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Staff Report for Request for City Council Direction Regarding Polling for Potential Future Revenue Measures that Require Voter Approval

**BACKGROUND**

In November 2010, San Leandro voters authorized Measure Z, a local ¼-cent general sales tax revenue measure that was designed to temporarily stabilize the City budget in the midst of the Great Recession. Measure Z provided a reliable, voter-approved funding source for public safety and other essential City services for seven years. As Measure Z approached expiration, San Leandro voters authorized its extension at a half-cent rate for 30 years through passage of Measure HH in November 2014. Measure HH is currently generating approximately \$10 million per year in general fund revenue.

While Measure HH enables the City to maintain existing service levels, the City continues to face a growing backlog of new and emerging needs that may not be sufficiently addressed through existing revenue sources. Such needs include major renovations to aging public safety infrastructure (e.g. police and fire protection facilities), deteriorating playground and park equipment in need of replacement, growing and human services challenges related to the homeless and other at-risk and low-income communities.

Although local sales tax receipts in recent years have been robust, sales tax is an inherently volatile source of revenue that will generally rise and fall in direct correlation to broader regional economic cycles. When the economy inevitably slows down or contracts in future years, the City’s revenue base could similarly face steep declines, given that approximately 40% of general fund revenues are now dependent on sales tax receipts. Such a decline could cause consideration of significant future budget cuts and associated disruptions to current service levels. A diversified revenue base is essential to maintain the sustainability of the City’s budget.

As a result of the above factors, and in an effort to further diversify the City's revenue base while supporting new services, in November 2016, San Leandro voters authorized the following three general purpose revenue measures:

- 1) Measure OO: A modified business license tax that reduced fees for small businesses, while charging up to 10% of gross receipts for parking lots, and also charging \$100 per 1,000 square feet of real property that is used for warehouse businesses; and
- 2) Measure PP: A modified transient occupancy tax of up to 14%
- 3) Measure NN: A cannabis business tax of up to 10% of gross receipts (currently set by the City Council at 6% of gross receipts);

The City also continues to face a long-term structural deficit that is largely a function of legacy retirement benefit obligations over which it has minimal direct control, details of which have been outlined in various presentations to the City Council, including the April 9, 2018 City Council work session. Although the City launched various initiatives to contain costs, including the Prioritization of Unfunded Liability Liquidation (PULL) program as well as the Cost and Revenue Efficiency (CARE) Team, it is unlikely that the City's longer term financial challenges can be surmounted in the absence of some combination of ongoing expenditure reductions coupled with new sources of revenue.

In addition to the City's long-term, projected operating deficit, the City also faces emerging needs in its public safety services. For example, a number of the City's existing fire stations were constructed many decades ago and are in need of significant capital improvements and structural repairs for modernization. The City's public safety building is also in need of significant repairs and upgrades. Although \$9 million was appropriated in the currently adopted Capital Improvement Program budget to modernize this facility, additional needs remain, including locker room upgrades, expanded, secure parking, and potentially an evidence building. There also remains over \$650,000 in deferred funding needs for new fire department vehicles and medical equipment that will need to be purchased within approximately two years. Due to recent changes in the First Responder Advanced Life Support (FRALS) contract that is administered at the County level, the City also faces about \$350,000 annually in new costs towards ambulance services.

In addition to the existing needs identified above to support current service levels, there is a desire expressed by some City Council members and the community to explore increased staffing levels in the Police Department. The local fire fighters' union has also made known its desire to explore adding a fourth crew member to the local fire companies that serve San Leandro. Based on current projections, staff estimates that each additional Police Officer costs the City an average of \$270,000 per year when accounting for fully-loaded salary, benefits and retirement costs. Adding an additional crew member to *each* fire or engine company could cost approximately \$1 million per year (the City currently maintains 5 fire engines and 2 ladder trucks).

It is important to note that given the current budget, expanded staffing for either the Police or Fire Department is not feasible absent new ongoing funding or significant cuts to other City services. Furthermore, even if a new parcel tax measure with an annual cost of living adjustment were authorized by voters, it is unlikely that annual increases in revenues from such a tax would keep pace with the currently forecasted annual increases in public safety pension and retirement benefits costs.

For both police and fire, personnel costs are projected to see substantial increases in the next several years.

### **Prior City Council Direction**

Based on the above needs, at the April 2, 2018 City Council meeting, the City Council directed staff to develop an analysis of the tasks that would be necessary to bring forward for voter consideration a potential public safety parcel tax as part of the November 6, 2018 ballot.

Staff subsequently presented an analysis of such a potential measure at both the May 7 and May 21, 2018 City Council meetings. During this period of time, the San Leandro Unified School District Board of Trustees was concurrently exploring its own potential parcel tax. The school district board of trustees subsequently voted to place that measure on the November 2018 ballot (Measure I), which was successfully endorsed by 73% of local voters and which authorizes a \$39 tax per parcel in the district to fund education programs and staffing.

In order to avoid two local revenue measures on the same ballot, at the conclusion of the May 21 City Council meeting, the City Council unanimously adopted a motion to further extend the time period to explore any potential future tax measure(s), with an eye towards a 2019 election. The City Council also wants to explore the development of a public opinion poll to gauge voter support, and to commence related community outreach efforts beginning in January 2019. Based on that direction, staff developed a draft contract with Godbe Research and commenced discussions with a public affairs firm that is available to commence polling, should the City Council so desire.

Given that nearly six months passed since the City Council's direction was provided, staff seeks additional clarification and direction from the City Council regarding next steps. It is also important to note that there were recent changes in California law that may affect the timing of a revenue measure.

### **Changes in State Law Related to 2019 Election Timing**

Late last year the Governor signed into law SB 568, which changed the date of the statewide direct primary and the presidential primary. Effective 2019, California law requires statewide primary elections to take place the first Tuesday after the first Monday in March, and requires that those elections be consolidated. As a result, June 2019 is eliminated as a potential election date, in the absence of a local declaration of a fiscal emergency and the calling of a special election. Per the Alameda County Registrar of Voters, copied below are the currently established election date options in 2019, and related filing deadlines.

#### ***2019 Established Election Dates in Alameda County***

##### March 5, 2019 - Election

December 7, 2018 - Deadline to file Resolution

December 12, 2018 - Deadline to file Arguments In Favor/Against

December 17, 2018 - Deadline to file Rebuttals to Arguments In Favor/Against

##### November 5, 2019 - Election

August 9, 2019 - Deadline to file Resolution

August 14, 2019 - Deadline to file Arguments In Favor/Against

August 19, 2019 - Deadline to file Rebuttals to Arguments In Favor/Against

### ***Possible Mailed Ballot Election Dates:***

#### May 7, 2019 - Mail Ballot Election

February 8, 2019 - Deadline to file Resolution

February 13, 2019 - Deadline to file Arguments In Favor/Against

February 18, 2019 - Deadline to file Rebuttals to Arguments In Favor/Against

#### August 27, 2019 - Mail Ballot Election

May 31, 2019 - Deadline to file Resolution

June 5, 2019 - Deadline to file Arguments In Favor/Against

June 10, 2019 - Deadline to file Rebuttals to Arguments In Favor/Against

### **Overview of Potential Public Safety Parcel Tax & Steps Involved in Placing it on a Future Ballot**

Under the California Constitution, any proposed parcel tax requires a two-thirds (2/3) affirmative vote of the electorate to pass, which is a significant threshold that requires public support across a broad cross-section of local voters. Parcel taxes are not ad valorem (value-based) property taxes, but rather, are an excise tax levied on the availability and use of a particular public service. Therefore, a property's value may not be a factor in determining the amount of tax that the property owner will pay. Furthermore, the revenues raised by the tax would need to be dedicated towards a specific purpose, such as public safety services and capital, and tracked in a designated account that is separate and discrete from General Fund revenues.

Parcel taxes may also be structured such that the City has the option to concurrently adopt general administrative guidelines that would allow for potential discounts for certain at-risk populations such as residential properties owned by lower-income seniors, or the disabled. In addition, state law allows for modified rates for certain parcels based on their anticipated use of the particular public services that would be funded by the tax. Therefore, the tax rate could vary based on parcel size, or the specific use of the parcel. For example, different rates could be applied to commercial properties, mixed-use properties, or vacant land. Parcel taxes typically include a sunset date, which would stipulate an end date for the tax levy that could only be extended through a subsequent vote by the electorate. Therefore, before placing such a measure on the ballot, it would be important for the City to fully evaluate a wide range of potential tax structures, rates, sunset provisions, and the associated revenues derived from each option so that the City Council could make an informed decision about whether and how to structure a measure.

### **Potential On-Going Revenue from a Public Safety Parcel Tax:**

Based on an analysis of readily accessible parcel tax data, staff estimates that a potential parcel tax could be structured to generate between \$3 million to \$6 million annually. This very preliminary estimate is based on the estimates of existing parcel tax information derived from 2010 census data. Nevertheless, given the inherent complexity of parcel taxes and the technical expertise necessary to fully evaluate them, it would be crucial for the City to retain the assistance of a financial consultant in advance of placing such a measure on the ballot.

### **Overview of Real Property Transfer Tax**

Another potential revenue option that the City Council may consider for study is an increase in the real property transfer tax. Such a tax is imposed at the point of sale or transfer of any real property

within the City. The current rate in San Leandro is \$6.00 per thousand dollars in valuation (or 0.6%), which is among the lowest rates in Alameda County. Presuming the revenues derived from such a tax increase were dedicated to general City services, such a tax would require a simple majority vote of the electorate to pass. If the voters were to authorize adjusting this tax from its current rate of \$6 to \$11 (which is slightly below the regional average), staff conservatively estimates that at least \$3 million in new annual revenue could be collected, based on current rates of property turnover. However, it is important to highlight that real property transfer taxes are also cyclical in nature and typically tied to broader regional economic cycles. Copied below is a summary of the current real property transfer tax rates of other cities in Alameda County:

<u>City</u>	<u>Tax Rate</u>
Alameda	\$12.00 per thousand on full value (1.2%)
Albany	\$11.50 per thousand on full value (1.15%)
Berkeley*	\$15.00 per thousand on full value (1.5%)
Emeryville	\$12.00 per thousand on full value (1.2%)
Hayward**	\$4.50 per thousand on full value (4.5%)
Oakland***	\$15.00 per thousand on full value (1.5%)
Piedmont	\$13.00 per thousand on full value (1.3%)
San Leandro	\$6.00 per thousand on full value (0.6%)

\*The City of Berkeley's November 2018 ballot included a proposal to increase the tax rate from \$15 to \$25 per \$1,000 in valuation for properties valued over \$1.5 million, known as Measure P. This measure was successfully endorsed by 70.59% of voters.

\*\*The City of Hayward's November 2018 ballot included a proposal to increase the tax rate from \$4.50 to \$8.50 per \$1,000 in valuation, known as Measure T. This measure was successfully endorsed by 57.96% of voters.

\*\*\*The City of Oakland's November 2018 ballot measure included a proposal (Measure X) to reduce the rate to \$10 per \$1,000 in valuation for properties selling for \$300,000 or less and increase it to \$17.50 per \$1,000 in valuation for properties selling for more than \$2 million and \$25 per \$1,000 in valuation for properties selling for more than \$5 million. This measure was successfully endorsed by 66.54% of voters.

The list above is limited to charter cities, which have the authority to authorize property transfer taxes above the state mandated rates. Of note, the City of Union City had a measure on the 2018 ballot that would have made the City a charter city and concurrently passed and increased transfer tax. That measure was not successful.

When considering only charter cities in Alameda County, San Leandro will have the lowest rate in the County once Hayward's Measure T goes into effect.

### **Overview of Vacant Property Tax**

Another type of revenue measure that the City Council expressed interest in exploring would be a vacant property tax. Such a tax recently appeared on the Cities of Oakland and Richmond's ballots as part of the November 2018 election. Known as Measure W in Oakland, this measure required a two-thirds supermajority for passage and was successfully endorsed by 68.65% of voters. Measure T in Richmond ultimately received 58% support from voters and therefore failed to pass due to its not surpassing the required two-thirds threshold. These taxes were structured to impose a special tax on

properties that are deemed by the cities as vacant. In both cities, the proposed rate would range between either \$3,000 per year or \$6,000 per year depending on the type of property and when it was developed deemed vacant. Because Oakland’s Measure W is the first example of such a tax being adopted anywhere in the state, additional analysis is required to determine the level of funding that could be collected from such a tax if it were adopted in San Leandro. Additionally, the administration of such a tax would be complex as it would require an analysis of individual properties to determine their current status, and would inevitably require due process rights for property owners seeking to contest determinations of vacancy status.

### Steps involved in Bringing Forward a Successful Revenue Measure

As outlined above, parcel taxes by nature are significantly more complicated than sales tax or real property transfer tax measures, and are more challenging to pass due to the two-thirds super-majority threshold. As a matter of best practice under optimal circumstances, the process for fully exploring any new tax measure(s) should commence approximately one year prior to the targeted election date, similar to the approach that was executed in advance of Measure HH. Such a timeline is recommended so that the viability of the measure may be fully evaluated and explored. A number of important steps that would typically be completed in advance of ballot placement include:

- Identifying and hiring a public affairs consultant to guide development of the measure and related procedures and outreach efforts
- Identifying and hiring a financial consultant to analyze various parcel tax structures and the anticipated revenues that could be derived from each
- Hiring a public opinion research company (a.k.a. a pollster) to develop and execute a telephonic and online survey of likely voters in order to gauge potential public support for the tax measure at a range of rates and durations, as well as to identify related funding priorities
- Development and distribution of informational materials and public outreach efforts, e.g. town hall meetings, opportunities for public feedback and identification of concerns, etc.
- Development of a draft spending plan and budget priorities list to guide the expenditure of any funds collected from the measure
- Development of staff report, ballot language, draft resolution, and ordinance to place the measure on the ballot, along with the City Attorney’s analysis
- Opportunities for input and guidance from the Mayor and City Council or City Council Committees (if time allows) before key milestones

It should also be noted that the City previously pursued a public safety parcel tax measure as part of the November 2004 ballot, known as Measure DD. The measure ultimately garnered 50.5% support, and thus failed to surpass the two-thirds threshold that would have been necessary for passage.

The 2004 tax measure was structured as follows, with a 5.5 year sunset provision:

Commercial/Industrial:	\$16.00 per 1,000 square feet of parcel area
Residential-Single family homes/townhomes/condos:	\$78.00 per parcel
Residential-Multi-Family/Mobile home properties:	\$46.80 per unit
Unimproved:	\$4.00 per thousand square feet of parcel area
Non-profit education/Places of worship:	\$13.00 per thousand square feet of parcel area
Exempt:	\$0.00

The 2004 measure also contained a provision offering a 40% discount to low-income seniors aged 65 and over and allowed for annual inflation adjustments based upon the regional Consumer Price Index

(CPI). If the measure had been successful, it was forecast to generate approximately \$3.5 million annually.

**Estimated Costs for an Election in 2019:**

In the event the City Council were to ultimately place a revenue measure on an upcoming ballot, copied below are estimated election costs provided by the Alameda County Registrar of Voters. Since there are presently no other 2019 elections in San Leandro, a consolidated election would not be possible until the March 2020 presidential primary election.

<u>Type of Election</u>	<u>Cost Per Voter*</u>	<u>Est. Local Cost*</u>
Standalone Special City Or District	\$12 - \$15	up to ~\$685K**
Standalone All Vote by Mail	\$7 - \$9	up to ~\$420K**
Countywide Consolidated	\$4 - \$6	up to ~\$280K**

\*based upon approx. 47,000 registered San Leandro voters

\*\*excludes ballot translation costs

**Other Anticipated One-Time Ancillary Costs**

Public Affairs Consultant (exploration phase):	\$20,000
Public Affairs community outreach (\$6,500/month):	\$32,500
Financial Consulting Assistance (\$300/hour):	\$10,000
<u>Public Opinion Survey:</u>	<u>\$36,800</u>
Estimated Total:	\$99,300

**SUMMARY AND RECOMMENDATIONS**

Based on the latest election timelines for 2019 outlined above, an August 27, 2019 mailed election ballot would appear to be the nearest term opportunity to bring forward a potential revenue measure, while still allowing sufficient time to meet the preceding logistical deadlines. Nevertheless, in advance of moving forward with such a timeline, it would be crucially important to conduct a public opinion survey in early 2019 to gauge potential community support for the various different types of measures that are outlined above, in addition to commencing various public outreach and community engagement efforts. In the event robust public support was not found, it would be important for the City Council to retain flexibility on the timing of any such measure so that additional dialogue with the community could take place.

It is also important to highlight that the City Council and the community have not yet had an opportunity to engage in the discussions required to assess needed and desired staffing levels for public safety services relative to available funding. For example, a recent Standards of Coverage Review conducted by Citygate Associates found that current staffing is generally sufficient to meet response time standards. The Council will also need to consider the appropriateness of increasing staffing levels given the significant increases in salary, benefit, and retirements costs anticipated in the near future. It may also wish to consider technology and potential “force multipliers” that may be available to address safety needs at lower costs. Once desired staffing levels were determined, it would be prudent to establish priorities for expenditure of potential revenues between police and fire, staffing and capital, and future service expansion vs. unfunded legacy obligations. Should the Council ultimately move forward with a public safety parcel tax - either now or in the future - all of these factors should be considered in a plan for expenditure of the new revenues.

Based on these factors, staff recommends moving forward with the public opinion survey and other

related public affairs outreach efforts, and then returning for further feedback and direction in early 2019 based on the outcome of those efforts. To the extent polling does not indicate strong levels of community support, the Council may wish to consider exploring consolidation of a revenue measure with the March 2020 primary or November 2020 presidential elections. If the City Council wishes to move forward, staff will return at a future meeting with a corresponding request to fund related outreach efforts.

**Attachment(s) to Staff Report**

- Summary of San Leandro Measure DD (2004)
- News Article Summary of Oakland's 2019 vacant property tax measure

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