



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: June 6, 2023
TO: Paul Buddenhagen, City Manager
FROM: Lawrence Chiu, Finance Director
SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Rescinding The Commercial Property Transfer Tax Policy, Amending The City's Expenditure And Reserve Policies, And Adopting A Real Property Transfer Tax Policy**

RECOMMENDATION

Staff recommends that the City Council adopt the resolution rescinding the Commercial Property Transfer Tax Policy, amending the City's Expenditure and Reserve Policies, and adopting the Real Property Transfer Tax Policy.

BACKGROUND

On June 19, 2018, the City Council approved Resolution 18-86 adopting a Commercial Property Transfer Tax Policy which provides guidance for the allocation of the Commercial Property Transfer Tax revenues to ensure proper funding for capital projects, pension obligations and other important City projects.

Under that policy, the allocation method for Commercial Property Transfer Tax revenues includes the use of a two-year budget cycle to calculate excess funds, allocates 50% of the excess funds to either the annual contribution payments of the pension costs or to the Pension Reserve/Trust, and allocates the remaining 50% to any one-time expenditures based on City Council direction. At this time, staff recommends that this policy be rescinded.

On February 21, 2023, the Council adopted Resolution 23-23 amending the City's existing Reserve Policies and adopting an Expenditure Policy for use of Real Property Transfer Tax revenues, including both Commercial Property Transfer Tax and Residential Property Transfer Tax revenues, and creating a Measure O Critical Needs Fund.

The Expenditure Policy identifies prioritized uses for Measure O funds, first contributing to the Critical Needs Fund to maintain a minimum balance of \$1 million, then allocating 50% of the remaining funds to the Capital Improvement Program, and the remaining 50% to the City's unfunded liabilities, including pension liability, and Other Post-Employment Benefits (OPEB) which may include investment in the City's Section 115 Pension Trust.

The Critical Needs Fund is designed to address one-time critical maintenance or service needs for which the costs are not part of the City's regular budget and not reasonably anticipated.

At this time, staff recommends that the Council amend both the Expenditure Policy and Critical Needs Fund included in the City's Expenditure and Reserve Policies as described below.

DISCUSSION

The purpose of the Real Property Transfer Tax Policy is to clarify the allocation and use of Residential Property Transfer Tax and Commercial Property Transfer Tax revenues. Currently, the Residential Property Transfer Tax and the Commercial Property Transfer Tax revenues are allocated to the General Fund and the General Capital Fund respectively.

The General Fund is the main operating fund for the City, and supports vital services and programs for the community, including police, fire, public works, community development, community services and general administrative services. It is important to secure sufficient revenue sources to support General Fund operations. As a result, staff recommend committing and depositing revenues from the Commercial Property Transfer Tax to the General Fund as these revenues are realized.

Proposed Real Property Transfer Tax Policy

For each fiscal year, Real Property Transfer Tax revenues will be deposited in the City's General Fund subject to the following priorities:

- (1) At the end of each fiscal year, a contribution from the General Fund shall be made in the amount necessary to replenish the Critical Needs Fund to a minimum of \$1 million;
- (2) At the end of each fiscal year, if Real Property Transfer Tax revenues exceed their budgeted amount in the General Fund, including budget adjustments made during the fiscal year, 50% of the excess revenues will be allocated to the City's Capital Improvement Program (CIP), and the remaining 50% will be allocated to the City's unfunded liabilities, including pension liability, OPEB and the City's Section 115 Pension Trust. Allocation of these funds shall be determined by the City Council based on the recommendations of the Budget and Governance Committee, and the Budget Advisory Committee.

Critical Needs Fund

The Critical Needs Fund maintains a balance of \$1 million for the purpose of providing funds to address unbudgeted critical one-time maintenance and/or service needs.

FISCAL IMPACT

The funding strategy is consistent with the Council's policy to sustain vital City services and programs in the long run, and to fund the City's Capital Improvement Program and unfunded liabilities, including pension, OPEB and Section 115 Pension Trust.

ADVISORY BODY REVIEW


There has been no communication with the budget committees regarding the proposed changes.

CONCLUSION

The proposed policies to be rescinded, amended, and adopted support the City's focus on long-term financial sustainability and fiscal responsibility. Staff recommends that the City Council adopt the resolution rescinding the Commercial Property Transfer Tax Policy, amending the Expenditure and Reserve Policies and adopting the Real Property Transfer Tax Policy.

PREPARED BY: Lawrence Chiu, Finance Director

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Paul Buddenhagen, City Manager

ATTACHMENTS

- Attachment A – Proposed Real Property Transfer Tax Policy
- Draft Resolution