 ballot is likely to cost in the range of \$10,000 to \$25,000 for printing and translation. Costs for the election are included in the City Clerk Elections FY 2018-19 Budget. There will be communication consultant costs of approximately \$30,000; up to \$20,000 incurred for development, posting, and mailing of informational material; and up to \$15,000 will be incurred for the tracking survey.

If the qualified voters of the City of Alameda approve the measure, it would provide approximately \$4.9 million in revenue to preserve services valued by residents and provide for a portion of the City's capital needs. Not placing a revenue measure on the ballot means that the City's long-term financial challenges will remain without a solution, and in the case of public infrastructure, the costs of future repairs will continue to increase.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

This action is consistent with the Alameda Municipal Code.

ENVIRONMENTAL REVIEW

This activity is not a project and is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15378 (b)(4) of the CEQA Guidelines, because it involves governmental fiscal activities (approving funding mechanisms), which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

RECOMMENDATION

Adopt a Resolution calling an election in the City of Alameda to be consolidated with the City's next General Municipal Election on November 6, 2018, and submitting to the electors a ballot measure, "City of Alameda Essential Services Protection Measure", seeking enactment of a one-half of one percent Transactions and Use (Sales) Tax by amending the Alameda Municipal Code by adding "Chapter 3-63, Transactions and Use Tax", establishing the policies and procedures for such an election and requesting that the County of Alameda conduct such an election.

Respectfully submitted,
Liam Garland, Public Works Director
Elena Adair, Finance Director

Financial Impact section reviewed by,
Elena Adair, Finance Director