



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: October 29, 2019
TO: Christine Daniel, City Manager
FROM: Sheri Hartz, City Clerk
Susan Hsieh, Finance Director
SUBJECT: **City Council Consideration of Placing a Measure Requesting Voter Approval Of A Special Sales And Use Tax On The March 3, 2020 Ballot**

RECOMMENDATION

Staff recommends that the City Council:

- A. Review and discuss results of a community survey assessing placement of a local sales tax measure before the voters on March 3, 2020; and,
- B. Provide direction on the content of legislation, that would be approved at a future City Council meeting to be held no later than December 3, 2019, placing an ordinance before the voters of the City of Emeryville imposing a Transactions and Use Tax to be administered by the California Department of Tax and Fee Administration; and,
- C. Discuss the content of information to communicate with the public about a local sales tax measure.

BACKGROUND

At the May 21, 2019 City Council meeting, staff provided the City Council with an overview regarding the March and November 2020 election timelines and the estimated costs associated with those elections. The Council discussed election timing and various types of revenue measures. One of the several possible measures identified was a sales tax increase of a quarter cent that would be dedicated to a number of specific City services. Staff estimated that a quarter-cent sales tax would raise approximately \$2 million annually. The Council discussed funding the following services with revenues from the sales tax measure:

- Additional firefighter positions
- Additional police officer positions
- A Code Enforcement Officer
- An Assistant Engineer; and
- Funding to support the Emeryville Child Development Center and/or Capital Improvement Projects

The California Legislature approved, and the Governor subsequently signed, AB 723 which confirms Emeryville's authority to place a local sales tax measure before the voters.

On October 1, 2019 the City Council authorized staff to proceed with a community survey to assess voter support for a local quarter-cent sales tax measure. The survey was conducted in the middle of October and the results are described in detail below.

DISCUSSION

The draft measure, as preliminarily constructed, addresses areas identified by voters as priorities including: preserving current levels of community health and quality of life by increasing public safety staffing, reducing property crimes such as auto burglary, improving fire protection services, and providing nurturing care for local children in the City, while addressing code enforcement and engineering needs.

Although the broader regional economy is stable and the City's General Fund budget is being prudently managed, the City of Emeryville will continue to face financial and operational challenges in the coming years. While current revenues support current service levels, they do not sufficiently address the anticipated increase in funding needs for public safety, child development and care, and other program and service needs.

Approval of a quarter-cent sales tax increase would improve the City's ability to provide the level of services Emeryville residents have consistently said they want. Sales tax revenues are paid by out-of-town visitors patronizing the City's retail, dining, lodging and entertainment businesses, as well as local residents. Costs generated by visitors who impact Emeryville's local infrastructure can appropriately be supported through a local sales tax measure. The proposed measure would provide Emeryville with a guaranteed source of local funding for vital City services that will stay local.

If approved, the revenue measure to be submitted to the voters would establish a quarter-cent, or 0.25%, local rate on retail transactions and sales. The revenue would be collected at point of sale and subsequently remitted to the City by the California Department of Tax and Fee Administration. The measure as currently drafted would be approved if it receives affirmative votes by at least two-thirds of eligible City voters.

Proposed Ballot Question

If the City Council decides to place the measure on the March 3, 2020 ballot, staff recommends the Council consider authorizing the following language for the ballot question, which is generally the language that was tested in the voter survey. It meets the specific legal and technical requirements of the Elections Code for placement of a transactions and use tax measure before the voters. The City Council may authorize a subcommittee of the City Council to file an argument in favor of the measure and a rebuttal to an argument filed against it.

“To maintain healthy communities and improve quality of life in Emeryville, shall a measure to provide faster 911 emergency response times, protect the safety of local residents, reduce property crimes/auto burglaries, improve local fire protection services, and provide safe, nurturing care of children/families by levying a quarter-cent sales tax, raising approximately \$2 million annually, until ended by voters, with

independent oversight and audits, exclusively for public safety and child development in Emeryville, be adopted?"

YES _____ NO _____

Fiscal Impacts and Spending Priorities

If adopted by voters, the City's tax consultant estimates the proposed measure would generate approximately \$2 million per year. The Council has previously identified the following services that would be funded from the tax proceeds. If the measure specifies the services to be funded, it is a special tax that requires 2/3 voter approval:

- Additional firefighter positions
- Additional police officer positions
- A Code Enforcement Officer
- An Assistant Engineer; and
- Funding to support the Emeryville Child Development Center and/or Capital Improvement Projects

Results of Recent Polling

In anticipation of the City Council considering the possibility of placing a revenue measure before the voters, the services of EMC Research were engaged under the signing authority of the City Manager and a survey of likely voters conducted during the period between October 9 and October 21, 2019. A representative from EMC will be available at the October 29, 2019 Council meeting to discuss the results of the survey, which are summarized below. The more thorough analysis is included as an Attachment to this report.

EMC Research conducted a statistically valid and representative survey, using a hybrid telephone/email methodology, of 302 registered voters in the City of Emeryville. After hearing a summary of the quarter-cent special sales tax measure, 73% of those surveyed indicated support for the measure. Support rose slightly to 74% after respondents heard additional information on the measure, including potential city positions and services to be funded.

Support decreased to 64% after respondents heard negative or oppositional information on the measure, including statements that the cost of living is already too high, or that increasing the sales tax would drive businesses and jobs out of the City.

Given the 5.64% margin of error for the study, EMC Research conservatively estimated that a potential sales tax measure to fund public safety and early childhood education is viable for the March 2020 election, and that, if informative stakeholder engagement is conducted, supportive votes will not fall below 66.7%, the two-thirds vote required to approve a special tax.

Proposed Tax Measure

The recommendation under consideration is to place a quarter-cent Transactions and Use Tax (known commonly as a "Sales Tax") on the March 2020 ballot. If approved, the Transactions and Use Tax would be implemented by the California Department of Tax and Fee Administration in July 2020, at which time businesses would begin to collect the tax. The City would begin receiving revenue thereafter. The total sales tax in Emeryville would increase from 9.25% to 9.50%.

In northern California, Burlingame is the only other city with a sales tax rate of 9.50% as of July 1, 2019. In Alameda County, the base sales tax rate is 9.25%. The cities who have taken action to impose additional sales tax are Alameda, Albany, Hayward, Newark, San Leandro and Union City; all have increased their local sales tax rate by a half-cent (.50%), for a total current rate of 9.75%.

The proposed tax would be a special purpose tax paid by all consumers purchasing goods and services in the City and would be used for the specific City services enumerated in the measure. The additional tax revenue could not be taken by the State of California for any reason or purpose.

Sales tax does not apply to groceries or prescriptions. For large purchases that are delivered (such as appliances) and vehicles, the sales tax is determined by the location where the buyer lives - not by the location of the business where the purchase is made.

FISCAL IMPACT

The cost of placing the measure on the March 2020 ballot is estimated to be approximately \$40,000. Funds are available in the Elections account 010-11-031 for this purpose.

STAFF COMMUNICATION WITH THE PUBLIC

Staff has had no communication with the public on this matter. EMC conducted the community survey described above in October.

PREPARED BY: Sheri Hartz, City Clerk

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



Christine Daniel, City Manager

ATTACHMENTS

- EMC Report on Survey of Likely March 2020 Voters
- Draft Resolution
- Draft Ordinance