



# Agenda

## FINANCE COMMITTEE

November 4, 2019

9:00 A.M.

651 Pine Street, Room 101, Martinez

Supervisor Karen Mitchoff, Chair  
Supervisor John Gioia, Vice Chair

### Agenda Items:

Items may be taken out of order based on the business of the day and preference of the Committee

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).
3. CONSIDER approving the Record of Action for the October 7, 2019, Finance Committee meeting (Lisa Driscoll, County Finance Director)
4. CONSIDER accepting Department of Conservation and Development's attached Draft 2020-2025 Consolidated Plan Priorities. (Gabriel Lemus/CDBG Program Manager)
5. ACCEPT staff report and DIRECT staff to develop options for additional funding sources to comply with Municipal Regional Permit 2.0 and bring the options back to the Committee in February 2020 for consideration. (Tim Jensen, Assistant Public Works Director)
6. CONSIDER accepting status update regarding an Ad Hoc Committee to develop a proposed tax measure. (Supervisors Mitchoff and Gioia)
7. CONSIDER hiring a facilitator to work with the Potential Sales Tax Measure Ad Hoc Committee. (Supervisor Mitchoff and Gioia)
8. CONSIDER update on employee recognition programs (Lisa Driscoll, County Finance Director)
9. The next meeting is currently scheduled for December 23, 2019.
10. Adjourn

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*The Finance Committee will provide reasonable accommodations for persons with disabilities planning to attend Finance Committee meetings. Contact the staff person listed below at least 72 hours before the meeting.*

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*Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to a majority of members of the Finance Committee less than 96 hours prior to that meeting are available for public inspection at 651 Pine Street, 10th floor, during normal business hours.*

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*Public comment may be submitted via electronic mail on agenda items at least one full work day prior to the published meeting time.*

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For Additional Information Contact:

Lisa Driscoll, Committee Staff  
Phone (925) 335-1021, Fax (925) 646-1353  
[lisa.driscoll@cao.cccounty.us](mailto:lisa.driscoll@cao.cccounty.us)



# Contra Costa County Board of Supervisors

## Subcommittee Report

### FINANCE COMMITTEE

3.

**Meeting Date:** 11/04/2019

**Subject:** Record of Action for October 7, 2019 Finance Committee Meeting

**Submitted For:** FINANCE COMMITTEE,

**Department:** County Administrator

**Referral No.:** N/A

**Referral Name:** Record of Action

**Presenter:** Lisa Driscoll, County Finance Director **Contact:** Lisa Driscoll (925) 335-1023

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#### **Referral History:**

County Ordinance requires that each County body keep a record of its meetings. Though the record need not be verbatim, it must accurately reflect the agenda and the discussions made in the meetings.

#### **Referral Update:**

Attached for the Committee's consideration is the Record of Action for its October 7, 2019 meeting.

#### **Recommendation(s)/Next Step(s):**

Staff recommends approval of the Record of Action for the October 7, 2019 meeting.

#### **Fiscal Impact (if any):**

No fiscal impact.

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#### **Attachments**

Draft Record of Action October 7, 2019

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**DRAFT****Agenda****FINANCE COMMITTEE****October 7, 2019****9:00 A.M.****651 Pine Street, Room 101, Martinez**

Supervisor Karen Mitchoff, Chair

Supervisor John Gioia, Vice Chair

<b>Agenda Items:</b>	Items may be taken out of order based on the business of the day and preference of the Committee
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Present: Karen Mitchoff, Chair  
John Gioia, Vice Chair

Staff Present: Lisa Driscoll, Finance Director  
Brice Bins, Chief, Treasurer-Tax Collector  
Timothy Ewell, CAO  
Pat Frost, EMS  
Tom Geiger, Deputy County Counsel  
Annie O, BOS District IV

1. Introductions
2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

*There were no comments from the Public.*

3. Staff recommends approval of the Record of Action for the July 29, 2019 meeting.

*The Record of Action for the July 29, 2019 meeting was approved as recommended.*

AYE: Chair Karen Mitchoff, Vice Chair John Gioia  
Passed

4. Report on bank card service fees from the Treasurer-Tax Collector's Office.

*Brice Bins presented the five year review of both taxing and non-taxing departments' credit card services fees. The Committee discussed the pros and cons of passing service fees onto users and the barriers that would impact a uniform countywide practice. At the conclusion of the discussion, the Committee accepted the report and directed staff to return with an update in five years, or sooner should a dramatic change in process or law take place.*

AYE: Chair Karen Mitchoff, Vice Chair John Gioia  
Passed

5. Consider the attached information, begin the discussion of the issues involved in a sales tax measure, and provide staff direction on next steps.

*Tim Ewell presented a report related to a proposed sales tax measure and provided staff recommendations on next steps. The Committee heard the report and asked questions, After discussion, the Committee:*

1. *Determined that a sales tax should be pursued over a parcel tax for the entire County (unincorporated and cities)*
2. *An expenditure plan should be developed prior to the ballot measure being listed, but acknowledged that a general tax is not bound to be spent on specific services*
  - i. *Create an ad hoc committee by Sups. Gioia and Mitchoff to work on development of the expenditure plan*
  - ii. *Ad hoc committee will work with a workgroup composed of (Labor, CBO, East Bay Leadership Council and County Administrator)*
  - iii. *Meetings shall be open meetings governed by the Brown Act*



3. *Staff authorized to work with the CDTFA on logistics of listing a ballot measure and set up and collection contracts, if approved*
4. *Staff authorized to begin discussions with Nielsen Merksamer regarding special legislation needed to list measure on the ballot, but shall not begin drafting language or engaging legislators.*
5. *The Committee acknowledged that the Governor would need to sign special legislation by May/June timeframe for the ballot measure to be feasible.*

AYE: Chair Karen Mitchoff, Vice Chair John Gioia

Passed

6. The next meeting is currently scheduled for Monday, November 4, 2019.

7. Adjourn

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# Contra Costa County Board of Supervisors

## Subcommittee Report

### FINANCE COMMITTEE

4.

**Meeting Date:** 11/04/2019

**Subject:** Draft 2020-2025 Consolidated Plan Priorities

**Submitted For:** John Kopchik, Director, Conservation & Development Department

**Department:** Conservation & Development

**Referral No.:** CDBG Policy

**Referral Name:** CDBG Funding

**Presenter:** Gabriel Lemus, CDBG Program  
Manager

**Contact:** Gabriel Lemus (925)  
674-7882

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#### **Referral History:**

It is standard policy that CDBG funding decisions/policies be reviewed by the Finance Committee prior to scheduling for the full Board of Supervisors.

#### **Referral Update:**

See attached Draft 2020-2025 Consolidated Plan Priorities.

#### **Recommendation(s)/Next Step(s):**

CONSIDER accepting Department of Conservation and Development's attached Draft 2020-2025 Consolidated Plan Priorities.

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#### **Attachments**

Draft 2020-2025 Consolidated Plan Priorities

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**CONTRA COSTA COUNTY  
DEPARTMENT OF CONSERVATION AND  
DEVELOPMENT  
30 Muir Road  
Martinez, CA 94553  
(925) 674-7882**

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***MEMORANDUM***

**DATE:** November 4, 2019

**TO:** Finance Committee  
Supervisor Karen Mitchoff, Chair  
Supervisor John Gioia, Vice Chair

**FROM:** Gabriel Lemus, CDBG Program Manager   
By: Kristin Sherk, Senior Planner

**SUBJECT:** Draft 2020-2025 Consolidated Plan Priorities

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**RECOMMENDATIONS**

1. **APPROVE** recommendations for the 2020-2025 Consolidated Plan priorities as recommended by staff or amended by the Committee.
2. **DIRECT** the Department of Conservation and Development to prepare a staff report on the Committee's recommendations. The staff report will be submitted and considered by the Board of Supervisors on November 19, 2019 as a "Consent" item.

**BACKGROUND**

**2020-2025 Consolidated Plan Priorities:** The Contra Costa County Consortium, a partnership of four cities (Antioch, Concord, Pittsburg, and Walnut Creek) and Contra Costa County, receives funds each year from the federal government for housing and community development activities<sup>1</sup>. To receive federal funds, the Consortium must submit a strategic plan – the

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<sup>1</sup> The Federal Programs are the Community Development Block Grant (CDBG) Program, the HOME Investment Partnerships Act (HOME) Program, the Emergency Solutions Grant (ESG) Program; and the Housing Opportunities for Persons with AIDS (HOPWA) Program.

Consolidated Plan – every five years to the U.S. Department of Housing and Urban Development (HUD) that identifies local needs and how these needs will be addressed. The Consolidated Plan must also demonstrate how the Consortium will meet national goals set by the U.S. Congress to develop viable communities by providing decent housing, a suitable living environment, and economic opportunities, principally for persons of extremely-low, very-low, and low income.

The preparation of the FY 2020-2025 Consolidated Plan began with holding three public community meetings and two service provider (housing and non-housing) group meetings during the months of March through June 2019. Individuals and representatives of various public agencies, community organizations, and service providers throughout the County were invited to attend these meetings. These meetings covered various topics, including but not limited to:

- Affordable housing;
- Persons with disabilities;
- Single parents/female-headed households;
- Homelessness;
- Economic Development (business assistance and job creation/retention);
- Seniors; and
- Youth and Families

The Consortium also solicited input from community organizations, public agencies, and the general public through an on-line survey that was accessible beginning in the month of March through the end of July 2019. A hard copy of the survey is attached (Attachment A).

Consortium staff and a housing data consultant compiled and analyzed the survey data to come to the following observations:

1. Services to homeless populations or to those at imminent risk of homelessness ranked high as a priority for continued CDBG support.
2. Affordable Housing activities are also a high priority. Of the eligible activities for affordable housing, the following were the highest ranking; 1) housing for “Special Needs Populations” (especially seniors/elderly), 2) preservation of existing affordable housing, 3) rehabilitation assistance to existing housing, and 4) emergency repairs for low-income homeowners.
3. Job Development/Creation and Pollution/Property Cleanup ranked the highest of the Economic Development services.
4. General Infrastructure and Public Facilities Improvements are also a priority with the following rankings; 1) improvements and/or construction of streets and sidewalks, 2) senior centers, 3) youth/neighborhood centers, 4) park and recreational centers, and 5) childcare centers ranking the highest.

Although the Consolidated Plan is still underway, County CDBG staff substantially completed the Needs Assessment section. Taking in to consideration the information collected from individual consultations, community meetings, focus group meetings and the survey

information, County CDBG staff proposes to continue the four main priorities for the next five-year period, as follows:

- 1) Affordable Housing (New unit Development and Rehabilitation of existing units);
- 2) Homelessness (Providing Housing and Services);
- 3) Non-Housing Community Development (Public Services, Infrastructure/Public Facilities, Economic Development); and
- 4) Administration (Administration of the various Federal Programs).

**Public Hearing and Transmittal of Recommendations:** The Committee's recommendations on the Consolidated Plan priorities will be forwarded to the full Board of Supervisors prior to the public hearing that is scheduled for November 19, 2019. The final Consolidated Plan will be brought to the Committee in April 2020 along with the CDBG funding recommendations for FY 2020/21.

Attachment: Community Needs Survey

CC: John Kopchik, Director – Department of Conservation and Development

# Survey of Needs for Development of the 2020-25 Contra Costa Consortium Consolidated Plan

## Help create the future of YOUR community!

The Cities of Antioch, Concord, Pittsburg, Walnut Creek, and the County of Contra Costa (on behalf of all the other towns and cities in Contra Costa) receive federal Community Development Block Grant (CDBG), Home Investment Partnership Program (HOME), Emergency Solutions Grant (ESG) and Housing Opportunities for Persons with HIV/AIDS (HOPWA) funding every year. Over a five- year period, these funds are expected to total over \$60 million!!



These federal funds, administered by the Department of Housing and Urban Development (HUD) can be used to build new affordable rental housing, provide first-time homebuyer assistance, rehabilitate existing housing, rehabilitate homes for lower income and senior households, build new supportive housing for people with special needs, improve or construct public facilities including community centers and parks, improve infrastructure (streets, sidewalks, etc.) in lower income neighborhoods, provide employment training and training to small business owners, and provide a wide variety of services for lower income families and individuals, and homeless persons, and SO MUCH MORE!

Every five years, YOU, your friends, your neighbors, and your community have the opportunity to help identify your community's greatest needs, and determine how these funds are spent to help address those needs. This survey will take approximately 15 minutes, so please be prepared to give it your thoughtful consideration. THANK YOU for caring about your community by providing feedback to help direct the funding of federal programs over the next five years.

**NOTICE:** Reasonable accommodation or other assistance and/or support services needed to complete this survey may be provided upon request. Please call 925-779-7037 to request reasonable accommodations.

### Let's get started with some basic questions:

**1. How did you hear about this survey?** *Check all that apply*

- ☐ Newspaper   ☐ Website   ☐ Email   ☐ Word of mouth   ☐ Other \_\_\_\_\_

**2. Have you ever heard of CDBG, HOME, ESG or HOPWA before?** *Check one*   ☐ Yes   ☐ No

**3. Please tell us about yourself** *(check all that apply):*

- ☐ I'm a resident of a city, town or neighborhood in Contra Costa County
- ☐ I work for a nonprofit agency, including affordable housing developers
- ☐ I work in business
- ☐ I work for local government
- ☐ I am a current consumer or client of affordable housing or social services
- ☐ I am a former consumer or client of affordable housing or social services

**4. In which age group are you?**   ☐ Under 18   ☐ 18-24   ☐ 25-61   ☐ 62+

5. What city(s) or town(s) are you going to be making comments on today? *Select one only:*

☐ Antioch ☐ Concord ☐ Pittsburg ☐ Walnut Creek ☐ Urban County (all other communities)

6. If you selected Urban County above, PLEASE check the specific cities, towns, or communities that you will be commenting on. *Check as many as apply.*

<input type="checkbox"/> Alamo	<input type="checkbox"/> Danville	<input type="checkbox"/> Martinez	<input type="checkbox"/> Port Costa
<input type="checkbox"/> Bay Point	<input type="checkbox"/> Discovery Bay	<input type="checkbox"/> Moraga	<input type="checkbox"/> Pleasant Hill
<input type="checkbox"/> Bethel Island	<input type="checkbox"/> El Cerrito	<input type="checkbox"/> North Richmond	<input type="checkbox"/> Richmond
<input type="checkbox"/> Brentwood	<input type="checkbox"/> El Sobrante	<input type="checkbox"/> Oakley	<input type="checkbox"/> Rodeo
<input type="checkbox"/> Byron	<input type="checkbox"/> Hercules	<input type="checkbox"/> Orinda	<input type="checkbox"/> San Pablo
<input type="checkbox"/> Clayton	<input type="checkbox"/> Knightsen	<input type="checkbox"/> Pacheco	<input type="checkbox"/> San Ramon
<input type="checkbox"/> Crockett	<input type="checkbox"/> Lafayette	<input type="checkbox"/> Pinole	<input type="checkbox"/> Other_____

7. Please share what type of household you live in:

<input type="checkbox"/> Single person household	<input type="checkbox"/> Single parent household	<input type="checkbox"/> Couple
<input type="checkbox"/> Family with minor children	<input type="checkbox"/> Unaccompanied youth (14-24)	<input type="checkbox"/> Currently homeless
<input type="checkbox"/> Related adults living together	<input type="checkbox"/> Unrelated adults living together	<input type="checkbox"/> Formerly homeless
<input type="checkbox"/> Disabled household	<input type="checkbox"/> Senior (age 62+) household	<input type="checkbox"/> Other_____

**Thank you for that introduction – this information will help us ensure that the data you provide helps to improve YOUR city or area of concern.**

## Homelessness in Contra Costa

Let's begin the survey by getting your view of what people who are experiencing homelessness or those who are at risk of homelessness in your community may need.

8. What level of need is there for **HOUSING** and **SERVICES** for homeless individuals in your community? ☐ No Need ☐ Low ☐ Medium ☐ High

9. First we'll focus on the **HOUSING** options for persons who are homeless, and level of need you see in your community. Please rate the need for the following:

### **Emergency Shelters for:**

**Men:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Women:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Families:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Couples only:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Unaccompanied Youth under age 18**

☐ No Need ☐ Low ☐ Medium ☐ High

**Transitional age youth (age 18-24):**

☐ No Need ☐ Low ☐ Medium ☐ High

### **Permanent Rental Support Plus Services**

(that help them stay housed, live independently)

☐ No Need ☐ Low ☐ Medium ☐ High

### **Other Housing Options (without services):**

☐ No Need ☐ Low ☐ Medium ☐ High

### **Transitional Housing (up to 2 yrs) for:**

**Victims of domestic violence:**

☐ No Need ☐ Low ☐ Medium ☐ High

**Transition age youth (age 18-24):**

☐ No Need ☐ Low ☐ Medium ☐ High

**Persons re-entering community from institutions like prison, jail, hospitals, mental facilities**

☐ No Need ☐ Low ☐ Medium ☐ High

**Persons completing drug treatment programs**

☐ No Need ☐ Low ☐ Medium ☐ High

**Board & Care:** ☐ No Need ☐ Low ☐ Medium ☐ High

### **Other Housing Needs for Homeless**

**10. Now please rate the need for SERVICES to help people experiencing homelessness:**

**More outreach to streets & encampments**

☐ No Need ☐ Low ☐ Medium ☐ High

**More multi-service centers/programs**

☐ No Need ☐ Low ☐ Medium ☐ High

**Life skills training**

☐ No Need ☐ Low ☐ Medium ☐ High

**Job training**

☐ No Need ☐ Low ☐ Medium ☐ High

**Alcohol & drug addiction treatment**

☐ No Need ☐ Low ☐ Medium ☐ High

**Mental health services**

☐ No Need ☐ Low ☐ Medium ☐ High

**Physical health services**

☐ No Need ☐ Low ☐ Medium ☐ High

**Education services**

☐ No Need ☐ Low ☐ Medium ☐ High



**Childcare services**

☐ No Need ☐ Low ☐ Medium ☐ High

**Legal services**

☐ No Need ☐ Low ☐ Medium ☐ High

**Food services**

☐ No Need ☐ Low ☐ Medium ☐ High

**Money management**

☐ No Need ☐ Low ☐ Medium ☐ High

**Eviction prevention counseling**

☐ No Need ☐ Low ☐ Medium ☐ High

**Diversion services**

(financial & services assistance to help divert people from emergency shelter)

☐ No Need ☐ Low ☐ Medium ☐ High

**Prevention services** (financial & service assistance for people AT RISK of homelessness)

☐ No Need ☐ Low ☐ Medium ☐ High

**Other:** \_\_\_\_\_

**11. What do you see as barriers for people experiencing homelessness who are trying to access housing and services?**

**Transportation**

☐ No Need ☐ Low ☐ Medium ☐ High

**No telephone**

☐ No Need ☐ Low ☐ Medium ☐ High

**People don't know who to call**

☐ No Need ☐ Low ☐ Medium ☐ High

**Lack of housing in my community**

☐ No Need ☐ Low ☐ Medium ☐ High

**The eligibility criteria can be too narrow**

☐ No Need ☐ Low ☐ Medium ☐ High

**Agencies lack sufficient capacity/ resources**

☐ No Need ☐ Low ☐ Medium ☐ High

**Lack of services in my community**

☐ No Need ☐ Low ☐ Medium ☐ High

**Fear of arrest**

☐ No Need ☐ Low ☐ Medium ☐ High

**Fear of deportation**

☐ No Need ☐ Low ☐ Medium ☐ High

**Other barriers**

\_\_\_\_\_

*If you would like to know more about efforts in Contra Costa County to serve people experiencing homelessness, please visit the County Homeless Program's website at <http://cchealth.org/homeless>.*



## Services for Lower Income Persons

Now let's talk about *other* groups of people in your community and the services that they may need. In this question, we will **NOT** be talking about people experiencing homelessness, homeless housing, or homeless services, which were discussed in the previous section. We will also **NOT** discuss Economic Development efforts and Housing, which are coming up soon!

### 12. Please rate the need for **SERVICES** in your community in these categories:

#### **GENERAL**

**Crisis intervention/emergency services:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Information & referral** (connecting people with resources):

☐ No Need ☐ Low ☐ Medium ☐ High

**Food & Hunger** (like food banks and feeding programs): ☐ No Need ☐ Low ☐ Medium ☐ High

**Credit Counseling:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Foreclosure counseling:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Crime awareness/prevention:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Landlord and tenant counseling:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Fair Housing counseling, advocacy, legal representation** (to combat discrimination):

☐ No Need ☐ Low ☐ Medium ☐ High



#### **SENIORS**



**Legal services:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Senior grocery & food programs:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Senior Center-based programs/services:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Adult Day health care (disabled seniors):** ☐ No Need ☐ Low ☐ Medium ☐ High

**Care management and assessment:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Transportation:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Wellness calls and home visits:** ☐ No Need ☐ Low ☐ Medium ☐ High

#### **YOUTH FROM LOWER INCOME FAMILIES**

**Recreation, sports, classes, camps, arts:** ☐ No Need ☐ Low ☐ Medium ☐ High

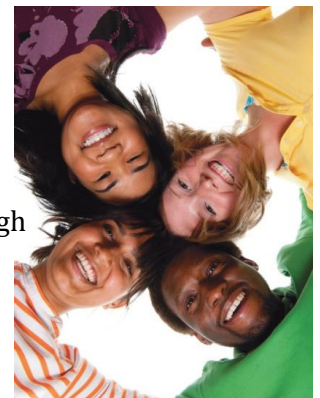
**After School Programs , Recreation:** ☐ No Need ☐ Low ☐ Medium ☐ High

**After School Programs, Educational** (like tutoring): ☐ No Need ☐ Low ☐ Medium ☐ High

**Child Care:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Transportation:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Mental health and support services:** ☐ No Need ☐ Low ☐ Medium ☐ High





## **ABUSED AND NEGLECTED YOUTH**

Services for sexually assaulted children: ☐No Need ☐Low ☐Medium ☐High

Services for child victims of domestic violence: ☐No Need ☐Low ☐Medium ☐High

Services for foster youth/wards of the court: ☐No Need ☐Low ☐Medium ☐High

Services for at-risk youth/gang prevention: ☐No Need ☐Low ☐Medium ☐High

## **PERSONS WITH DISABILITIES INCLUDING HIV/AIDS**



Independent living skills training/aids: ☐No Need ☐Low ☐Medium ☐High

Outreach/information & referral/socialization: ☐No Need ☐Low ☐Medium ☐High

Adult day health care for non-seniors with disabilities: ☐No Need ☐Low ☐Medium ☐High

Advocacy/investigation in nursing homes and care facilities: ☐No Need ☐Low ☐Medium ☐High



## **VICTIMS OF DOMESTIC VIOLENCE**

Emergency shelter: ☐No Need ☐Low ☐Medium ☐High

Transitional housing: ☐No Need ☐Low ☐Medium ☐High

Counseling & services: ☐No Need ☐Low ☐Medium ☐High

Other: \_\_\_\_\_

## **MIGRANT FARM WORKERS**

Job training and support services: ☐No Need ☐Low ☐Medium ☐High

English literacy training: ☐No Need ☐Low ☐Medium ☐High



## **ILLITERATE ADULTS**

(teaching adults to read)

☐No Need ☐Low ☐Medium ☐High

## **HEALTH-related services:**

Mental Health services: ☐No Need ☐Low ☐Medium ☐High

Alcohol addiction services: ☐No Need ☐Low ☐Medium ☐High

Drug abuse services: ☐No Need ☐Low ☐Medium ☐High

HIV/AIDs services: ☐No Need ☐Low ☐Medium ☐High

Healthy homes testing & remediation (lead-based paint, carbon monoxide, etc.)

☐No Need ☐Low ☐Medium ☐High



# Public Facilities & Infrastructure



13. Moving on to PUBLIC FACILITIES, tell us about the needs of your community for the following, either because you don't have one and need it, or because it needs renovation or improvements:

**Senior Center:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Youth Center:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Child Care Centers/Preschool Daycare:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Community Centers:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Parks and Recreation Facilities:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Library:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Nonprofit facilities:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Facilities for persons with Disabilities:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Improve the accessibility to public facilities for disabled:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Other Public Facility Improvements:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Other/Comments:** \_\_\_\_\_

14. Now let's talk briefly about the PUBLIC INFRASTRUCTURE, which is so often overlooked but is an important part of what makes a community feel safe, secure, and an attractive place to visit. Please rate the needs you have for the following:

**Street improvements:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Street Lighting:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Sidewalk improvements:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Flood control/drainage/water improvements, etc.:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Curb cuts for disabled, strollers, etc.:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Beautification/enhanced public space:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Historic preservation:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Attractive downtown business district:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Accessibility/Safety for disabled:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Other:** \_\_\_\_\_



## Housing

In this section, let us know about needs for housing for persons with special needs, affordable rental housing, and the homeownership needs of lower income residents. *Please rate the need for:*

### 15. **Housing for Persons with Special Needs**

**Seniors/Elderly:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Frail Elderly:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Persons with HIV/AIDS:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Victims of domestic violence:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Large households (5 or more persons):** ☐ No Need ☐ Low ☐ Medium ☐ High

**Single parent households:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Persons with alcohol or other drug addictions:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Persons with mental illness:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Persons with developmental disabilities:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Persons with significant physical disabilities:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Persons who are homeless:** ☐ No Need ☐ Low ☐ Medium ☐ High



### 16. **Affordable Rental Housing**

**Rehabilitation of existing housing developments:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Preservation of existing affordable rental housing:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Lead-based paint screening & abatement of rentals:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Energy efficiency improvements:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Construction of new affordable rental housing:** ☐ No Need ☐ Low ☐ Medium ☐ High

**New construction near mass transit:** ☐ No Need ☐ Low ☐ Medium ☐ High

**New construction of work-force housing:** ☐ No Need ☐ Low ☐ Medium ☐ High

**One-time rental assistance for struggling renters:** ☐ No Need ☐ Low ☐ Medium ☐ High

### 17. **Help for lower income homeowners.** *Please rate the need for:*

**Foreclosure counseling:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Home purchase counseling:** ☐ No Need ☐ Low ☐ Medium ☐ High

**First time homebuyer financial assistance:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Modifications for persons with disabilities:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Emergency repairs for lower income homeowners:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Rehabilitation assistance for lower income homeowners:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Energy efficiency improvements:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Lead-based paint screening and abatement:** ☐ No Need ☐ Low ☐ Medium ☐ High

**New construction of below market rate homes:** ☐ No Need ☐ Low ☐ Medium ☐ High

**Other housing needs:** \_\_\_\_\_





## Economic Development



Finally, let's discuss your thoughts on the needs of businesses and employees.

18. Here is a list of common types of Economic Development activities.

Please check all the needs that you see in your community.

Job training with placement services and follow-up: ☐ No Need ☐ Low ☐ Medium ☐ High

Technical assistance to small businesses: ☐ No Need ☐ Low ☐ Medium ☐ High

Training for small business owners/start-ups: ☐ No Need ☐ Low ☐ Medium ☐ High

Job development and creation: ☐ No Need ☐ Low ☐ Medium ☐ High

Banking/lending for commercial development: ☐ No Need ☐ Low ☐ Medium ☐ High

Retail development: ☐ No Need ☐ Low ☐ Medium ☐ High

Small business loans: ☐ No Need ☐ Low ☐ Medium ☐ High

Storefront improvements in low income areas: ☐ No Need ☐ Low ☐ Medium ☐ High

Pollution/property cleanup: ☐ No Need ☐ Low ☐ Medium ☐ High

Other economic development needs: \_\_\_\_\_

19. Any final thoughts or comments you would like to leave us with? \_\_\_\_\_

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**That's it – you are done! Thank you SO much for the time you have spent in completing this survey.**

If you would like to receive the results of survey, want to be included in future notices regarding the development of the 2020-25 Consolidated Plan, and/or want to receive a copy of the completed plan, include your email here:

\_\_\_\_\_

Email Address

**Please mail your survey to City of Antioch, below, or drop off at any of these locations:**

<b>City of Antioch</b> Community Development Dept. c/o <b>Teri House</b> 200 H St. Antioch, CA 94509	<b>City of Concord</b> Community & Economic Development Dept. c/o <b>Brenda Kain</b> 1950 Parkside Dr. Concord, CA 94519	<b>City of Pittsburg</b> Community Access Dept. c/o <b>Melaine Venenciano</b> 65 Civic Ave. Pittsburg, CA 94565
<b>City of Walnut Creek</b> Community & Economic Development Dept. c/o <b>Cara Bautista-Rao</b> 1666 N. Main St., Flr 2 Walnut Creek, CA 94596	<b>Contra Costa County</b> Dept. of Conservation & Development c/o <b>Kristin Sherk</b> 30 Muir Rd. Martinez, CA 94553	<b>Contra Costa Health, Housing &amp; Homeless Services</b> c/o <b>Jaime Jenett</b> 2400 Bisso Lane, Suite D, 2nd Floor Concord, CA 94520



# Contra Costa County Board of Supervisors

## Subcommittee Report

### FINANCE COMMITTEE

5.

**Meeting Date:** 11/04/2019

**Subject:** Stormwater Trash Reduction Funding

**Submitted For:** FINANCE COMMITTEE,

**Department:** County Administrator

**Referral No.:** 8-21-19 C.115

**Referral Name:** GJR 1907

**Presenter:** Tim Jensen, Assistant Public Works  
Director

**Contact:** Tim Jensen (925)  
313-2390

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### **Referral History:**

On August 6, 2019 the Board of Supervisors approved a response to grand jury report 1907 with a referral to Finance Committee to work with staff to develop recommendations for additional revenue sources by June 30, 2020. There are insufficient funds for the County to meet MRP 2.0 permit compliance.

### **Referral Update:**

The attached report summarizes reports provided to the Transportation, Water, and Infrastructure Committee on the funding and permit compliance for MRP 2.0.

### **Recommendation(s)/Next Step(s):**

DIRECT staff to develop options for additional funding sources and bring the options back to the Committee in February 2020 for consideration.

### **Fiscal Impact (if any):**

The County's stormwater trash reduction program is funded primarily with Stormwater Utility Assessments. The assessment is insufficient to meet the needs of stormwater pollution reduction permit compliance.

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### **Attachments**

Staff Report regarding Stormwater

Exhibit 1

Exhibit 2

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# Contra Costa County Public Works Department

Brian M. Balbas, Director  
Deputy Directors  
Stephen Kowalewski, Chief  
Allison Knapp  
Warren Lai  
Carrie Ricci  
Joe Yee

## Memo

DATE: October 29, 2019

**TO:** Finance Committee  
**FROM:** Brian M. Balbas, Public Works Director *Brian M. Balbas*  
**SUBJECT:** Funding Municipal Regional Permit compliance

### MESSAGE:

#### Recommendation

Direct staff to develop options for additional funding sources to comply with Municipal Regional Permit 2.0 and bring the options back to the Committee in February for consideration.

#### Referral

On August 6, 2019, the Board approved a response to Grand Jury Report 1907, "Stormwater Trash Reduction: Are We Doing All That We Can?" with a referral to the Finance Committee to work with staff and develop recommendations for additional revenue sources by June 30, 2020. Municipal Regional Permit 2.0, issued to the County by the Regional Water Quality Control Board, requires the County to reduce pollutant levels in our waterways and storm drain system. Trash is considered a pollutant and there are specific trash reduction targets in the permit. Meeting the trash reduction targets is a significant permit compliance cost. Although the Grand Jury Report focused on trash, the recommendation to identify additional funding sources referred to the entire permit, not just the trash provision in the permit.

#### Background

Staff has worked with and reported to the Transportation, Water and Infrastructure Committee on several occasions concerning the fiscal impacts of implementing Municipal Regional Permit (MRP) 2.0. Staff estimates it will cost approximately \$5 million annually to comply with all the provisions in the permit (not including PCB load reduction costs). However, the County only receives about \$3.2 million each year in discretionary revenue for stormwater related services and projects, and there are currently no additional resources available from the General Fund. Staff identified \$510,000 of Road Funds and \$75,000 of Flood Control Funds that could be used to help pay for program activities, leaving a shortfall of approximately \$1.2 million.

There are insufficient funds to close the \$1.2 million gap between available revenue and estimated expenditures. As a result, staff prepared an Implementation Plan that identifies permit tasks that will be completed as well as those tasks that will not be completed during the permit term. It should be noted that, although some tasks will not be completed within the permit timeline, there is still a commitment to complete them eventually. The Implementation Plan was approved by the Board on November 6, 2018. Attached for reference is the Implementation Plan and a supporting budget showing the costs for each task. The budget includes service reductions and funding shifts, with the savings shown in the "Difference" column.

The Implementation Plan has three tiers of tasks. Tier 1 tasks would be completed by the schedule specified in the permit, while Tier 2 and Tier 3 tasks would be completed after the permit expires. The problem with this strategy, of course, is the County will start MRP 3.0 in a financial deficit, and from there things will only get financially worse.

### **Consequences of Noncompliance**

It should be noted that the \$5 million estimated cost of compliance cited above does not include the cost to reduce PCB loads through green infrastructure. Those additional costs could be tens of millions of dollars. (We are assuming that all PCB load reduction will be performed by or paid by developers or other local project funds for roads, buildings, parks, etc.) Therefore, the \$1.2 million funding gap could be much larger depending on local funds available and the timing. Given there is a funding gap of at least \$1.2 million, permit noncompliance is likely. Noncompliance can lead to fines and third-party lawsuits.

The Regional Board must issue the County a stormwater permit as required by and with authority from the Environmental Protection Agency and the federal Clean Water Act. The Regional Board also has authority to issue permits through State statute that is, in many cases, more stringent than the Clean Water Act. When a permittee is in noncompliance, the Regional Board can issue a Notice of Violation and levy fines of \$37,500 per violation per day through federal authority, and \$10,000 per violation per day through State authority. The County would likely be facing multiple violations. The largest exposure from noncompliance, however, is from third party lawsuits. If the Regional Board finds the County in noncompliance it is highly likely the County would lose any third party lawsuit and face a very expensive settlement agreement or court decision.

BMB:MA:cw

G:\fdct\Mitch\MRP\Finance Committee memo 11-4-2019.docx

Attachments: Exhibit 1 - MRP 2.0 Implementation Plan for Unincorporated Communities and Exhibit 2 - MRP 2.0 Implementation Plan Budget

c: Allison Knapp, Deputy Public Works Director  
Tim Jensen, Assistant Public Works Director



# **Contra Costa County Municipal Regional Permit 2.0 Implementation Plan For Unincorporated Communities**

## **EXHIBIT 1**

### **Background**

The Regional Water Quality Control Board issues the County a stormwater permit that requires the County to reduce pollutants in the stormwater flowing through its drainage systems and waterways. These stormwater permits are issued every five years, the first issued in 1993, and every succeeding permit has more difficult requirements that take more resources to comply with. The current permit has, among its many provisions, four focus areas: green infrastructure, trash, PCBs, and mercury. Green infrastructure includes drainage basins and swales that filter and treat stormwater through special soils and vegetation.

### **Financial Resources Available**

- The Regional Board issued the County a permit to reduce pollution in stormwater
- The estimated cost to comply with the permit is about \$5 million
- The County only has about \$3.2 million in dedicated annual revenue available for permit compliance
- There are no supplemental resources available from the County General Fund
- Some restricted funding sources have been identified (e.g. Road Fund) that can fund certain tasks

Staff estimated it would cost around \$5 million to comply with all provisions in the current stormwater permit, Municipal Regional Permit (MRP) 2.0. However, the County only receives about \$3.2 million each year in discretionary revenue for stormwater related services and projects, and there are no additional resources available from the General Fund. Staff did identify \$510,000 of Road Funds and \$75,000 of Flood Control Funds that could be used to help pay for program activities. It should be noted that if the gas tax is reduced, any contribution from the Road Fund would have to be reconsidered and likely removed. In any event, there are insufficient funds to close the gap (about \$1.2 million) between available revenue and estimated expenditures, and a plan is needed to determine how the County will implement permit requirements – an Implementation Plan.

### **Implementation Plan Objectives**

- Maximize effectiveness of permit compliance
- Use a strategic process to decide prioritization within budget limitations
- Demonstrate the County does the right thing and is always trying
- Communicate the importance of stormwater quality to communities

A primary objective of the Implementation Plan is to maximize effectiveness of permit compliance, so our work truly improves water quality. Even though the County does not have sufficient funds to

complete every task, the County wants to demonstrate to the Regional Board it is committed to improving water quality and working hard to do so. And the County doesn't mind taking a leadership role in resolving difficult issues, as long as the Regional Board acknowledges that eventual resolution may take longer than expected.

### **Approach to Implement Permit Requirements**

- Identify the most efficient and effective way to address permit compliance with available funding
  - Focus on top tier tasks and reduce resources on low tier tasks
  - Focus resources on top tier tasks, about 60% of total program expenditures
  - Reduce funding to remaining tasks, about 40% of total program expenditures
- Develop a prioritized list of permit requirements grouped into three tiers
- High-priority, Tier 1, requirements will be completed on time
- Low priority tasks, Tier 2 and Tier 3, will be completed but not on time

The approach in developing the Implementation Plan is to identify tasks that will be completed and will be a primary focus, but also identify some work that will be done on all other tasks. So work will be done on all tasks but not all tasks will be completed within the permit timeline.

### **Task Prioritization**

Staff identified key MRP 2.0 tasks and prioritized them using the following criteria:

- Maximizing pollution removal
- Realizing co-benefits and benefits to the community, and improving community value
- Maximizing program effectiveness (staff resources, program objectives, program costs)
- Matching Regional Board priorities

The prioritized list of tasks was divided into three tiers, Tier 1 being top priority and Tier 3 being low priority. Tier 1 tasks will receive full funding, Tier 2 tasks will receive substantial funding, and Tier 3 tasks will receive little funding.

Exhibit 1 is a list of 13 tasks from MRP 2.0 and their ranking. Since trash reduction is a top priority for the Regional Board, trash related tasks are a top priority in the Plan as well, with most in the Tier 1 category.

### **Service Reductions/Savings**

Aside from the MRP 2.0 tasks, there are other baseline tasks and services that have been part of the program for many years. Staff reviewed all of the services and programs that are funded with Stormwater Utility Assessment funds and determined which services could be reduced. Stormwater Utility Assessment funds are the source of dedicated revenue used to fund stormwater services, programs, and projects. In addition, staff reviewed services or programs that could be funded from other sources and would represent a savings. The following service reductions and program savings were identified:

- **Street Sweeping.** Transfer street sweeping to the Road Fund (This would likely not occur if the gas tax is modified)
- **Inspections.** Reduce inspections by 50%
- **Outreach.** Reduce the Public Information and Participation Program by 50%
- **Calendar.** Eliminate the annual calendar

The attached budget (Exhibit 2) includes these service reductions and funding shifts, with the savings shown in the "Difference" column.

## Implementation Plan

The Implementation Plan identifies permit tasks that will be completed during the permit term, and tasks that will not be completed during the permit term. It should be noted that, although some tasks will not be completed within the permit timeline, there is still a commitment to complete them eventually. These tasks are shown in Exhibit 2, the proposed budget for the Implementation Plan. The budget lists all of the tasks required in the stormwater permit and shows those that have been prioritized and identified as Tier 1, Tier 2, or Tier 3, and those service reductions or funding shifts that represent a savings. Budget items that are not prioritized or listed as a savings are generally baseline activities from MRP 1.0 that need to be done.

The Constrained Budget represents the estimated cost to comply with all permit provisions, with the exception of PCBs, within the permit timeline. PCB requirements are not included in the estimated budget because there is too much uncertainty around how compliance will be achieved. The County is assuming, in its planning budget scenarios, that PCBs will not be directly addressed by the County but instead through development projects or remediation of source properties. The Constrained Budget costs total about \$5 million. The Implementation Plan Budget costs total about \$3.2 million, equal to the average annual revenue dedicated for stormwater purposes. It should be noted that about \$600,000 of the Implementation Plan Budget is funded by Road Funds or Flood Control Funds. Any change in the ability to use those funds would require modification of the Implementation Plan Budget.

RMA:lz

G:\fldctf\Mitch\MRP\Board Order Exhibit 1. MRP 2 Implementation Plan. 11-6-2018.docx

**Exhibit 2: MRP 2.0 Implementation Plan Budget (FY 2018/19)**

<b>Tier</b>	<b>Description</b>	<b>Constrained Budget</b>	<b>Implementation Plan Budget</b>	<b>Difference</b>
	Municipal Operations	\$32,000	\$32,000	\$0
Savings	Street Sweeping ( <i>Shift to Road Funds</i> )	\$325,000	\$0	\$325,000
	Development/LID	\$122,000	\$122,000	\$0
1	Green Infrastructure Planning	\$250,000	\$250,000	\$0
Savings	Industrial/Commercial Inspections ( <i>50%</i> )	\$225,000	\$110,000	\$115,000
Savings	Illicit Discharges ( <i>Reduce by 25%</i> )	\$148,000	\$108,000	\$40,000
	Construction Controls	\$8,000	\$8,000	\$0
Savings	Public Outreach ( <i>Reduce by 50%</i> )	\$110,000	\$55,000	\$55,000
Savings	Calendar ( <i>Eliminate calendar</i> )	\$100,000	\$0	\$100,000
	Monitoring	\$30,000	\$30,000	\$0
	Pesticide Controls	\$25,000	\$25,000	\$0
1	Trash (Misc tasks)	\$525,000	\$340,000	\$185,000
1	Trash Capture Devices	\$300,000	\$300,000	\$0
2	Trash separator facility	\$100,000	\$50,000	\$50,000
3	Trash Capture on Private Property	\$50,000	\$15,000	\$35,000
1	On-land clean up	\$740,000	\$740,000	\$0
1	Adopt-a-Spot	\$25,000	\$25,000	\$0
2	Plastic bag ban program	\$25,000	\$10,000	\$15,000
1	Polystyrene ban	\$75,000	\$75,000	\$0
1	PCB Building Materials Control	\$10,000	\$10,000	\$0
1	Direct discharge controls	\$300,000	\$300,000	\$0

**Exhibit 2: MRP 2.0 Implementation Plan Budget (FY 2018/19)**

	<b>Description</b>	<b>Constrained Budget</b>	<b>Implementation Plan Budget</b>	<b>Difference</b>
1	Creek clean-ups	\$150,000	\$150,000	\$0
	Mercury Controls	\$15,000	\$15,000	\$0
	PCB Controls	\$110,000	\$110,000	\$0
2	PCB/GI project	\$50,000	\$25,000	\$25,000
	Identify development treatment	\$60,000	\$25,000	\$35,000
3	Local Source Properties	\$25,000	\$5,000	\$20,000
3	Regional Source Properties	\$10,000	\$5,000	\$5,000
	County CIP Project	\$500,000	\$100,000	\$400,000
	Annual Report	\$100,000	\$100,000	\$0
	RWQCB Fees	\$45,000	\$45,000	\$0
	BIMID Cost Share	\$30,000	\$30,000	\$0
2	Drainage Inventory	\$50,000	\$25,000	\$25,000
	Marina Program	\$10,000	\$10,000	\$0
	Program Admin.	\$240,000	\$195,000	\$45,000
	<b>Subtotal</b>	<b>\$4,920,000</b>	<b>\$3,445,000</b>	<b>\$1,475,000</b>
	<b>Funding Contribution by Others</b>			
	Road Fund (other than streetsweeping) (Note 1)		\$185,000	
	Flood Control District (Note 2)		\$75,000	
	<b>Total</b>	<b>\$4,920,000</b>	<b>\$3,185,000</b>	<b>\$1,735,000</b>

**Note 1:** Road Fund cost items are associated with the road system: Municipal Operations (\$20,000), Green Infrastructure Planning (\$65,000), PCB/GI Project (\$25,000), County CIP Project (\$50,000), Drainage Inventory (\$25,000).

**Note 2:** Flood Control District Fund cost items are associated with the flood protection system: Direct Discharge Controls (\$50,000), Creek Cleanups (\$25,000).





# Contra Costa County Board of Supervisors

## Subcommittee Report

### FINANCE COMMITTEE

6.

**Meeting Date:** 11/04/2019

**Subject:** Sales Tax

**Submitted For:** David Twa, County Administrator

**Department:** County Administrator

**Referral No.:** 5/21/2019 D.7

**Referral Name:** Sales Tax

**Presenter:** Supervisor John Gioia      **Contact:** Timothy Ewell, Chief Assistant County Administrator (925) 335-1036

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### **Referral History:**

On May 21, 2019, while considering whether to accept a report on the Contra Costa Transportation Authority's (CCTA) development of a Transportation Expenditure Plan and potential sales tax ballot measure, the Board of Supervisors referred to the Finance Committee the concept of a countywide sales tax (non-transportation) measure.

On July 5, 2019, the Finance Committee met and discussed the feasibility of a sales tax measure. County Counsel provided two attachments to supplement the discussion. The first attachment is a document outlining the procedural steps necessary to bring a general or special sales tax measure to the voters for approval. The second attachment discusses the limitations on the use of public resources in relation to ballot measure campaigns for a tax. Both documents are also attached to this agenda item for reference as attachments A and B, respectively.

At the July 29, 2019 Finance Committee meeting, staff was asked to provide several follow up information items to the Committee at its next regular meeting, including: 1) information regarding the composition of parcels throughout the County, 2) County Counsel was asked to assemble information related to parcel taxes similar to what has been provided to the Committee for a sales tax (essentially a "Guide"), and 3) provide updated information as to what a 0.5% and 0.25% sales tax would generate if passed.

At the October 7, 2019 Finance Committee meeting, staff presented a report related to a proposed sales tax measure and provided staff recommendations on next steps. After discussion, the Committee:

1. Determined that a sales tax should be pursued over a parcel tax for the entire County (unincorporated and cities)
2. An expenditure plan should be developed prior to the ballot measure being listed, but acknowledged that a general tax is not bound to be spent on specific services
  1. Create an ad hoc committee by Sups. Gioia and Mitchoff to work on development of the expenditure plan

2. Ad hoc committee will work with a workgroup composed of (Labor, CBO, East Bay Leadership Council and County Administrator)
3. Meetings shall be open meetings governed by the Brown Act
3. Staff authorized to work with the CDTFA on logistics of listing a ballot measure and set up and collection contracts, if approved
4. Staff authorized to begin discussions with Nielsen Merksamer regarding special legislation needed to list measure on the ballot, but shall not begin drafting language or engaging legislators.
5. The Committee acknowledged that the Governor would need to sign special legislation by May/June timeframe for the ballot measure to be feasible.

### **Referral Update:**

At the October 22, 2019 Board of Supervisors meeting, the Finance Committee presented their report and recommendations to the full Board of Supervisors. After discussion and public comment, the Board of Supervisors approved the establishment of a Potential Sales Tax Measure Ad Hoc Committee. The Committee will be tasked with developing a recommended expenditure plan and related actions for a potential tax measure. The Ad Hoc Committee will be composed of Supervisors Gioia and Mitchoff. The Committee working group will include representatives from labor, community based organizations, the East Bay Leadership Council, and County Administrator. Committee and working group meetings shall be open and governed by the Brown Act.

### **Recommendation(s)/Next Step(s):**

Consider a status update regarding a formation of an Ad Hoc Committee.

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### **Attachments**

Attachment A - Sales Tax Measures-General, Special, Voter-Initiated, Etc.

Attachment B - Use of Public Resources in Relation to Tax Measure Campaigns

Attachment C - Detailed District Taxes, Rates and Effective Dates

Attachment D - Summary Parcel Count (Unincorporated & City), by Use Code

Attachment E - County Counsel Memorandum - Uniformity in Parcel Tax Measures, October 1 ,2019

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**Date:** July 29, 2019

**To:** Finance Committee

**From:** Sharon L. Anderson, County Counsel 

**Re:** **SALES TAX MEASURES - GENERAL, SPECIAL, VOTER-INITIATED,  
COUNTYWIDE, OR UNINCORPORATED AREA ONLY**

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### SUMMARY

This Office has been asked to outline the procedural steps necessary to bring a general or special sales tax measure<sup>1</sup> to the voters for approval. An ordinance proposing a local sales tax increase must be approved by a supermajority, four-fifths vote of the board of supervisors. This is true both for an ordinance proposing that the revenues be used for any county purpose (i.e., a general tax) or for a specific purpose (i.e., a special tax). A general sales tax measure must be approved by a majority of the electorate. A special sales tax requires a two-thirds vote of the electorate.

A “general” sales tax measure can only be placed on the ballot when consolidated with a “regularly scheduled general election for members of the governing body,” unless an emergency is unanimously declared by the governing body.<sup>2</sup> The next potential dates for a general sales tax measure would be March or November of 2020.<sup>3</sup> A “special” sales tax election could be scheduled for the second Tuesday in April in even-numbered years (April 2020); the first Tuesday after the first Monday in March of odd-numbered years (March 2021), the first Tuesday after the first Monday in November of each year (November 2019), and the first Tuesday after the first Monday in March in each even-numbered year (March 2020), or any other date permitted by law.<sup>4</sup> Mailed ballot election dates are the first Tuesday after the first Monday in May of each year (May 2020) and the last Tuesday in August of each year (August 2019).<sup>5</sup> There are no published decisions that discuss the submission of a sales tax measure to the voters through a mailed ballot election. In the abstract, an all mail ballot election might be permissible

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<sup>1</sup> A locally enacted sales tax is known as a “transactions and use tax.” See Rev. & Tax. Code, § 7285et seq., for county transaction and use taxes.

<sup>2</sup> Cal. Const., art. XIII C, § 2, subd. (b).

<sup>3</sup> Elec. Code, §§ 1001, 1300, 1405

<sup>4</sup> Gov. Code, § 53724(d).

<sup>5</sup> Elec. Code, § 1500.



for a countywide special sales tax measure under Elections Code section 4000(c)(8), but further review would be needed to determine if there are practical limitations to this approach.

Theoretically, a citizen sales tax initiative could be scheduled on any of the dates authorized for a general or special sales tax countywide election.<sup>6</sup> But, because some cities in this county are already at the statutory 9.25% sales tax cap, a countywide sales tax increase could not be proposed unless the cap for this county were first increased by legislative action. It is unlikely that a citizen sales tax initiative could be proposed for the unincorporated area only. That question would require further research. This memorandum pertains only to sales tax measures authorized by Revenue and Taxation Code sections 7285 and 7285.5. Different laws may apply to other types of tax measures.

This procedural guide has been divided into the following independent sections and subsections to assist the reader.

I.	General Sales Tax Measures Initiated by the Board of Supervisors	Page 5
	A. Countywide General Sales Tax Measures	Page 5
	B. Unincorporated Area General Sales Tax Measures	Page 7
II.	Special Sales Tax Measures Initiated by the Board of Supervisors	Page 8
	A. Countywide Special Sales Tax Measures	Page 8
	B. Unincorporated Area Special Sales Tax Measures.	Page 10
III.	Citizen-Initiated Sales Tax Measures	Page 10

## BACKGROUND

Local governments levy many types of taxes, such as property taxes, parcel taxes, hotel taxes, utility taxes, sales taxes and other types of taxes, including Mello-Roos and property transfer taxes. Since 1978, the state's voters have amended the California Constitution several times, most significantly through the approval of Proposition 218 in 1996, to require that local government tax increases be approved by the local electorate. Proposition 218 added article XIII C and article XIII D to the California Constitution. Subsequent voter initiatives<sup>7</sup> and legislative action,<sup>8</sup> as well as guidance supplied by California courts, have resulted in a complex system of voter approval requirements for local taxes. The laws directly governing voter approval of local

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<sup>6</sup> This was the holding in *California Cannabis Coalition v. City of Upland* (2017) 39 Cal.5th 282.

<sup>7</sup> Proposition 26, which amended article XIII A, section 3 of the California Constitution (adopted by Proposition 13 and relating to state taxes) and article XIII C section 1 (adopted by proposition 218) to add new definitions of state and local "taxes" and define all revenue measures imposed by the government as "taxes" unless within one of seven express exemptions for local government.

<sup>8</sup> Including the Proposition 218 Omnibus Implementation Act, Gov. Code, §§ 53750-53758.

sales tax measures are found at Revenue and Taxation Code sections 7285 and 7285.5. These statutes specify that a four-fifths vote of the board of supervisors is required to place either a general or a special sales tax measure on the ballot. Thereafter, a simple majority of voters may approve the levy of a sales tax for general governmental purposes; however, a sales tax for a specific purpose requires that the tax and an expenditure plan for the projects to be funded by the tax be approved by a supermajority of two-thirds vote of the electorate.

Section 3 of article XIII C of the California Constitution addresses the role of citizen initiatives in matters affecting local taxes assessments, fees, and charges.<sup>9</sup> Over the years it has generally been understood that citizen initiatives to increase taxes must secure the same vote of the electorate as those placed on the ballot by local governing bodies, i.e., a majority vote for general taxes and a two-thirds vote for special taxes.

On August 28, 2017, the California Supreme Court issued its decision in *California Cannabis Coalition v. City of Upland* (2017) 3 Cal.5th 924. The court held that a citizen-initiated general tax, as compared with a general tax initiated by a city council alone, does not have to comply with the Proposition 218 requirement that a general tax must be approved by the voters at a general election. The case involved an initiative to legalize medical marijuana dispensaries and impose a \$75,000 per year “annual Licensing and Inspection fee,” which the City of Upland concluded was a general tax, i.e., a tax to fund any lawful purpose of the city. Because article XIII C, section 2(b) only permits general tax measures to appear on ballots when city council seats are contested, the city council set the measure for the 2016 general election. The coalition supporting the initiative sued to compel an earlier special election. The trial court agreed with the city that the general tax measure could not be set for a special election. The Court of Appeal reversed and concluded that the article XIII C, section 2(b) requirement that general tax measures be on a regularly scheduled general election ballot does not apply to initiatives. The city obtained Supreme Court review. The Supreme Court affirmed the appellate decision.

Neither the Court of Appeal nor the Supreme Court decided whether the measure under consideration imposed a tax, but the Supreme Court concluded that even if it was a tax it was not subject to the general-election rule because that rule only applies to taxes proposed by the city council, not by initiative. Specifically, the 5-2 ruling stated that article XIII C, section 2(b) of the California Constitution does not restrict the provision of the state’s laws governing local initiatives that allows petitioners to collect enough signatures to qualify a tax measure for a special election ballot.

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<sup>9</sup> “Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees, and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.” Cal. Const., art XIII C, § 3.



The *Upland* case did not say whether other portions of article XIII C, such as the requirement that special taxes be approved by a supermajority of two-thirds of the voters, would still apply to citizen initiatives. The only guidance we have on the issue are the following arguments made by the majority in support of the ruling: (1) the citizen initiative process is separate from the actions of *local government* as defined by Proposition 218; (2) article XIII C, section 2 does not explicitly mention initiatives; (3) article XIII C, section 2(d) was not specifically intended to apply to initiatives either by proponents of Proposition 218 or by the voters that approved Proposition 218; and (4) the court's obligation to "protect and liberally construe the initiative power and to narrowly construe provisions that would burden or limit its exercise" means it must err on the side of not applying restrictions to citizen initiatives.

It may take years of litigation involving citizen-initiated tax measures, and potentially additional legislation, to fully understand which Proposition 218 requirements carry over to the citizen initiative process. In the *Upland* case, the Supreme Court specifically declined to address a hypothetical situation where signature gatherers would gather enough signatures to qualify a tax for the ballot and then a city council would adopt the tax without submitting it to a vote of the people.<sup>10</sup> However, given that California voters have explicitly imposed voter approval requirements on themselves through article XIII C, section 2(c) and (d) of the state Constitution, we expect the courts to confirm that a legislative body cannot adopt a citizen-initiated sales tax without submitting the ordinance to the voters for approval.

On July 5, 2019, in *Howard Jarvis Taxpayers Association, et al., v. City and County of San Francisco, et al.*, San Francisco Superior Court Case No. CGC-18-568657, a San Francisco Superior Court judge ruled that city officials did not violate state law or the City Charter by allowing two special tax measures to pass with a simple majority vote, rather than the supermajority, two-thirds vote requirement ordinarily applied to special tax measures. A copy of that decision is attached. It is anticipated that this ruling will be appealed, potentially all the way to the California Supreme Court. A complete resolution of the case could take as long as three years. Given the uncertainty in the law, for the foreseeable future it is likely that any effort to impose a citizen-initiated special purpose sales tax by majority vote under the *Upland* decision (as opposed to the two-thirds vote required by Propositions 13 and 218) will face immediate legal challenge.<sup>11</sup>

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<sup>10</sup> *Upland, supra* at 947.

<sup>11</sup> In November 2018, a charter amendment proposing a parcel tax to fund education services and career readiness was approved by 62% of the voters in the City of Oakland. The ballot measure, Measure AA, was placed on the ballot through a citizens' initiative. The city council certified the measure as approved on December 11, 2018, based on the argument that after the *Upland* case, a voter-initiated ballot tax measure only requires the approval of a majority of the city's voters. The city council's decision is being challenged in court. On April 16, 2019 the city council will decide whether to begin collecting the parcel tax or to wait for the outcome of the pending litigation. (See, East Bay Times, "Oakland Sued Over Measure AA Parcel Tax," by Ali Tadayon, February 1, 2019, updated February 4, 2019, and East Bay Times "Oakland City Council to Decide Whether to Collect Parcel Tax," by Ali Tadayon, April 3, 2109.)

## DISCUSSION

### I. GENERAL SALES TAX MEASURES INITIATED BY THE BOARD OF SUPERVISORS

#### A. Countywide General Sales Tax Measures.

1. **The Board of Supervisors Must Adopt a Countywide General Sales Tax Ordinance by a Four-Fifths Vote.** To initiate a countywide general sales tax measure, the board of supervisors must adopt an ordinance proposing a countywide transactions and use tax under Revenue and Taxation Code section 7285. The board must introduce the proposed tax ordinance at one regular meeting and adopt it at a second regular meeting held at least five days after the date of its introduction.<sup>12</sup> A general sales tax ordinance must be approved by at least four members of the board of supervisors.<sup>13</sup>

2. **Contents of a Countywide General Sales Tax Ordinance.** The ordinance proposing the tax must include the type of tax and rate of tax to be levied, the method of collection and the date upon which an election shall be held on the issue.<sup>14</sup> The form of the ordinance is supplied by the California Department of Tax and Fee Administration.

3. **The Countywide General Sales Tax Ballot Measure Must Be Approved by A Majority of all Voters in the County.** A proposed countywide general sales tax ordinance would be submitted to the voters of the entire county for approval. A majority of the electors voting on the measure must approve it.<sup>15</sup> The ordinance is not effective until after it is approved by the voters.<sup>16</sup>

4. **Election Dates for a Countywide General Sales Tax Measure.** The timing of general sales tax measures is governed by Proposition 218. Proposition 218 requires that a general tax measure be on a regularly scheduled election date for members of the

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<sup>12</sup> Gov. Code, § 25131.

<sup>13</sup> Gov. Code, § 53724(b); Rev. & Tax. Code, § 7285.

<sup>14</sup> Gov. Code, § 53724(a).

<sup>15</sup> Cal. Const., art. XIII C, § 2, subd. (b); Rev. & Tax. Code, § 7285: "The board of supervisors of any county may levy, increase, or extend a transactions and use tax throughout the entire county or within the unincorporated area of the county for general purposes at a rate of 0.125 percent or a multiple thereof, if the ordinance proposing that tax is approved by a two-thirds vote of all members of the board of supervisors and the tax is approved by a majority vote of the qualified voters of the entire county if levied on the entire county or the unincorporated area of the county if levied on the unincorporated area of the county, voting in an election on the issue. The board of supervisors may levy, increase, or extend more than one transaction and use tax under this section, if the adoption of each tax is in the manner prescribed in this section. The transactions and use tax shall conform to Part 1.6 (commencing with Section 7251). The revenues derived from the imposition of a tax pursuant to this section shall only be used for general purposes within the area for which the tax was approved by the qualified voters."

<sup>16</sup> Gov. Code, § 53723.



board of supervisors, except in cases of emergency declared by a unanimous vote of the governing body.<sup>17</sup> Pursuant to Government Code section 24202 and Elections Code section 1300, the election dates for boards of supervisors are on the same schedule as statewide elections. Elections Code section 1001 establishes these election dates to be March and November of even numbered years. *Silicon Valley Taxpayers Association v. Garner* (2013) 216 Cal.App.4th 402, clarified that either the March date or the November date is appropriate, even if a supervisor is not, in fact, on the November ballot because the race was decided at the primary election. The next two available dates would be March or November of 2020.

**5. Mailed Ballots for an Election on a Countywide General Sales**

**Tax.** Elections Code section 4000 specifies nine distinct situations under which elections may be conducted entirely by mailed ballot. One of the nine situations, identified in subsection (c)(8) of Section 4000, is “[a]n election or assessment ballot proceeding required or authorized by article XIII C or XIII D of the California Constitution.” In *Greene v. Marin County Flood Control & Water Conservation District* (2010) 49 Cal.4th 277, 297, the California Supreme Court noted in dicta that: “The elections authorized by Proposition 218 may be conducted by mail alone, while most other elections may not be.”

When considering the possibility of a mailed ballot election, however, the Proposition 218 requirement that elections on a general tax be consolidated with “regularly scheduled general election of members of the governing body” must also be considered.<sup>18</sup> We are not aware of any other county that has held a countywide general tax election by mailed ballot. If an all mail ballot election to approve a general sales tax is something that this county wishes to pursue, we recommend that the costs, and legal, and logistical concerns, be further reviewed by the County Administrator’s Office, the Elections Department, and this Office before proceeding.

**6. Legislation is Required Before a Countywide General Sales**

**Tax Can be Levied.** The Revenue and Taxation Code caps the sales tax rate at 9.25%, which is composed of a 7.25% statewide tax rate plus a 2% local tax rate cap. The cities of Antioch, El Cerrito, Martinez, Moraga, Pinole, and Richmond each have their own locally-imposed sales tax which, combined with existing state and county sales taxes, puts the sales tax rate in these cities at or above the 9.25% cap.<sup>19</sup> This means that legislation to increase the cap would be required before a countywide sales tax increase could be proposed to the voters. A copy of the California Sales and Use Tax Rate Schedule, effective April 1, 2019, is attached.

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<sup>17</sup> Cal. Const., art. XIII C § 2, subd. (b).

<sup>18</sup> Cal. Const., art. XIII C, § 2, subd. (b).

<sup>19</sup> The cap in El Cerrito is 9.75% (presumably due to special legislation). The other cities are at the 9.25% cap.

**B. Unincorporated Area General Sales Tax Measure.**

**1. The Board of Supervisors Must Adopt an Ordinance by a Four-Fifths Vote to Initiate an Unincorporated-Area-Only General Sales Tax.** The process to initiate a general sales tax measure in the unincorporated area is the same as for a countywide general sales tax.<sup>20</sup> The proposed tax ordinance would be introduced at one regular meeting of the board of supervisors and adopted by a four-fifths vote at a second regular meeting held at least five days after the date of its introduction.<sup>21</sup>

**2. Contents of an Unincorporated-Area-Only General Sales Tax Ordinance.** The contents of an ordinance proposing an unincorporated area only general sales tax would be similar to the ordinance for a countywide tax measure. The form of the ordinance is supplied by the California Department of Tax and Fee Administration.

**3. The Unincorporated-Area-Only General Sales Tax Measure must be Approved by Voters in the Unincorporated Area.** The ordinance would only need to be submitted to the voters in the *unincorporated* area of the county and approved by majority vote of those voters. The ordinance is not effective until after it is approved by the voters.<sup>22</sup>

**4. Unincorporated-Area-Only General Sales Tax Election Dates.** The election dates would be the same as for a countywide general sales tax measure. The next two available dates would be March or November of 2020.

**5. Mailed Ballots for an Election on an Unincorporated-Area-Only General Sales Tax.** A mailed ballot election for a general sales tax measure in the unincorporated area theoretically may be possible, but potentially would not be practical due to the constitutional requirement that an election on a general tax measure be consolidated with a regularly scheduled general election of members of the governing body.<sup>23</sup>

**6. Ability to Levy an Unincorporated-Area-Only General Sales Tax.** Because the unincorporated area sales tax rate is only at 8.25%, the voters could authorize a general sales tax of up to 1% in the unincorporated area only.

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<sup>20</sup> Rev. & Tax. Code, § 7285; Elec. Code, § 9140.

<sup>21</sup> Gov. Code, § 25131; Gov. Code, § 53724(b).

<sup>22</sup> Cal. Const., art. XIII C, § 2, subd. (b); Rev. & Tax. Code, § 7285; Gov. Code, § 53723.

<sup>23</sup> Cal. Const. art. XIII C, § 2, subd. (b).



**II. SPECIAL SALES TAX MEASURES  
INITIATED BY THE BOARD OF SUPERVISORS**

**A. Countywide Special Sales Tax Measures.**

**1. The Board Must Adopt a Countywide Special Sales Tax Ordinance by a Four-Fifths Vote.** To initiate a countywide special sales tax measure, the board of supervisors must adopt an ordinance proposing a countywide sales tax for a specific purpose under Revenue and Taxation Code section 7285.5.<sup>24</sup> The proposed tax ordinance would be introduced at a first regular board of supervisors meeting and adopted at a second regular meeting held at least five days after the date of its introduction.<sup>25</sup> A special sales tax ordinance must be approved by at least four members of the board of supervisors.<sup>26</sup>

**2. Contents of a Countywide Special Sales Tax Ordinance.** The ordinance proposing a countywide special sales tax must include the type of tax and rate of tax to be levied, the method of collection, the date upon which an election shall be held on the issue, the purpose or service for which its imposition is sought and “an expenditure plan describing the specific projects for which the revenues from the tax may be expended.”<sup>27</sup> The form of the ordinance is supplied by the California Department of Tax and Fee Administration.

**3. Two-thirds Voter Approval Required to Pass a Countywide Special Sales Tax Ordinance.** The ordinance proposing the countywide special sales tax must be submitted to the voters of the entire county for approval. Two-thirds of the electors voting on

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<sup>24</sup> Rev. & Tax. Code §7285.5 provides: “(a) As an alternative to the procedure set forth in Section 7285, the board of supervisors of any county may levy, increase, or extend a transactions and use tax throughout the entire county or within the unincorporated area of the county, as applicable, 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:

(1) The ordinance proposing that tax is approved by a two-thirds vote of all members of the board of supervisors and is subsequently approved by a two-thirds vote of the qualified voters of the entire county if levied on the entire county or the unincorporated area of the county if levied on the unincorporated area of the county, voting in an election on the issue.

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

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

(b) A county shall be deemed to be an authority for purposes of Chapter 1 (commencing with Section 55800) of Part 3 of Division 2 of Title 5 of the Government Code.

(c) The revenues derived from the imposition of a tax pursuant to this section shall only be used for specific purposes within the area for which the tax was approved by the qualified voters.”

<sup>25</sup> Gov. Code, § 25131.

<sup>26</sup> Rev. & Tax. Code, § 7285.5; Gov. Code, § 53274.

<sup>27</sup> Gov. Code, § 53274; Rev. & Tax. Code, § 7285.5.

the measure must approve it. The ordinance is not effective until after it is approved by the voters.<sup>28</sup>

**4. Election Dates for a Countywide Special Sales Tax Ordinance.**

Proposition 218 does not regulate the timing of an election to approve a special tax. Those requirements are set forth in Government Code section 53724, enacted as part of Proposition 62.<sup>29</sup> The ordinance proposing the special tax “shall be consolidated with a statewide primary election, a statewide general election, or a regularly scheduled local election at which all of the electors of the [county] are entitled to vote.”<sup>30</sup> Pursuant to this authority, the board of supervisors could order a countywide special sales tax election on the following dates: the second Tuesday in April in even-numbered years; the first Tuesday after the first Monday in March of odd-numbered years, the first Tuesday after the first Monday in November of each year, and the first Tuesday after the first Monday in March in each even-numbered year.<sup>31</sup> Alternatively, the board of supervisors could call the election on any other date “otherwise permitted by law” but would need to bear all of the costs of that election.<sup>32</sup> If the board of supervisors calls a special election, the measure must appear on the ballot before the next statewide election for which it would qualify. The special election must be held not less than 88 days nor more than 103 days after the order of the election.<sup>33</sup>

**5. Mailed Ballots for a Countywide Special Sales Tax Ordinance.**

A mailed ballot election on a countywide special sales tax measure may theoretically be possible under Elections Code section 4000(c)(8), provided that the election was held on a date permitted by law and the county was willing to pay the cost of the mailed ballot. If an all mail ballot election to approve a special sales tax is something that this county wishes to pursue, we recommend that the costs, and legal and logistical concerns, be reviewed with the County Administrator’s Office, the Elections Department, and this Office before proceeding.

**6. Legislation is Required Before a Countywide Special Sales Tax Can be Levied.** A countywide special sales tax election presents the same problem as a countywide general sales tax election. Because Antioch, El Cerrito, Martinez, Moraga, Pinole, and Richmond each have their own locally-imposed sales tax which, combined with existing state and county taxes, puts the sales and use tax rates in these cities at or above the 9.25% cap, the county cannot levy a countywide sales tax absent legislation that increases the cap.

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<sup>28</sup> Cal. Const., art. XIII C, § 2 subd. (d); Rev. & Tax. Code, § 7285.5.

<sup>29</sup> Government Code sections 53720 - 53730 were added by initiative measure (Prop. 62) approved by the voters on November 4, 1986.

<sup>30</sup> Gov. Code, § 53724(c); Rev. & Tax. Code, § 7285.5.

<sup>31</sup> Elec. Code, §§ 1000, 1002.

<sup>32</sup> Gov. Code, § 53724(d).

<sup>33</sup> Elec. Code, § 1405, subd. (b).



**B. Unincorporated Area Special Sales Tax Measure.**

**1. The Board of Supervisors Must Adopt an Ordinance by a Four-Fifths Vote to Initiate an Unincorporated-Area-Only Special Sales Tax.** Revenue and Taxation Code section 7285.5 authorizes a county board of supervisors to adopt an ordinance proposing a sales tax for a specific purpose on the unincorporated area of the county. The proposed tax ordinance is introduced at a first regular meeting of the board of supervisors and adopted at a second meeting held at least five days after the date of its introduction.<sup>34</sup> The special sales tax ordinance must be approved by at least four members of the board of supervisors.<sup>35</sup>

**2. Contents of Ordinance for an Unincorporated-Area-Only Special Sales Tax.** The form of the ordinance would be similar to a countywide special sales tax, including the necessity of an expenditure plan. The form of the ordinance is supplied by the California Department of Tax and Fee Administration.

**3. Two-Thirds Voter Approval Required to Approve an Unincorporated-Area-Only Special Sales Tax.** The ordinance must be submitted to the voters of the unincorporated area of the county for approval. Two-thirds of the electors voting on the measure must approve it.<sup>36</sup> The ordinance is not effective until after it is approved by the voters.

**4. Election Dates for an Unincorporated-Area-Only Special Sales Tax.** The election on the ordinance proposing a special sales tax in the unincorporated area only would be the same as for a countywide special sales tax, discussed above.

**5. Mailed Ballots for an Election on a Special Sales Tax Ordinance in the Unincorporated Area Only.** A mailed ballot election on a special sales tax measure for the unincorporated area may theoretically be possible under Elections Code section 4000(c)(8), provided the election were held on a date permitted by law and the county was willing to pay the cost of the mailed ballot. This question would require further investigation.

**6. Ability to Levy a Special Sales Tax in Just the Unincorporated Area.** Because the unincorporated area sales tax rate is only at 8.25%, the voters could authorize a special sales tax of up to 1% in the unincorporated area only.

**III. CITIZEN-INITIATED SALES TAX MEASURES**

The laws governing county initiative petitions are set forth in Elections Code sections 9100-9126. A detailed discussion of the initiative process is beyond the scope of this memorandum. However, a few issues are worth noting.

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<sup>34</sup> Gov. Code, § 25131.

<sup>35</sup> Rev. & Tax. Code, § 7285.5.

<sup>36</sup> Cal. Const., art. XIII C, § 2 subd. (b); Rev. & Tax. Code, § 7285.5; Gov. Code, § 53722.

**A. Ability to Levy.** As was noted above, the Revenue and Taxation Code caps the sales tax rate at 9.25%. The most significant impediment to a citizen initiative to increase the sales tax in Contra Costa County is likely to be the fact that, to date, five cities in this County are at or above the statutory cap on sales taxes. The cities of Antioch, El Cerrito, Martinez, Moraga, Pinole and Richmond each have their own locally-imposed sales tax which, combined with existing state and county sales taxes, puts the sales tax rates in these cities at or above the 9.25% cap.<sup>37</sup> As such, legislation to increase the sales tax cap would be necessary before a countywide sales tax measure could be proposed to the voters.

**B. Tax in the Unincorporated Area Only.** Although Revenue and Taxation Code sections 7285 and 7285.5 give county boards of supervisors the authority to levy, increase, or extend transactions and use taxes throughout the county or within the unincorporated area, there is no general authority in the Elections Code to divide up the county electorate in this manner for purposes of a sales tax initiative. The Elections Code defines a “local election” as “a municipal, county, or district election.”<sup>38</sup> In defining a “county measure,” the Elections Code refers to any “question or proposition submitted to the voters of a county at any election held throughout an entire single county.”<sup>39</sup> We think it highly questionable that the law could be read to authorize a citizen-initiated ballot measure proposing a sales tax increase in the unincorporated area only.<sup>40</sup>

**C. Procedural Matters.** Article XIII C, section 3 prohibits local governments from imposing “a signature requirement higher than that applicable to statewide statutory initiatives” for fiscal initiatives. This means that the number of signatures necessary to qualify a citizen-initiated county sales tax measure for the ballot can be no higher than five percent of the votes cast in the county for all candidates for governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition.<sup>41</sup>

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<sup>37</sup> The cap in El Cerrito is 9.75% (presumably due to special legislation). The other cities are at the 9.25% cap.

<sup>38</sup> Cal. Elec. Code, § 328.

<sup>39</sup> Cal. Elec. Code, § 312.

<sup>40</sup> When the City of San Diego authorized a special tax on hotels, it submitted the tax to a specially defined electorate consisting solely of owners of real property in the city on which a hotel is located and the lessees of government-owned real property on which a hotel is located. The court held the election was invalid because the tax should have been submitted to the “electorate” consisting of all registered voters in the city. (*City of San Diego v. Shapiro* (2014) 228 Cal.App.4th 756, 761, 771.) The court explained: “There is nothing in either the text or the constitutional history of Proposition 13 that suggests that voters intended for local governments to be able to exclude large numbers of registered voters from voting in a special tax election by limiting who would be deemed ‘qualified electors’ for purposes of the election.” (*Id.* at 776.) While that decision is not directly on point because it did not concern a tax imposed only in an unincorporated area of a county submitted to a vote by persons residing in the unincorporated area, it weighs against defining the electorate as a subset of the voters of a county.

<sup>41</sup> Cal. Const., art. II, § 9, subd. (b); Elec. Code, § 9035. The total number of votes cast for Governor in the November 6, 2018 election was 416,150.



The proponents have 180 days to circulate the petition.<sup>42</sup> The Registrar of Voters is responsible for verifying whether the initiative petition meets the required number of signatures. Upon receipt of a verified petition, a county board of supervisors' actions would be guided by Elections Code section 9118 and Revenue and Taxation Code section 7285 (for a general sales tax) or Revenue and Taxation Code section 7285.5 (for a special sales tax), meaning that the board could either: (1) adopt the ordinance without alteration by four-fifths vote at a regular meeting and submit it to the voters without alteration; (2) submit the ordinance directly to the voters without adopting it and without alteration; or (3) first order a report under Elections Code section 9111 and then adopt the ordinance or submit it to the voters. Pursuant to Elections Code section 1405, the election date for a county citizen initiative that qualifies for the ballot would be the next statewide election unless the board of supervisors decides to call a special election, i.e., in March and November of even numbered years.<sup>43</sup>

**D. *California Cannabis Coalition v. City of Upland.*** The *Upland* case, discussed more fully in the Background section of this memorandum, may not have the profound impact that some hope and others potentially fear. Few taxes are proposed by initiative. Moreover, the initiative process can be expensive. The Los Medanos Healthcare District recently paid a signature gatherer \$11 per signature in an effort to acquire enough signatures to force the issue of its dissolution to an election. The total number of votes cast for Governor in this county in the November 6, 2018, election was 416,150. This means that it could cost in the vicinity of \$250,000 for a paid signature gatherer to collect the five percent of signatures necessary to qualify a sales tax initiative for the ballot at a regularly scheduled election.

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<sup>42</sup> Elec. Code, §§ 9110, 9113.

<sup>43</sup> Elec, Code, § 1001.

**California Sales and Use Tax Rates by County and City\***  
*Operative April 1, 2019 (includes state, county, local, and district taxes)*

<b>ALAMEDA CO. 9.25%</b> City of Alameda 9.75% City of Albany 9.75% City of Hayward 9.75% City of Newark 9.75% City of San Leandro 9.75% City of Union City 9.75%  <b>ALPINE CO. 7.25%</b>  <b>AMADOR CO. 7.75%</b>  <b>BUTTE CO. 7.25%</b> City of Oroville 8.25% Town of Paradise 7.75%  <b>CALAVERAS CO. 7.25%</b> City of Angels Camp 7.75%  <b>COLUSA CO. 7.25%</b> City of Williams 7.75%  <b>CONTRA COSTA CO. 8.25%</b> City of Antioch 9.25% City of Concord 8.75% City of El Cerrito 9.75% City of Hercules 8.75% City of Martinez 9.25% Town of Moraga 9.25% City of Orinda 8.75% City of Pinole 9.25% City of Pittsburg 8.75% City of Pleasant Hill 8.75% City of Richmond 9.25% City of San Pablo 8.75%  <b>DEL NORTE CO. 7.50%</b>  <b>EL DORADO CO. 7.25%</b> City of Placerville 8.25% City of So. Lake Tahoe 7.75%  <b>FRESNO CO. 7.975%</b> City of Coalinga 8.975% City of Fowler 8.975% City of Huron 8.975% City of Kerman 8.975% City of Kingsburg 8.975% City of Reedley 8.475% City of Sanger 8.725% City of Selma 8.475%  <b>GLENN CO. 7.25%</b> City of Orland 7.75%	<b>HUMBOLDT CO. 7.75%</b> City of Arcata 8.50% City of Eureka 8.50% City of Fortuna 8.50% City of Rio Dell 8.75% City of Trinidad 8.50%  <b>IMPERIAL CO. 7.75%</b> City of Calexico 8.25% City of El Centro 8.25%  <b>INYO CO. 7.75%</b>  <b>KERN CO. 7.25%</b> City of Arvin 8.25% City of Bakersfield 8.25% City of Delano 8.25% City of Ridgecrest 8.25% City of Wasco 8.25%  <b>KINGS CO. 7.25%</b> City of Corcoran 8.25%  <b>LAKE CO. 7.25%</b> City of Clearlake 8.75% City of Lakeport 8.75%  <b>LASSEN CO. 7.25%</b>  <b>LOS ANGELES CO. 9.50%</b> City of Avalon 10.00% City of Burbank 10.25% City of Commerce 10.00% City of Compton 10.25% City of Covina 10.25% City of Cudahy 10.25% City of Culver City 10.25% City of Downey 10.00% City of El Monte 10.00% City of Glendale 10.25% City of Hawthorne 10.25% City of Huntington Park 10.25% City of Inglewood 10.00% City of La Puente 10.00% City of Lawndale 10.25% City of Long Beach 10.25% City of Lynwood 10.25% City of Pico Rivera 10.25% City of Pasadena 10.25% City of Pomona 10.25% City of San Fernando 10.00% City of Santa Fe Springs 10.50% City of Santa Monica 10.25% City of So. El Monte 10.00% City of South Gate 10.25%	<b>MADERA CO. 7.75%</b> City of Chowchilla 8.75% City of Madera 8.25%  <b>MARIN CO. 8.25%</b> Town of Corte Madera 9.00% Town of Fairfax 9.00% City of Larkspur 9.00% City of Novato 8.50% Town of San Anselmo 8.75% City of San Rafael 9.00% City of Sausalito 8.75%  <b>MARIPOSA CO. 7.75%</b>  <b>MENDOCINO CO. 7.875%</b> City of Fort Bragg 8.875% City of Point Arena 8.375% City of Ukiah 8.875% City of Willits 8.375%  <b>MERCED CO. 7.75%</b> City of Atwater 8.25% City of Gustine 8.25% City of Los Banos 8.75% City of Merced 8.25%  <b>MODOC CO. 7.25%</b>  <b>MONO CO. 7.25%</b> Town of Mammoth Lakes 7.75%  <b>MONTEREY CO. 7.75%</b> City of Carmel-by-the-Sea 8.75% City of Del Rey Oaks 9.25% City of Gonzales 8.25% City of Greenfield 9.50% City of King City 8.75% City of Marina 9.25% City of Monterey 8.75% City of Pacific Grove 8.75% City of Salinas 9.25% City of Sand City 8.75% City of Seaside 9.25% City of Soledad 8.75%  <b>NAPA CO. 7.75%</b> City of St. Helena 8.25%  <b>NEVADA CO. 7.50%</b> City of Grass Valley 8.50% City of Nevada City 8.375% Town of Truckee 8.25%	<b>ORANGE CO. 7.75%</b> City of Fountain Valley 8.75% City of Garden Grove 8.75% City of La Habra 8.25% City of La Palma 8.75% City of Placentia 8.75% City of Santa Ana 9.25% City of Seal Beach 8.75% City of Stanton 8.75% City of Westminster 8.75%  <b>PLACER CO. 7.25%</b> Town of Loomis 7.50% City of Roseville 7.75%  <b>PLUMAS CO. 7.25%</b>  <b>RIVERSIDE CO. 7.75%</b> City of Cathedral City 8.75% City of Coachella 8.75% City of Hemet 8.75% City of Indio 8.75% City of La Quinta 8.75% City of Menifee 8.75% City of Murrieta 8.75% City of Norco 8.75% City of Palm Springs 9.25% City of Riverside 8.75% City of Temecula 8.75% City of Wildomar 8.75%  <b>SACRAMENTO CO. 7.75%</b> City of Galt 8.25% City of Isleton 8.75% City of Rancho Cordova 8.25% City of Sacramento 8.75%  <b>SAN BENITO CO. 8.25%</b> City of Hollister 9.25% City of San Juan Bautista 9.00%  <b>SAN BERNARDINO CO. 7.75%</b> City of Barstow 8.75% City of Montclair 8.00% City of San Bernardino 8.00% Town of Yucca Valley 8.75%  <b>SAN DIEGO CO. 7.75%</b> City of Chula Vista 8.75% City of Del Mar 8.75% City of El Cajon 8.25% City of La Mesa 8.50% City of National City 8.75% City of Oceanside 8.25% City of Vista 8.25%  <b>SAN FRANCISCO CO. 8.50%</b>
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\*(For more details, refer to [www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm](http://www.cdtfa.ca.gov/taxes-and-fees/sales-use-tax-rates.htm).)

Please note: Some communities located within a county or a city may not be listed. If you are in doubt about the correct rate or if you cannot find a community, please call our toll-free number at 1-800-400-7115 (TTY: 711), or call the local California Department of Tax and Fee Administration office nearest you for assistance.



**SAN JOAQUIN CO. 7.75%**

City of Lathrop 8.75%  
City of Lodi 8.25%  
City of Manteca 8.25%  
City of Stockton 9.00%  
City of Tracy 8.25%

**SAN LUIS OBISPO CO. 7.25%**

City of Arroyo Grande 7.75%  
City of Atascadero 7.75%  
City of Grover Beach 7.75%  
City of Morro Bay 7.75%  
City of Paso Robles 7.75%  
City of Pismo Beach 7.75%  
City of San Luis Obispo 7.75%

**SAN MATEO CO. 8.75%**

City of Belmont 9.25%  
City of Burlingame 9.00%  
City of East Palo Alto 9.25%  
City of Redwood City 9.25%  
City of San Mateo 9.00%  
City of So. San Francisco 9.25%

**SANTA BARBARA CO. 7.75%**

City of Carpinteria 9.00%  
City of Guadalupe 8.00%  
City of Santa Barbara 8.75%  
City of Santa Maria 8.75%

**SANTA CLARA CO. 9.00%**

City of Campbell 9.25%  
City of Los Gatos 9.125%  
City of San Jose 9.25%

**SANTA CRUZ CO. 8.50%**

City of Capitola 9.00%  
City of Santa Cruz 9.25%  
City of Scotts Valley 9.00%  
City of Watsonville 9.25%  
Santa Cruz (Unincorporated Area) 9.00%

**SHASTA CO. 7.25%**

City of Anderson 7.75%

**SIERRA CO. 7.25%**

**SISKIYOU CO. 7.25%**

City of Dunsmuir 7.75%  
City of Mount Shasta 7.50%  
City of Weed 7.50%  
City of Yreka 7.75%

**SOLANO CO. 7.375%**

City of Benicia 8.375%  
City of Fairfield 8.375%  
City of Rio Vista 8.125%  
City of Suisun City 8.375%  
City of Vacaville 8.125%  
City of Vallejo 8.375%

**SONOMA CO. 8.25%**

City of Cotati 9.25%  
City of Healdsburg 8.75%  
City of Rohnert Park 8.75%  
City of Santa Rosa 9.00%  
City of Sebastopol 9.00%  
City of Sonoma 8.75%

**STANISLAUS CO. 7.875%**

City of Ceres 8.375%  
City of Oakdale 8.375%

**SUTTER CO. 7.25%**

**TEHAMA CO. 7.25%**

City of Corning 7.75%  
City of Red Bluff 7.50%

**TRINITY CO. 7.25%**

**TULARE CO. 7.75%**

City of Dinuba 8.50%  
City of Farmersville 8.75%  
City of Lindsay 8.75%  
City of Porterville 9.25%  
City of Tulare 8.25%  
City of Visalia 8.50%  
City of Woodlake 8.75%

**TUOLUMNE CO. 7.25%**

City of Sonora 7.75%

**VENTURA CO. 7.25%**

City of Oxnard 7.75%  
City of Port Hueneme 8.75%  
City of Santa Paula 8.25%  
City of Ventura 7.75%

**YOLO CO. 7.25%**

City of Davis 8.25%  
City of W. Sacramento 8.25%  
City of Woodland 8.00%

**YUBA CO. 7.25%**

City of Marysville 8.25%  
City of Wheatland 7.75%  
Yuba (Unincorporated Area)  
8.25%

# Editorial: Fate of SF citizen initiatives far from settled

JULY 08, 2019



This is no way to resolve an election in which more than 61% percent of San Franciscans made their intention clear, with neither doubt about the accuracy of the count nor any other allegations of irregularities. The only question was whether the threshold for passage should be a simple majority or two-thirds vote.

That question moved a significant step toward an answer Friday when a Superior Court judge agreed with City Attorney Dennis Herrera's office that two tax measures from last year required only a simple majority. November's Proposition C, taxing the city's largest businesses to raise \$300 million a year for housing and services for the homeless, received 61.3% of the vote; June's



Proposition C, taxing commercial landlords to raise \$146 million a year for child care programs, received just under 51% of the vote.

The delegation of the outcome to the courts was regrettable but inevitable because of the ambiguity about whether initiatives resulting from citizen petitions are subject to the same threshold as those put on the ballot by elected officials. Two constitutional amendments passed by state voters decades ago (Propositions 13 and 218) had set a two-thirds standard for tax increases.

The state Supreme Court has not directly addressed this issue. But its 2017 ruling on an Upland (San Bernardino County) cannabis-tax measure that citizen initiatives can be decided in a primary election — instead of a general election, as required of government-sponsored measures — was interpreted by Herrera as a green light for citizen initiatives to pass with a simple majority.

This dispute goes beyond San Francisco. Across the bay, 62.4% of Oakland voters last year supported Measure AA, a \$198 parcel tax increase to raise \$30 million a year for pre-K through college readiness programs. Unlike Herrera, Oakland City Attorney Barbara Parker had interpreted state law as requiring a two-thirds vote for passage — which underscores the lack of clarity in state law. The Oakland City Council nevertheless certified Measure AA's passage, but voted 5-2 to hold off collecting the tax until the court challenge is settled.

San Francisco is collecting those taxes, though not spending the money until they get a final go-ahead from the courts. That could take years, with

business and anti-tax groups promising to appeal Friday's ruling.

The status quo is unfair all around. For individual voters considering the merits of a new tax, the threshold for passage might not make any difference on what they decide. It makes a huge difference, however, to the approach of a campaign. The two-thirds barrier is daunting even in the most progressive of cities. It requires a greater infusion of money for voter education — and more intensive collaboration with potential opponents.

Indeed, one of our criticisms of Prop. C, for all our concern about the homelessness crisis, was the deficiency of accountability on the \$300 million surge in spending and the absence of input from all relevant interests in the ballot measure. If faced with a two-thirds threshold, the advocates of Prop. C might have gone to greater lengths to address those issues.

But fair is fair. The Prop. C campaign was assured by the city attorney's office *before* the election that it needed a simple majority to prevail. It did. It would be eminently unfair for the courts to invalidate that result after the vote, especially with all the ambiguity in the law.


It seems likely that either side that loses the court case will go back to California voters to make state law crystal clear. The unfortunate reality is that campaigns in the meantime are certain to face two battles, one at the ballot box and the other in courts.

*This commentary is from The Chronicle's editorial board. We invite you to express your views in a letter to the editor. Please submit your letter via our online form: [SFChronicle.com/letters](http://SFChronicle.com/letters).*

**FILED**  
San Francisco County Superior Court

JUL 05 2019

CLERK OF THE COURT

BY:  Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

HOWARD JARVIS TAXPAYERS  
ASSOCIATION, BUILDING OWNERS AND  
MANAGERS OF CALIFORNIA, CALIFORNIA  
BUSINESS PROPERTIES ASSOCIATION, and  
CALIFORNIA BUSINESS ROUNDTABLE,

Plaintiffs,

v.

CITY AND COUNTY OF SAN FRANCISCO  
and ALL PERSONS INTERESTED IN THE  
MATTER OF Proposition C of the June 5, 2018  
San Francisco ballot, a commercial rent tax for  
childcare and early education in San Francisco  
and other matters related thereto,

Defendants.

Case No. CGC-18-568657

**ORDER ON CROSS-MOTIONS FOR  
SUMMARY JUDGMENT**

Case No. CGC-18-568657

ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT



1 On July 3, 2019, this matter came on regularly for hearing before the Court pursuant to the  
2 motion for summary judgment filed by Plaintiffs Howard Jarvis Taxpayers Association, Building  
3 Owners and Managers Association of California, California Business Properties Association, and  
4 California Business Roundtable (Plaintiffs) and the cross-motion for summary judgment filed by  
5 Defendant City and County of San Francisco (the City). All parties appeared by their respective  
6 counsel of record, as reflected in the minutes and reporter's transcript. Having fully considered the  
7 papers filed in support of and in opposition to the cross-motions for summary judgment on the  
8 pleadings, and the arguments of counsel presented at the hearing, this Court rules as follows:

9 **I. Introduction**

10 Plaintiffs brought this reverse validation action following the June 5, 2018 Consolidated  
11 Statewide Direct Primary Election in the City and County of San Francisco to obtain a ruling  
12 concerning the validity of Proposition C, a voter initiative that appeared on the ballot in that  
13 election. Proposition C, which in the Voter Information Guide bears the short title, "Additional  
14 Tax on Commercial Rents Mostly to Fund Child Care and Education," would add Article 21, the  
15 "Early Care and Education Commercial Rents Ordinance," to the City's Business and Tax  
16 Regulations Code. (Prop. C, Legal Text, in Voter Information Pamphlet, Arntz Decl., Ex. F at 141-  
17 144.) Article 21 would impose additional gross receipts taxes on revenues that certain local  
18 businesses receive from the lease of warehouse and other commercial spaces in the City; would use  
19 15% of funds collected from these additional taxes for any general purpose; and would devote the  
20 remaining 85% of the funds to fund quality early care and education for young children and other  
21 related purposes. (*Id.* at 143.) Proposition C received the affirmative votes of 50.87% of the  
22 236,284 City voters who voted on that measure. (Arntz Decl., Ex. G at 16; Compl., pg. 1.)<sup>1</sup>

23 Plaintiffs' verified Complaint to Invalidate Special Tax, filed on August 3, 2018, contains a  
24 single cause of action. Plaintiffs allege that Proposition C is invalid because it imposed a special

25  
26 <sup>1</sup> The Court grants the City's unopposed request for judicial notice of various provisions of the San  
27 Francisco and Municipal Elections Code.

1 tax that required the approval of two-thirds of the voters under two different provisions of the  
2 California Constitution—Article XIII C, section 2(d) and Article XIII A, section 4. (Compl. ¶¶ 8,  
3 9.) Thus, Plaintiffs contend that the tax enacted by Proposition C is “invalid for failing to receive  
4 two-thirds voter approval under the California Constitution.” (*Id.* ¶ 14.)

5 Plaintiffs also allege that the proponents of Proposition C were individual members of the  
6 City’s Board of Supervisors, and that after the proponents obtained the requisite number of  
7 signatures for a citizens’ initiative, the City placed Proposition C on the June 2018 ballot as a  
8 citizens’ initiative. (*Id.* ¶ 10.) Plaintiffs allege that the City proposed Proposition D, a tax on  
9 commercial rent for the purpose of funding affordable housing and homeless programs, on the  
10 same ballot, and that because the two propositions both contained provisions that only the one  
11 receiving the most affirmative votes would take effect, “this is evidence of a degree of coordination  
12 between the supervisors who served as proponents of Proposition C and the City.” (*Id.* ¶ 11.)  
13 Plaintiffs assert that “[w]hether City leadership places a special tax measure on the ballot by  
14 incubating an initiative or by going directly through its Board of Supervisors, the measure requires  
15 a two-thirds vote under the California Constitution to pass.” (*Id.* ¶ 12.) Plaintiffs’ complaint  
16 makes no reference to the San Francisco Charter.

17 In their motion for summary judgment, Plaintiffs abandon their contention in their  
18 complaint that Proposition C required a supermajority (two-thirds) vote under either Article XIII C,  
19 section 2(d) or Article XIII A, section 4 of the California Constitution. Apparently anticipating the  
20 City’s reliance on the California Supreme Court’s decision in *California Cannabis Coalition v. City*  
21 *of Upland* (2017) 3 Cal.5th 924, they assert “it is unnecessary for the Court to reach that  
22 argument.” Instead, Plaintiffs contend that the San Francisco Charter requires a two-thirds vote on  
23 all special taxes, whether they are proposed by the Mayor or Board of Supervisors or by citizens’  
24 initiative. Plaintiffs’ motion for summary judgment on this ground is procedurally improper  
25  
26  
27  
28



1 because they did not raise the issue in their complaint.<sup>2</sup> Nevertheless, because the City does not  
2 object on this ground, and because the issue presents a pure question of law on undisputed facts,  
3 the Court will deem Plaintiffs' complaint amended to present the issue and will address it on its  
4 merits.

5 Plaintiffs' second argument is that Proposition C was not a "real" citizens' initiative, but  
6 instead must be treated as having been proposed by the Board of Supervisors and therefore subject  
7 to the two-thirds vote requirement.

8 The material facts are undisputed. For the following reasons, Plaintiffs' motion for  
9 summary judgment is denied, and the City's cross-motion is granted.

10 **II. Proposition C Is Not Invalid Under The San Francisco Charter.**

11 Plaintiffs contend first that the San Francisco Charter required a two-thirds vote on  
12 Proposition C. That contention is based on the following reasoning: (1) Article XVII of the  
13 Charter defines "initiative" to include "a proposal by the voters with respect to any ordinance, act  
14 or other measure which is within the powers conferred upon the Board of Supervisors to enact"; (2)  
15 by virtue of article XIII A, section 4 and article XIII C, section 2(d) of the California Constitution,  
16 the Board of Supervisors is not empowered to enact a special tax without the concurrences of two-  
17 thirds of the electors; (3) therefore, the voters' initiative power is similarly constrained.

18 This argument is foreclosed by a long line of California Supreme Court authority, which  
19 draws a critical distinction between *substantive* limitations on the Board of Supervisors' legislative  
20 authority and *procedural* requirements that the Board must follow to enact certain kinds of laws.  
21 While the Charter restricts the voters from using their reserved power of initiative to enact any  
22 measure that, because of its nature or subject matter, is *substantively* beyond the power of the

23  
24 <sup>2</sup> Plaintiffs appear "oblivious to the role of the pleadings as the outer measure of materiality in a  
25 summary judgment proceeding," treating them instead as "a ticket to the courtroom which may be  
26 discarded upon admission." (*FPI Development, Inc. v. Nakashima* (1991) 231 Cal. App. 3d 367,  
381; see also *Bostrom v. County of San Bernardino* (1995) 35 Cal.App.4th 1654, 1663 ["Summary  
27 judgment cannot be granted on a ground not raised by the pleadings. [Citation.] Conversely,  
28 summary judgment cannot be *denied* on a ground not raised by the pleadings."].)



1 Board of Supervisors to enact, the Charter does not require the voters, when they legislate by  
2 initiative, to follow the *procedures* the Board would have to follow in order to enact similar  
3 legislation. In other words, "*procedural* requirements imposed on the Legislature or local  
4 governments are presumed not to apply to the initiative power absent evidence that such was the  
5 intended purpose of the requirements." (*California Cannabis Coalition*, 3 Cal.5th at 942.)

6 *California Cannabis Coalition* addressed this very question. In that case, the California  
7 Supreme Court held that article XIII C of the California Constitution, which limits the ability of  
8 local governments to impose taxes, "does not limit voters' 'power to raise taxes by statutory  
9 initiative.'" (3 Cal.5th at 931, quoting *Kennedy Wholesale, Inc. v. State Bd. of Equalization* (1991)  
10 53 Cal.3d 245, 251.) In particular, the Court concluded that "local government" as that term is  
11 used in article XIII C does not include the electorate, based on the common understanding of that  
12 term; how it is used in the text, findings, and declarations of article XIII C; and the ballot materials  
13 for Proposition 218, by which that article was enacted, as well as those for Propositions 13 and  
14 Proposition 26. (*Id.* at 936-941.)

15 The City of Upland argued that even if "local government" does not directly encompass the  
16 electorate, "article XIII C, section 2, subdivision (b) *indirectly* applies to voters for two reasons,"  
17 both of which the Court rejected. (*Id.* at 941.) First, Upland contended that the provision applies to  
18 the electorate because, in its view, "the voters are the ones who ultimately impose *every* local tax."  
19 (*Id.*) But, the Court observed, "that does not transform voters into the 'local government'  
20 referenced in article XIII C, section 2." (*Id.* at 942.) Nor does the requirement of voter approval  
21 necessarily mean it is the electorate that imposes the tax. (*Id.*)

22 Second, Upland argued, in terms nearly identical to Plaintiffs' position here, that the  
23 provision at issue "constrains voter initiatives because 'statutory and constitutional limits on the  
24 power of local government apply equally to local initiatives.'" (*Id.*) The Court rejected that  
25 argument, underlining the distinction summarized above between limits on the substantive  
26 authority of the legislative body and procedural requirements governing its exercise of such power:

1 When a local government lacks authority to legislate in an area, perhaps because the state  
2 has occupied the field [citation], that limitation also applies to the people's local initiative  
3 power. [Citation.] In contrast, where legislative bodies retain lawmaking authority subject  
4 to procedural limitations, e.g., notice and hearing requirements [citation] or *two-thirds vote*  
5 *requirements* [citation], we presume such limitations do not apply to the initiative power  
6 absent evidence that such was the restrictions' intended purpose.

7 (*Id.* [emphasis added].) Numerous other cases reach the same conclusion. (See, e.g., *Kennedy*  
8 *Wholesale, Inc.*, 53 Cal.3d at 249 [while "the voters' power is presumed to be coextensive with the  
9 Legislature's," that does not mean that "legislative *procedures*, such as voting requirements, apply  
10 to the electorate"]; *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 785 ["it is well established in  
11 our case law that the existence of procedural requirements for the adoptions of local ordinances  
12 generally does not imply a restriction of the power of initiative or referendum."]; *Associated Home*  
13 *Builders of the Greater Eastbay, Inc. v. City of Livermore* (1976) 18 Cal.3d 582, 594 ["Procedural  
14 requirements which govern *council* action . . . generally do not apply to initiatives, any more than  
15 the provisions of the initiative law govern the enactment of ordinances in council."].)

16 Plaintiffs attempt to distinguish these cases, arguing that the only procedural requirements  
17 that do not apply to voter initiatives are those where "voters literally can't do those things," such as  
18 introducing bills. Plaintiffs contend that the "common feature" of these cases is that "impossible  
19 and unavailable duties or conditions precedent will not be imposed on the electorate so as to nullify  
20 their ability to propose legislation in the first instance." However, in *California Cannabis*  
21 *Coalition*, the Supreme Court rejected a nearly identical contention by the concurring and  
22 dissenting Justices, who interpreted those cases "more narrowly, as applying *exclusively* when the  
23 procedural requirements at issue are 'incompatible with initiative procedures.'" (3 Cal.5th at 943;  
24 see *id.* at 957-958 [conc. and dis. opn. of Kruger, J.].) The majority disagreed with that reading,  
25 observing that it "proves too cramped an understanding of these cases' holdings or their  
26 significance. While our cases noted that the restrictions at issue made little sense in light of the  
27 distinct initiative process [citation], nothing suggests that those observations formed the metes and  
28 bounds of our holding. To the contrary, our reasoning was broader and grew out of our  
presumption in favor of the initiative power." (*Id.*)



1 Plaintiffs' argument is also inconsistent with the overall reasoning and thrust of the  
2 California Supreme Court's decision in *California Cannabis Coalition*. There, the Court addressed  
3 a broadly similar issue to that presented here: whether these provisions, which limit the ability of  
4 state and local governments to impose taxes, "also restrict[] the ability of voters to impose taxes via  
5 initiative." (*Id.* at 930.) It answered the question in the negative, concluding that "article XIII C  
6 does not limit voters' 'power to raise taxes by statutory initiative.'" (*Id.* at 931, quoting *Kennedy*  
7 *Wholesale, Inc. v. State Bd. of Equalization* (1991) 53 Cal.3d 245, 251.) As it explained,

8 A contrary conclusion would require an unreasonably broad construction of the term "local  
9 government" at the expense of the people's constitutional right to direct democracy,  
10 undermining our longstanding and consistent view that courts should protect and liberally  
11 construe it. . . . Without a direct reference in the text of a provision—or a similarly clear,  
12 unambiguous indication that it was within the ambit of a provision's purpose to constrain  
the people's initiative power—we will not construe a provision as imposing such a  
limitation.

13 (*Id.*) The Court based its analysis in part on the text of article XIII C, section 2, which applies only  
14 to actions taken by a "local government." (*Id.* at 936.) Article XIII C defines that term to mean  
15 "any county, city, city and county, including a charter city or county, any special district, or any  
16 other local or regional governmental entity." (Cal. Const., art. XIII C, § 1(b).) The Court rejected  
17 Upland's argument that this definition is broad enough to include the electorate. (3 Cal.5th at 937.)  
18 It adopted a "clear statement" rule in order to protect the initiative power, which is liberally  
19 construed. "Without an unambiguous indication that a provision's purpose was to constrain the  
20 initiative power, we will not construe it to impose such limitations. Such evidence might include  
21 an explicit reference to the initiative power in a provision's text, or sufficiently unambiguous  
22 statements regarding such a purpose in ballot materials." (*Id.* at 945-946.) The Court found no  
23 such indication in either the text of Proposition 218 (by which article XIII C was enacted) or the  
24 ballot materials of that initiative or of Proposition 13 (by which article XIII C was enacted). "To  
25 the contrary: The crux of the concern repeatedly reflected in the ballot materials is with local  
26 governments and politicians—not the electorate—imposing taxes. Nowhere in the materials is

1 there any suggestion that Proposition 218 would rescue voters from measures they might, through a  
2 majority vote, impose on themselves.” (*Id.* at 940.)

3 Plaintiffs insist that Proposition 218 must be construed to apply to voter initiatives because  
4 the voters who enacted that proposition in 1996 must have been aware of *Altadena Library Dist. v.*  
5 *Bloodgood* (1987) 192 Cal.App.3d 585, which Plaintiffs contend applied Proposition 13’s two-  
6 thirds vote requirement to a local special tax brought as a citizens’ initiative. However, that case  
7 held only that a library district was a “special district” within the meaning of Proposition 13 (in  
8 addition to rejecting a novel claim that the supermajority requirement triggered close scrutiny as a  
9 matter of equal protection). (*Id.* at 588.) It did not address the issue presented here (which was not  
10 raised): whether the two-thirds vote requirement of Proposition 13 applies to special taxes enacted  
11 by voter initiative. The case is not authority for that proposition. (See *People v. Brown* (2012) 54  
12 Cal.4th 314, 330 [it is axiomatic that “cases are not authority for propositions not considered.”].)<sup>3</sup>  
13 In any event, of course, *Altadena* long predated the Supreme Court’s 2017 decision in *California*  
14 *Cannabis Coalition*, which is binding on this court. (*Auto Equity Sales, Inc. v. Superior Court*  
15 (1962) 57 Cal.2d 450, 455; see *Newport Harbor Offices & Marina, LLC v. Morris Cerullo World*  
16 *Evangelism* (2018) 23 Cal.App.5th 28, 41 [regardless of whether a recent California Supreme Court  
17 decision may be characterized as an intervening change in law, lower courts are bound to follow  
18 it].)

19 In short, the procedural two-thirds vote requirement in articles XIII A, section 4 and XIII C,  
20 section 2(d) of the California Constitution that limit the Board of Supervisors’ authority to impose  
21 new taxes does not apply to the voters’ initiative power, either directly under those provisions or  
22 indirectly under the San Francisco Charter.

23  
24 <sup>3</sup> *City of Dublin v. County of Alameda* (1993) 14 Cal.App.4th 264, which Plaintiffs also cite, is  
25 even less helpful to them. The court there held that a surcharge on waste disposal imposed by a  
26 voter initiative was not a special tax within the meaning of Proposition 13, but rather was a valid  
27 regulatory fee. (*Id.* at 280-285.) As a result, the court did not reach the question whether the  
28 initiative required a two-thirds vote. Plaintiffs’ reliance on the dissenting opinion is misplaced.



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1 Board of Supervisors, or four or more members of the Board, may submit to the voters declarations  
2 of policy, and any matter (such as a proposed ordinance) which the Board is empowered to pass.  
3 (Charter § 2.113(a).) That provision, entitled "Legislative Initiative," is contained in Article II of  
4 the Charter, which governs the City's legislative branch. Likewise, the Mayor herself may also  
5 submit a proposed initiative to the Board of Supervisors. (Charter § 3.100(16).) The Board must  
6 assign a legislative or mayoral initiative to a committee for a public hearing. (*Id.* § 2.113(b).)  
7 Measures proposed by initiative petition are also subject to a different timeline than those  
8 submitted by the Mayor, Board of Supervisors, or four or more supervisors. (S.F. Muni. Elec.  
9 Code § 300(b), (c).) Nothing in the Charter prevents a single member of the Board of Supervisors  
10 from proposing an initiative and, by definition, so long as the initiative is proposed by less than  
11 than four members of the Board, it is a citizens' initiative subject to the rules governing such  
12 initiatives, not a legislative initiative.

13       These provisions parallel those contained in the state Elections Code. Under the California  
14 Constitution, either the Legislature or the voters may place a measure, including a proposed  
15 constitutional amendment, on the ballot. (See Cal. Const., art. II, § 8; art. IV, § 8.5; art. XVIII,  
16 §§1, 3, 4.) Thus, the Legislature itself may propose an initiative constitutional amendment to be  
17 submitted to the voters, in which case it is the official "proponent." (See, e.g., *Californians for an*  
18 *Open Primary v. McPherson* (2006) 38 Cal.4th 735 [Legislature proposed constitutional  
19 amendment for submission to the voters on the November 2004 ballot as Proposition 60].) If, on  
20 the other hand, the measure is proposed by a private organization or an individual, as here, that  
21 organization or individual is the measure's proponent. (See generally *Perry v. Brown* (2011) 52  
22 Cal.4th 1116, 1139-1143 [discussing the initiative power and the constitutional and statutory basis  
23 for official initiative proponents' standing under California law].) The California Elections Code  
24 defines the proponent of a local initiative measure as "the person or persons who publish a notice  
25 or intention to circulate petitions, or, where publication is not required, who file petitions with the  
26 elections official or legislative body." (Elec. Code § 342.)



1 Here, the record establishes beyond dispute that Proposition C had a single proponent, who  
2 submitted a notice of intention to circulate petitions for the proposed initiative, caused the notice  
3 and ballot title and summary to be published in a local newspaper, and turned in initiative petitions  
4 containing the requisite number of voter signatures. (Arntz Decl. ¶¶ 5-8 & Exs. A-E.) Thus,  
5 Proposition C was a citizens' initiative as defined in the San Francisco Charter. In contrast,  
6 Proposition D on the same ballot was placed on the ballot by five members of the Board of  
7 Supervisors, and therefore was a legislative initiative. (Arntz Decl., Ex. F at 98-104, 144-147  
8 [text].) That the proponent of Proposition C happened to be a member of the San Francisco Board  
9 of Supervisors, Supervisor Norman Yee, or that he allegedly used his title or City resources to  
10 advance the initiative, does not somehow transform a citizens' initiative into a legislative petition.  
11 Nor does the fact that other members of the Board of Supervisors had previously considered a  
12 similar proposed legislative initiative, or that they expressed their support for Proposition C by  
13 signing the proponent's argument in the Voter Information Pamphlet (Arntz Decl. Ex. F at 92).<sup>5</sup>

14 Indeed, to articulate the latter argument is to reject it. It is common knowledge, and the  
15 Court may take judicial notice, that municipal and statewide legislators routinely serve as  
16 proponents of ballot measures or express their support for such measures, including in proponents'  
17 arguments included in voter information pamphlets. For example, in May 2002, then-member of  
18 the Board of Supervisors (now Governor) Gavin Newsom was one of two proponents of an  
19 initiative entitled Care Not Cash that was enacted on the November 2002 ballot as Proposition N.  
20 (See *McMahan v. City and County of San Francisco* (2005) 127 Cal.App.4th 1368, 1371.) Two

21  
22 <sup>5</sup> Plaintiffs devote much of their papers to attacking the motives and good faith of Supervisor Yee  
23 and the entire Board of Supervisors. Thus, Plaintiffs insist that Proposition C was "a special tax  
24 devised by the Board of Supervisors masquerading as [a] citizens' initiative in the hopes of evading  
25 the two-thirds vote required by the San Francisco Charter and the California Constitution"; they  
26 charge "City politicians" with "tramp[ing] the established rule" of Propositions 13 and 218 and  
attempting to "circumvent[]" those provisions; they make factually unsupported charges against  
Supervisor Yee; and they even accuse him of committing a criminal offense by illegally misusing  
the seal of the City and County of San Francisco. The Court disapproves of Plaintiffs' intemperate  
political rhetoric, which has no place in contested litigation involving important issues. A lawsuit  
is not an election campaign.



1 other examples appear on the very same June 2018 ballot on which Proposition C appeared. There,  
2 the voters were presented with Proposition E, a proposed ordinance that would have prohibited the  
3 sale of flavored tobacco products in San Francisco, and Proposition G, a proposed parcel tax to  
4 provide funding to support the San Francisco Unified School District. (Arntz Decl., Ex. F at 105-  
5 109, 147-149 [text]; 118-124, 149-152 [text].) The proponents' argument in favor of the former  
6 proposition was signed by then-Supervisor Malia Cohen; in favor of the latter, by then-Mayor  
7 Mark Farrell and then-President of the Board of Supervisors (now Mayor) London Breed. Neither  
8 then-Supervisor's Newsom's role as a proponent of Care Not Cash nor the other Supervisors'  
9 support for Propositions E and G transformed those propositions from citizens' initiatives into  
10 legislative initiatives, as Plaintiffs' argument would have it, nor do Plaintiffs cite any authority that  
11 would compel that unprecedented conclusion.

12 The single case upon which Plaintiffs rely, *Boling v. Public Employment Relations Board*  
13 (2018) 5 Cal.5th 898, does not support their position.<sup>6</sup> In *Boling*, San Diego's mayor sponsored a  
14 citizens' initiative to eliminate pensions for new municipal employees and rebuffed union demands  
15 to meet and confer over the measure. The Public Employment Relations Board (PERB) held that  
16 the city's failure to meet and confer constituted an unfair labor practice in violation of the Meyers-

17 <sup>6</sup> At oral argument, Plaintiffs also cited *Rider v. County of San Diego* (1991) 1 Cal.4th 1, but that  
18 case does not advance their position. There, a county board of supervisors sought the voters' two-  
19 thirds approval of a new sales tax to fund the county's justice facilities and, when that effort failed,  
20 directed a local legislator to introduce legislation creating a special district with limited tax powers  
21 to impose a sales tax increase upon approval by the county's voters. The initial version of the bill  
22 named the county's entire board of supervisors as the agency's board of directors, although under  
23 the final version only two county supervisors were included among the agency's seven directors.  
24 The county retained substantial control over the agency's operations and expenditures; the act  
25 required compliance with the county's master plan; and the agency's boundaries were coterminous  
26 with the county's. After the tax scheme was approved by a bare majority of county voters, the  
27 agency began operations, hiring several county employees for its staff and incurring expenses paid  
28 from funds advanced by the county. (*Id.* at 9.) The Court concluded that the agency was a "special  
district" within the meaning of Proposition 13 because it was "created to raise funds for city or  
county purposes to replace revenues lost by reason of the restrictions of Proposition 13." (*Id.* at  
11.) It held that in the future, courts could infer an intent to circumvent Proposition 13 "whenever  
the plaintiff has proved the new tax agency is *essentially controlled* by one or more cities or  
counties that otherwise would have had to comply with the supermajority provision of [article XIII  
A] section 4." (*Id.*) Thus, *Rider* did not involve a voter initiative, but instead an action by a taxing  
agency controlled by "local government."



1 Milias-Brown Act, Gov. Code § 3500 *et seq.* (the MMBA), and the Supreme Court granted review  
2 to settle two questions: (1) the standards of review that apply on appeal to PERB's decisions; and  
3 (2) "When a public agency itself does not propose a policy change affecting the terms and  
4 conditions of employment, but its designated bargaining agent lends official support to a citizens'  
5 initiative to create such a change, is the agency obligated to meet and confer with employee  
6 representatives?" (*Id.* at 903-904; see also *id.* at 914 ["The question is whether the mayor's pursuit  
7 of pension reform by drafting and promoting a citizens' initiative required him to meet and confer  
8 with the unions."].)

9 As to the second question, the Court held that under the circumstances presented in the  
10 case, "the MMBA applies to the mayor's official pursuit of pension reform as a matter of policy,"  
11 and the city therefore was required to meet and confer with the union. (*Id.* at 904.) The Court's  
12 analysis focused on the Government Code provision requiring governing bodies "or other  
13 representatives as may be properly designated" to engage with unions on matters within the scope  
14 of representation "prior to arriving at a determination of policy or course of action." (Gov. Code §  
15 3505; see *id.* at 904, 913-919.) The Court concluded that these key statutory terms extended to the  
16 mayor's sponsorship of the initiative because he was "using the powers and resources of his office  
17 to alter the terms and conditions of employment," emphasizing his invocation of his position as  
18 mayor and use of city resources and employees to draft, promote, and support the initiative, which  
19 concerned a determination of policy on pension reform. (*Id.* at 918-919.) Thus, the Court held,  
20 "when a local official with responsibility over labor relations uses the powers and resources of his  
21 office to play a major role in the promotion of a ballot initiative affecting terms and conditions of  
22 employment, the duty to meet and confer arises." (*Id.* at 919.)

23 *Boling* thus was decided entirely on statutory grounds under the MMBA. Nothing in the  
24 decision addressed any issue under the California Constitution, nor did the Court even mention its  
25 own recent decision in *California Cannabis Coalition*. The Court decidedly did *not* hold that the  
26 mayor's active involvement in the development and promotion of the ballot initiative transformed



1 it from a voter initiative into a legislative initiative. To the contrary, it repeatedly referred to the  
2 citizens' initiative as such, including referring to the individual proponents of the initiative (who  
3 did not include the mayor), the signature-gathering campaign, and the certification of voter  
4 signatures that led to its being placed on the ballot. (See *id.* at 907-908.) Indeed, the Court  
5 specifically recognized that it was required to decide the case because it was unlike a prior  
6 decision, *People ex rel. Seal Beach Police Officers Assn. v. City of Seal Beach* (1984) 36 Cal.3d  
7 591, which "involved a city council's own decision to place a proposal on the ballot, rather than a  
8 citizen-sponsored initiative." (*Id.* at 915; see also *id.* at 914 [*Seal Beach* "involved a related but  
9 distinct issue: whether the meet-and-confer provisions of section 3505 applied when a city  
10 exercised its *own* constitutional power to propose charter amendments to its voters." [emphasis  
11 original]].)<sup>7</sup> Nor, finally, did the Court suggest that the mayor's involvement in the genesis and  
12 development of the citizens' initiative invalidated the results of the election, in which the voters  
13 approved the initiative. To the contrary, PERB modified the ALJ's proposed remedy to vacate the  
14 results of the election, and instead directed the city to pay its employees compensation for the net  
15 value of their lost pension benefits, which payments were "to continue for as long as the Initiative  
16 was in effect." (*Id.* at 910.) The Court did not decide that issue, but directed the Court of Appeal  
17 on remand to address the appropriate judicial remedy for the statutory violation identified in its  
18 opinion. (*Id.* at 920.)<sup>8</sup>

19 <sup>7</sup> Plaintiffs refer in passing to the *California Cannabis Coalition* Court's brief discussion of a  
20 hypothetical situation in which a city council "could conceivably collude with a public employee  
21 union to place a levy on the ballot as a means of raising revenue for a goal supported by both," but  
22 with the council adopting the ordinance without submitting it to the voters. (3 Cal.5th at 947.)  
However, that hypothetical does not advance Plaintiffs' argument, both because it is not what  
occurred here and because the Court declined to address how it would decide the issue. (*Id.*) In  
any event, as the City pointed out at argument, its Charter would make such a situation impossible.

23 <sup>8</sup> On remand, the Court of Appeal held that "the City's failure to comply with the [Meyers-Milias  
24 Brown] Act before placing the Initiative on the ballot does not necessarily invalidate the Initiative,"  
25 and held further that PERB lacked power to invalidate the initiative, explaining that "any action by  
26 PERB effectively invalidating the Initiative or assuming the Initiative is or will be invalidated  
impermissibly encroaches on constitutional law, statutory law, and policy matters involving  
initiatives, elections, and the doctrine of preemption." (*Boling v. Public Employment Relations Bd.*  
27 (2019) 33 Cal.App.5th 376, 385, 388.)




1 In short, Plaintiffs' contention that "the City's admitted use of public offices and resources  
2 violates *Boling* and invalidates its efforts" is unsupported by *Boling* or any other cited authority,  
3 and must be rejected. Proposition C was a valid citizens' initiative under the express terms of the  
4 San Francisco Charter and state law, and neither the Charter nor the California Constitution  
5 required a two-thirds vote for its passage.

6  
7 **IV. Conclusion**

8 For the foregoing reasons, Plaintiffs' motion for summary judgment is denied, and the  
9 City's cross-motion for summary judgment is granted.

10 **IT IS SO ORDERED.**

11  
12 Dated: July 5, 2019

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14 ETHAN P. SCHULMAN  
15 JUDGE OF THE SUPERIOR COURT  
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**CGC-18-568657**

**HOWARD JARVIS TAXPAYERS ASSN. ET AL VS. CITY  
AND COUNTY OF SAN FRANCISCO ET AL**

I, the undersigned, certify that I am an employee of the Superior Court of California, County Of San Francisco and not a party to the above-entitled cause and that on July 05, 2019 I served the foregoing **Order on Cross-motions for summary judgment** on each counsel of record or party appearing in propria persona by causing a copy thereof to be enclosed in a postage paid sealed envelope and deposited in the United States Postal Service mail box located at 400 McAllister Street, San Francisco CA 94102-4514 pursuant to standard court practice.

Date: July 05, 2019

  
By: SHIRLEY LE

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Date: July 16, 2019

To: Finance Committee

From: Sharon L. Anderson, County Counsel  
by: Mary Ann McNett Mason, Chief Assistant County Counsel *M.A.M.*

Re: **Use Of Public Resources In Relation to Tax Measure Campaigns**

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This memorandum discusses the limitations on the use of public resources in relation to ballot measure campaigns for a tax.

**A. May public resources be used in ballot measure campaigns for a tax?**

1. General Prohibition.

Government Code section 54964 generally prohibits local agencies from using agency funds, including i.e., staff, facilities, equipment, supplies, and time, to support or oppose the approval or rejection of a ballot measure. However, in limited circumstances, the County may use County resources to engage in a *neutral* evaluation of the merits and effects of a proposed ballot measure and to inform the public of these findings.<sup>1</sup>

2. Prohibited Communications.

The County and its employees and officials, including Board, committee and commission members, are not permitted to use County resources to campaign for or against a ballot measure.<sup>2</sup> Officials, in their official capacity, may not engage in communications traditionally associated with political campaigns such as:

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<sup>1</sup> *Vargas v. City of Salinas* (2009) 46 Cal.4th 1.

<sup>2</sup> Historically, courts have disapproved the use of public funds in political campaigns on the basis that political expenditures are unauthorized by law and likely are unconstitutional. Public agencies may not 'take sides' in an election contest. (See, e.g. *Stanson v. Mott* (1976) 17 Cal.3d 206; *Mines v. Del Valle* (1927) 201 Cal. 273; *Miller v. Miller* (1978) 87 Cal.App.3d 762; *League of Women Voters of California v. Countywide Criminal Justice Coordination Committee* (1988) 203 Cal.App.3d 529; and *Vargas v. City of Salinas* (2009) 46 Cal.4th 1.)



- Advertising through bumper stickers, posters, television, radio, and billboards;
- Preparing advocacy materials;
- Disseminating advocacy materials prepared internally or by others; and
- Circulating promotional campaign materials such as brochures, even if the materials contain some useful factual information.<sup>3</sup>

### 3. Limited Permissible Communications

If the Board of Supervisors votes to place a tax measure on the ballot, County officials may make *neutral*, informational communications about the ballot measure, including:

- Take a position on the ballot measure at a properly noticed public meeting of the Board of Supervisors;
- Prepare neutral, informational reports and other analyses to help voters determine the impacts of the measure, when use of funds for this purpose has been authorized by the Board of Supervisors; and
- Respond to inquiries about the ballot measure in a manner that provides a fair, neutral presentation of the facts.<sup>4</sup>

Information must be communicated in a way that does not use inflammatory language or argumentative rhetoric, and does not urge the public to adopt a particular position or to take any other actions supporting or opposing the measure.<sup>5</sup> When sharing information related to a ballot measure, County officials must deliver the information through the County's regular communications channels (for example, through the County's existing website or existing newsletter).<sup>6</sup> No special expenditure should be made by the County to publicize a position on a tax measure. For example, the County may not send out a special mailing about the ballot measure to area residents. Expenditures related to the ballot measure require the Board of Supervisors approval.

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<sup>3</sup> *Vargas* at 24,32,39, 42.

<sup>4</sup> *Id.* at 24, 25, 35-37.

<sup>5</sup> *Id.* at 30, 34, 40.

<sup>6</sup> *Id.*

#### 4. Reporting Requirements.

Government entities that engage in ballot measure-related activities must file campaign expenditure reports when required by law to do so. The Political Reform Act requires agencies that make certain ballot measure-related communications to report expenditures for these communications.<sup>7</sup>

Please be advised that the Fair Political Practices Commission is aggressively pursuing allegations involving the use of public funds for campaign purposes. The FPPC recently fined the Bay Area Rapid Transit District (“BART”) for failing to disclose campaign activity in support of a ballot measure. When the Board considers any use of public resources or expenditures related to the parcel tax measure, the Board and staff should err on the side of caution.

#### 5. Activities as Private Citizens.

In their capacity as private citizens, County officials are permitted to campaign for or against local ballot measures and to join citizens’ groups that advocate for or against local ballot measures.<sup>8</sup> When doing so, they should specifically state that their comments are not made in their capacity as County officials. If, in their capacity as private citizens, officials make contributions and independent expenditures related to a County tax measure, they should consider whether their expenditures are reportable and file reports as required by law.<sup>9</sup>

MAM/am

cc: David Twa, County Administrator

H:\MAM\finance committee tax measure memo 07-16-19.wpd

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<sup>7</sup> Gov. Code, §§ 82013, 82015, 82025, 82031. Public agencies must report payments of public resources made in connection with a communication that expressly advocates the passage or defeat of a clearly identified ballot measure (2 Cal. Code Regs. §§ 18420 (d), 18420.1 (a).) However, certain communications are exempted from the expenditure reporting requirements: the preparation of an agency report providing the agency’s internal evaluation of a measure made available to a member of the public upon the individual’s request; the announcement of the agency’s position at a public meeting or with the agenda or hearing minutes prepared for a meeting; a written argument filed by the agency for publishing in the voter information pamphlet; a departmental view presented by an agency employee upon request by a public or private organization at the meeting of that organization; and a communication clearly and unambiguously authorized by law. (2 Cal. Code Regs. §18420.1 (e).)

<sup>8</sup> *League of Women Voters of California v. Countywide Criminal Justice Coordination Committee*, (1988) 203 Cal.App.3d 529, 555-56.

<sup>9</sup> Gov’t Code, § 82013.

**DISTRICT SALES AND USE TAX RATES****District Taxes, Rates, and Effective Dates**

(City): Indicates district tax applies within the city limits and is in addition to other applicable state, local, and transit district taxes.  
Certain cities provide addresses located within a special taxing jurisdiction.

<b>Tax Area</b>	<b>District Name and Acronym</b>	<b>Rate</b>	<b>Effective Date</b>	<b>End Date</b>
<b>Alameda County</b>	Alameda County Essential Health Care Services Transactions and Use Tax (ACHC)	0.50%	07-01-2004	
	Alameda County Transportation Commission 2002 (ACTI)	0.50%	04-01-2002	
	Alameda County Transportation Commission Transactions and Use Tax (ACTC)	0.50%	04-01-2015	
	Bay Area Rapid Transit District (BART)	0.50%	04-01-1970	
Alameda (City)	City of Alameda Transactions and Use Tax (ALTG)	0.50%	04-01-2019	
Albany (City)	City of Albany Transactions and Use Tax (ALBG)	0.50%	04-01-2013	
Hayward (City)	City of Hayward Transactions and Use Tax (HWDG)	0.50%	10-01-2014	
Newark (City)	City of Newark Transactions and Use Tax (NEGT)	0.50%	04-01-2017	
San Leandro (City)	City of San Leandro 2015 Transactions and Use Tax (SLDG)	0.50%	04-01-2015	
Union City (City)	City of Union City Transactions and Use Tax (UCGF)	0.50%	04-01-2011	
<b>Amador County</b>	Amador County Fire Protection and Emergency Med. Services Transactions and Use Tax (AMCG)	0.50%	04-01-2009	
<b>Butte County</b>				
Oroville (City)	City of Oroville Transactions and Use Tax (OVTG)	1.00%	04-01-2019	
Paradise (Town)	Town of Paradise Temporary Transactions and Use Tax (PTTG)	0.50%	04-01-2015	
<b>Calaveras County</b>				
Angels Camp (City)	City of Angels Camp Transactions and Use Tax (ACGT)	0.50%	04-01-2019	
<b>Colusa County</b>				
Williams (City)	City of Williams Transactions and Use Tax (WLMS)	0.50%	04-01-2007	
<b>Contra Costa County</b>	Bay Area Rapid Transit District (BART)	0.50%	04-01-1970	
	Contra Costa Transportation Authority (CCTA)	0.50%	04-01-1989	
Antioch (City)	City of Antioch Increase Transactions and Use Tax (ANIT)	1.00%	04-01-2019	
Antioch (City)	City of Antioch Transactions and Use Tax (ANTG)	0.50%	04-01-2014	03-21-2019
Concord (City)	City of Concord Transactions and Use Tax (CNCD)	0.50%	04-01-2011	
El Cerrito (City)	City of El Cerrito 2015 Transactions and Use Tax (ELCG)	1.00%	04-01-2015	
El Cerrito (City)	City of El Cerrito Street Improvements Transactions and Use Tax (ECSI)	0.50%	07-01-2008	
Hercules (City)	City of Hercules Temporary Transactions and Use Tax (HTGT)	0.50%	10-01-2012	
Martinez (City)	City of Martinez Road Maintenance and Improvement Transactions and Use Tax (MRMS)	0.50%	04-01-2017	
Martinez (City)	City of Martinez Transactions and Use Tax (MZGT)	0.50%	04-01-2019	
Moraga (Town)	Town of Moraga Transactions and Use Tax (MGAG)	1.00%	04-01-2013	
Orinda (City)	City of Orinda Transactions and Use Tax (ORGT)	0.50%	04-01-2013	
Pinole (City)	City of Pinole 2014 Transactions and Use Tax (PNGT)	0.50%	04-01-2015	
Pinole (City)	City of Pinole Transactions and Use Tax (PNLE)	0.50%	04-01-2007	
Pittsburg (City)	City of Pittsburg Preservation of Citywide Service Temporary Transactions and Use Tax (PPTG)	0.50%	10-01-2012	
Pleasant Hill (City)	City of Pleasant Hill Transactions and Use Tax (PLGT)	0.50%	04-01-2017	



**District Taxes, Rates, and Effective Dates**

<b>Tax Area</b>	<b>District Name and Acronym</b>	<b>Rate</b>	<b>Effective Date</b>	<b>End Date</b>
Richmond (City)	City of Richmond 2014 Transactions and Use Tax (RHMG)	0.50%	04-01-2015	
Richmond (City)	City of Richmond Transactions and Use Tax (RMGT)	0.50%	04-01-2005	
San Pablo (City)	City of San Pablo (EMS) Transactions and Use Tax (SPES)	0.25%	10-01-2014	
San Pablo (City)	City of San Pablo Transactions and Use Tax (SPGT)	0.50%	10-01-2012	09-30-2017
San Pablo (City)	City of San Pablo Transactions and Use Tax (SPRS)	0.25%	10-01-2017	
<b>Del Norte County</b>	Del Norte County Fairgrounds Transactions and Use Tax (DNCF)	0.25%	04-01-2015	
<b>El Dorado County</b>				
Placerville (City)	City of Placerville Public Safety Transactions and Use Tax (PLPS)	0.25%	04-01-1999	
Placerville (City)	City of Placerville Special Transactions and Use Tax (PLST)	0.25%	04-01-2011	
Placerville (City)	City of Placerville Special Transactions and Use Tax for Water, Sewer, Drains, Street Facilities (PVWS)	0.50%	04-01-2017	
South Lake Tahoe (City)	City of South Lake Tahoe Transactions and Use Tax (SLTG)	0.50%	04-01-2005	
<b>Fresno County</b>	Fresno County Public Library Transactions and Use Tax (FCPL)	0.125%	04-01-1999	
	Fresno County Transportation Authority (FCTA)	0.50%	07-01-1987	
	Fresno County Zoo Authority (FCZA)	0.10%	04-01-2005	
Coalinga (City)	Coalinga General Transactions and Use Tax (COLG)	1.00%	04-01-2019	
Fowler (City)	City of Fowler Transactions and Use Tax (FWLG)	1.00%	04-01-2019	
Huron (City)	City of Huron Public Safety Special Transactions and Use Tax (HPST)	1.00%	04-01-2014	
Kerman (City)	City of Kerman Transactions and Use Tax (KERM)	1.00%	04-01-2019	
Kingsburg (City)	City of Kingsburg Transactions and Use Tax (KBTG)	1.00%	10-01-2018	
Reedley (City)	City of Reedley Public Safety Transactions and Use Tax (RDPS)	0.50%	07-01-2008	
Sanger (City)	City of Sanger Public Safety Transactions and Use Tax (SGPS)	0.75%	07-01-2008	
Selma (City)	City of Selma Public Safety Transactions and Use Tax (SLMA)	0.50%	04-01-2008	
<b>Glenn County</b>				
Orland (City)	City of Orland Transactions and Use Tax (ORDG)	0.50%	04-01-2017	
<b>Humboldt County</b>	Humboldt County Transactions and Use Tax (HBGT)	0.50%	04-01-2015	
Arcata (City)	City of Arcata Transactions and Use Tax (ARGF)	0.75%	04-01-2009	
Eureka (City)	City of Eureka Supplemental Transactions and Use Tax (ERST)	0.50%	04-01-2011	
Eureka (City)	City of Eureka Transactions and Use Tax (ERKA)	0.25%	04-01-2009	
Fortuna (City)	City of Fortuna Police and Essential Services Transactions and Use Tax (FOGT)	0.75%	04-01-2017	
Rio Dell (City)	City of Rio Dell Transactions and Use Tax (RDGT)	1.00%	04-01-2015	
Trinidad (City)	City of Trinidad Transactions and Use Tax (TRGF)	0.75%	04-01-2009	
<b>Imperial County</b>	Imperial County Local Transportation Authority (IMTA)	0.50%	04-01-1990	
Calexico (City)	Calexico General Fund Transactions and Use Tax (CXGF)	0.50%	10-01-2010	
El Centro (City)	City of El Centro Transactions and Use Tax (ECTG)	0.50%	04-01-2017	
<b>Inyo County</b>	Inyo County Rural Counties Transactions Tax (INRC)	0.50%	10-01-1988	
<b>Kern County</b>				
Arvin (City)	City of Arvin Transactions and Use Tax (ARVN)	1.00%	04-01-2009	
Bakersfield (City)	City of Bakersfield Safety/Vital City Services and Use Tax (BSVG)	1.00%	04-01-2019	

**District Taxes, Rates, and Effective Dates**

<b>Tax Area</b>	<b>District Name and Acronym</b>	<b>Rate</b>	<b>Effective Date</b>	<b>End Date</b>
Delano (City)	City of Delano Transactions and Use Tax (DLNO)	1.00%	04-01-2008	
Ridgecrest (City)	City of Ridgecrest Public Safety and Essential City Services Transactions and Use Tax (RIDG)	1.00%	04-01-2017	
Ridgecrest (City)	City of Ridgecrest Temporary Transactions and Use Tax (RTGT)	0.75%	10-01-2012	03-31-2017
Wasco (City)	City of Wasco Transactions and Use Tax (WASG)	1.00%	04-01-2017	
<b>Kings County</b>				
Corcoran (City)	City of Corcoran Transaction and Use Tax (CRCG)	1.00%	10-01-2017	
<b>Lake County</b>				
Clearlake (City)	City of Clearlake Public Safety Transactions and Use Tax (CLPS)	0.50%	07-01-1995	
Clearlake (City)	City of Clearlake Road Maintenance and Improvement Transactions and Use Tax (CRMI)	1.00%	04-01-2017	
Lakeport (City)	City of Lakeport Public Safety and Essential City Services Transactions and Use Tax (LAGG)	1.00%	04-01-2017	
Lakeport (City)	City of Lakeport Transactions and Use Tax (LPGT)	0.50%	04-01-2005	
<b>Los Angeles County</b>	Los Angeles County Measure H Homeless (LACH)	0.25%	10-01-2017	
	Los Angeles County Metro Transportation Authority (LAMT)	0.50%	07-01-2009	
	Los Angeles County Traffic Improvement Plan (LAMA)	0.50%	07-01-2017	
	Los Angeles County Transportation Commission (LACT)	0.50%	07-01-1982	
	Los Angeles County Transportation Commission (LATC)	0.50%	04-01-1991	
Avalon (City)	City of Avalon Municipal Hospital and Clinic Transactions and Use Tax (AMHC)	0.50%	10-01-2000	
Burbank (City)	City of Burbank Infrastructure/Comm Sers Transactions and Use Tax (BURB)	0.75%	04-01-2019	
Commerce (City)	City of Commerce Transactions and Use Tax (CMMG)	0.50%	04-01-2013	
Compton (City)	City of Compton Transactions and Use Tax (COMG) <sup>1</sup>	1.00%	10-01-2016	
Covina (City)	City of Covina 2018 Transactions and Use Tax (COGT)	0.75%	04-01-2019	
Cudahy (City)	City of Cudahy Temporary Transactions and Use Tax (CDHG)	0.75%	04-01-2019	
Culver City (City)	City of Culver City Essential City Services Transactions and Use Tax (CLEG)	0.50%	04-01-2013	
Culver City (City)	City of Culver City Safety and Protection Transactions and Use Tax (CULG)	0.25%	04-01-2019	
Downey (City)	City of Downey Transactions and Use Tax (DWYG)	0.50%	04-01-2017	
El Monte (City)	City of El Monte Transactions and Use Tax (EMGF)	0.50%	04-01-2009	
Glendale (City)	City of Glendale Essential City Services Transactions and Use Tax (GNDG)	0.75%	04-01-2019	
Glendora (City)	City of Glendora Transactions and Use Tax (GLDA)	0.75%	07-01-2019	
Hawthorne (City)	City of Hawthorne Transactions and Use Tax (HAWG)	0.75%	04-01-2018	
Huntington Park (City)	City of Huntington Park Transactions and Use Tax (HTPG)	0.75%	10-01-2018	
Inglewood (City)	City of Inglewood Vital City Services Transactions and Use Tax (IGWD)	0.50%	04-01-2007	
La Mirada (City)	City of La Mirada Transactions and Use Tax (LMGT) <sup>1</sup>	1.00%	04-01-2013	03-31-2018
La Puente (City)	City of La Puente Safety and Protection Transactions and Use Tax (LUPG)	0.50%	04-01-2019	
Lawndale (City)	City of Lawndale Vital City Services Transactions and Use Tax (LAWG)	0.75%	04-01-2019	
Long Beach (City)	City of Long Beach Transactions and Use Tax (LBTG) <sup>1</sup>	1.00%	01-01-2017	
Lynwood (City)	City of Lynwood Transactions and Use Tax (LWDG) <sup>1</sup>	1.00%	04-01-2017	
Pasadena (City)	City of Pasadena Transactions and Use Tax (PSGD)	0.75%	04-01-2019	

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Pico Rivera (City)	City of Pico Rivera Transactions and Use Tax (PCRV) <sup>1</sup>	1.00%	04-01-2009	
Pomona (City)	City of Pomona Transactions and Use Tax (PMAG)	0.75%	04-01-2019	
San Fernando (City)	City of San Fernando Temporary Transactions and Use Tax (SNFE)	0.50%	10-01-2013	
Santa Fe Springs (City)	City of Santa Fe Springs 2018 Transactions and Use Tax (SFSG) <sup>2</sup>	1.00%	04-01-2019	
Santa Monica (City)	City of Santa Monica Transactions and Use Tax (SAMG)	1.00%	04-01-2017	
Santa Monica (City)	City of Santa Monica Transactions and Use Tax (STMA)	0.50%	04-01-2011	03-31-2017
South El Monte (City)	City of South El Monte Vital City Services Protection Transactions and Use Tax (SEMT)	0.50%	04-01-2011	
South Gate (City)	City of South Gate Transactions and Use Tax (SGTE) <sup>1</sup>	1.00%	10-01-2008	
<b>Madera County</b>	Madera County 2006 Transportation Authority (MCTC)	0.50%	04-01-2007	
Chowchilla (City)	City of Chowchilla Public Safety Transactions and Use Tax (CHCS)	1.00%	04-01-2019	
Madera (City)	City of Madera Transactions and Use Tax (MADG)	0.50%	04-01-2017	
<b>Marin County</b>	Marin Parks/Open Space/Farmland Preservation Transactions and Use Tax (MPSF)	0.25%	04-01-2013	
	Sonoma-Marín Area Rail Transit District (SMRT)	0.25%	04-01-2009	
	Transportation Authority of Marin County Transactions and Use Tax (TAMC)	0.50%	04-01-2005	
Corte Madera (Town)	Town of Corte Madera 2018 Transactions and Use Tax (CTMG)	0.75%	10-01-2018	
Corte Madera (Town)	Town of Corte Madera Transactions and Use Tax (CMGT)	0.50%	04-01-2014	09-30-2018
Fairfax (Town)	Town of Fairfax Transactions and Use Tax (FAXG)	0.75%	04-01-2017	
Fairfax (Town)	Town of Fairfax Transactions and Use Tax (FFGT)	0.50%	04-01-2012	03-31-2017
Larkspur (City)	City of Larkspur Essential Transactions and Use Tax (LSGT)	0.75%	04-01-2018	
Larkspur (City)	City of Larkspur Transactions and Use Tax (LKSG)	0.50%	04-01-2014	03-31-2018
Novato (City)	City of Novato 2016 Transactions and Use Tax (NOTO)	0.25%	04-01-2016	
San Anselmo (Town)	Town of San Anselmo Transactions and Use Tax (SAGT)	0.50%	04-01-2014	
San Rafael (City)	City of San Rafael Transactions and Use Tax (SREF)	0.75%	04-01-2014	
Sausalito (City)	City of Sausalito 2014 Transactions and Use Tax (SAUG)	0.50%	04-01-2015	
<b>Mariposa County</b>	Mariposa County Healthcare Transactions and Use Tax (MCHC)	0.50%	04-01-2005	
<b>Mendocino County</b>	Mendocino County Mental Health Treatment Act Tax (MMHT)	0.50%	04-01-2018	
	Mendocino Library Special Transactions and Use Tax (MLST)	0.125%	04-01-2012	
Fort Bragg (City)	City of Fort Bragg CV Starr Center Special Transactions and Use Tax (FBSS)	0.50%	07-01-2012	
Fort Bragg (City)	City of Fort Bragg Maintain City Streets Transactions and Use Tax (FBCS)	0.50%	01-01-2005	
Point Arena (City)	City of Point Arena Transactions and Use Tax (PARS)	0.50%	04-01-2004	
Ukiah (City)	City of Ukiah Transactions and Use Tax (UKGT)	0.50%	10-01-2005	
Ukiah (City)	City of Ukiah Transactions and Use Tax (UKHG)	0.50%	04-01-2017	
Willits (City)	City of Willits Road System Transactions and Use Tax (WCRS)	0.50%	10-01-2003	
<b>Merced County</b>	Merced County Transportation Authority (META)	0.50%	04-01-2017	
Atwater (City)	City of Atwater Public Safety Transactions and Use Tax (ATWS)	0.50%	07-01-2013	
Gustine (City)	City of Gustine Community Enhancement to Services Transactions and Use Tax (GSTG)	0.50%	04-01-2010	
Los Banos (City)	City of Los Banos Essential City Services Transactions and Use Tax (LSBS)	0.50%	04-01-2019	



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Los Banos (City)	City of Los Banos Public Safety Transactions and Use Tax (LBPS)	0.50%	04-01-2005	
Merced (City)	City of Merced Transactions and Use Tax (MRCD)	0.50%	04-01-2006	
<b>Mono County</b>				
Mammoth Lakes (Town)	Town of Mammoth Lakes Parks, Recreation and Trails Transactions and Use Tax (MLPR)	0.50%	10-01-2008	
<b>Monterey County</b>	Monterey-Salinas MST Special Transit District (MSTD)	0.125%	04-01-2015	
	Monterey Transportation Safety Transactions and Use Tax (MTSF)	0.375%	04-01-2017	
Carmel-by-the-Sea (City)	City of Carmel-by-the-Sea Transactions and Use Tax (CBSG)	1.00%	04-01-2013	
Del Rey Oaks (City)	City of Del Rey Oaks General Transactions and Use Tax (DROG)	0.50%	04-01-2015	
Del Rey Oaks (City)	City of Del Rey Oaks Transactions and Use Tax (DLRY)	1.00%	04-01-2007	
Gonzales (City)	City of Gonzales Quality of Life Transactions and Use Tax (GZGT)	0.50%	04-01-2015	
Greenfield (City)	City of Greenfield 2015 City Services Transactions and Use Tax (GRFD)	0.75%	04-01-2016	
Greenfield (City)	City of Greenfield Transactions and Use Tax (GFGT)	1.00%	10-01-2012	
King City (City)	City of King City General Transactions and Use Tax (KNGG)	1.00%	04-01-2019	
King City (City)	City of King City Transactions and Use Tax (KING)	0.50%	04-01-2015	03-31-2019
Marina (City)	City of Marina New Transactions and Use Tax (MRGT)	1.50%	04-01-2019	
Marina (City)	City of Marina Transactions and Use Tax (MRNA)	1.00%	04-01-2011	3-31-2019
Monterey (City)	City of Monterey Special Transactions and Use Tax (MTRS)	1.00%	04-01-2015	
Pacific Grove (City)	City of Pacific Grove Transactions and Use Tax (PGRV)	1.00%	10-01-2008	
Salinas (City)	City of Salinas Measure G Transactions and Use Tax (SLGT)	1.00%	04-01-2015	
Salinas (City)	City of Salinas Temporary Transactions and Use Tax (SLNS)	0.50%	04-01-2006	
Sand City (City)	City of Sand City 2015 Spec Purpose Transactions and Use Tax (SANG)	1.00%	04-01-2015	
Seaside (City)	City of Seaside 2017 Transactions and Use Tax (SEDG)	0.50%	10-01-2017	
Seaside (City)	City of Seaside Transactions and Use Tax (SEAS)	1.00%	07-01-2008	
Soledad (City)	City of Soledad Temporary Emergency Transactions and Use Tax (STEG)	1.00%	10-01-2012	
<b>Napa County</b>	Napa County Flood Protection Authority Tax (NCFP)	0.50%	07-01-1998	06-30-2018
	Napa Valley Transportation Authority Transaction and Use Tax (NVTA)	0.50%	07-01-2018	
St. Helena (City)	City of St. Helena Transactions and Use Tax (SHGT)	0.50%	04-01-2017	
<b>Nevada County</b>	Nevada County Public Library Transactions and Use Tax (NEVL)	0.25%	04-01-2017	
	Nevada County Public Library Transactions and Use Tax (NVPL)	0.125%	10-01-1998	03-31-2017
Grass Valley (City)	City of Grass Valley 2018 Transactions and Use Tax (GRVG)	1.00%	10-01-2018	
Grass Valley (City)	City of Grass Valley Transactions and Use Tax (GVGT)	0.50%	04-01-2013	09-30-2018
Nevada City (City)	City of Nevada City Fire and Police Transactions and Use Tax (NVSP)	0.375%	04-01-2017	
Nevada City (City)	City of Nevada City Street Improvements Transactions and Use Tax (NVSI)	0.50%	04-01-2007	
Nevada City (City)	City of Nevada City Transactions and Use Tax (NVGT)	0.375%	04-01-2013	03-31-2018
Truckee (Town)	Town of Truckee Trails Transactions and Use Tax (TTRS)	0.25%	10-01-2014	
Truckee (Town)	Town of Truckee Transactions and Use Tax (TRSR)	0.50%	10-01-1998	
<b>Orange County</b>	Orange County Local Transportation Authority (OCTA)	0.50%	04-01-1991	
Fountain Valley (City)	City of Fountain Valley Transactions and Use Tax (FVGT)	1.00%	04-01-2017	

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Garden Grove (City)	City of Garden Grove 2018 Transactions and Use Tax (GGGT)	1.00%	04-01-2019	
La Habra (City)	City of La Habra Transactions and Use Tax (LHBR)	0.50%	04-01-2009	
La Palma (City)	City of La Palma Transactions and Use Tax (LAPG)	1.00%	04-01-2017	
Placentia (City)	City of Placentia Transactions and Use Tax (PLCT)	1.00%	04-01-2019	
Santa Ana (City)	City of Santa Ana Transactions and Use Tax (SATA)	1.50%	04-01-2019	
Seal Beach (City)	City of Seal Beach Transactions and Use Tax (SEAL)	1.00%	04-01-2019	
Stanton (City)	City of Stanton Transactions and Use Tax (STGT)	1.00%	04-01-2015	
Westminster (City)	City of Westminster Transactions and Use Tax (WESG)	1.00%	04-01-2017	
<b>Placer County</b>				
Loomis (Town)	Town of Loomis Transactions and Use Tax (LOOG)	0.25%	04-01-2017	
Roseville (City)	City of Roseville Transactions and Use Tax (ROSG)	0.50%	04-01-2019	
<b>Riverside County</b>	Riverside County Transportation Commission (RCTC)	0.50%	07-01-1989	
Cathedral City (City)	City of Cathedral City Transactions and Use Tax (CCGT)	1.00%	10-01-2010	
Coachella (City)	City of Coachella Transactions and Use Tax (COAC)	1.00%	04-01-2015	
Hemet (City)	City of Hemet Transactions and Use Tax (HMGH)	1.00%	04-01-2017	
Indio (City)	City of Indio Transactions and Use Tax (INGT)	1.00%	04-01-2017	
La Quinta (City)	City of La Quinta Transactions and Use Tax (LQUG)	1.00%	04-01-2017	
Menifee (City)	City of Menifee Transactions and Use Tax (MENG)	1.00%	04-01-2017	
Murrieta (City)	City of Murrieta Transactions and Use Tax (MURG)	1.00%	04-01-2019	
Norco (City)	City of Norco Transactions and Use Tax (NOGT)	1.00%	04-01-2019	
Palm Springs (City)	City of Palm Springs 2018 Transactions and Use Tax (PLSS)	0.50%	04-01-2018	
Palm Springs (City)	City of Palm Springs Transactions and Use Tax (PSGT)	1.00%	04-01-2012	
Riverside (City)	City of Riverside Transactions and Use Tax (RIVG)	1.00%	04-01-2017	
Temecula (City)	City of Temecula Transactions and Use Tax (TEMG)	1.00%	04-01-2017	
Wildomar (City)	City of Wildomar Transactions and Use Tax (WILG)	1.00%	04-01-2019	
<b>Sacramento County</b>	Sacramento Transportation Authority (STAT)	0.50%	04-01-1989	
Galt (City)	City of Galt Public Safety Transactions and Use Tax (GLTS)	0.50%	04-01-2009	
Isleton (City)	City of Isleton General Transactions and Use Tax (ISGT)	0.50%	04-01-2017	
Isleton (City)	City of Isleton Special Transactions and Use Tax (ISLS)	0.50%	10-01-2016	
Ranch Cordova (City)	City of Rancho Cordova Transactions and Use Tax (RHCG)	0.50%	04-01-2015	
Sacramento (City)	City of Sacramento 2018 Transactions and Use Tax (SARG)	1.00%	04-01-2019	
Sacramento (City)	City of Sacramento Transactions and Use Tax (SACG)	0.50%	04-01-2013	03-31-2019
<b>San Benito County</b>	San Benito County Safety Transactions and Use Tax (SBRT)	1.00%	04-01-2019	
Hollister (City)	City of Hollister Transactions and Use Tax (HLST)	1.00%	04-01-2008	
San Juan Bautista (City)	City of San Juan Bautista Transactions and Use Tax (SJBG)	0.75%	04-01-2005	
<b>San Bernardino County</b>	San Bernardino County Transportation Authority (SBER)	0.50%	04-01-1990	
<b>Barstow (City)</b>	City of Barstow Transactions and Use Tax (BARS)	1.00%	04-01-2019	
Montclair (City)	City of Montclair Transactions and Use Tax (MTGR)	0.25%	04-01-2005	

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San Bernardino (City)	City of San Bernardino Transactions and Use Tax (SBRN)	0.25%	04-01-2007	
Yucca Valley (Town)	Town of Yucca Valley Essential Services Transactions and Use Tax (YUCG)	0.50%	04-01-2017	
Yucca Valley (Town)	Town of Yucca Valley Sewer Improvement & Assessment Transactions and Use Tax (YCST)	0.50%	04-01-2017	
<b>San Diego County</b>	San Diego County Regional Transportation Commission (SDTC)	0.50%	04-01-1988	
Chula Vista (City)	City of Chula Vista 2018 Transactions and Use Tax (CLVT)	0.50%	10-01-2018	
Chula Vista (City)	City of Chula Vista Temporary Transactions and Use Tax (CVGT)	0.50%	04-01-2017	
Del Mar (City)	City of Del Mar Transactions and Use Tax (DELG)	1.00%	04-01-2017	
El Cajon (City)	City of El Cajon Service Preservation Transactions and Use Tax (ECGF)	0.50%	04-01-2009	
La Mesa (City)	City of La Mesa Transactions and Use Tax (LMSA)	0.75%	04-01-2009	
National City (City)	City of National City Transactions and Use Tax (NCGT)	1.00%	10-01-2006	
Oceanside (City)	City of Oceanside Temporary Transactions and Use Tax (OTGT)	0.50%	04-01-2019	
Vista (City)	City of Vista Transactions and Use Tax (VSTA)	0.50%	04-01-2007	
<b>San Francisco City and County</b>	Bay Area Rapid Transit District (BART)	0.50%	04-01-1970	
	San Francisco County Public Finance Authority (SFPF)	0.25%	10-01-1993	
	San Francisco County Transportation Authority (SFTA)	0.50%	04-01-1990	
<b>San Joaquin County</b>	San Joaquin Transportation Authority (SJTA)	0.50%	04-01-1991	
Lathrop (City)	City of Lathrop Public Safety/Essentials Services Transactions and Use Tax (LTHG)	1.00%	04-01-2013	
Lodi (City)	City of Lodi 2018 General Transactions and Use Tax (LOGT)	0.50%	04-01-2019	
Manteca (City)	City of Manteca Public Safety Transactions and Use Tax (MTPS)	0.50%	04-01-2007	
Stockton (City)	City of Stockton Public Safety Transactions and Use Tax (SPFG)	0.25%	04-01-2005	
Stockton (City)	City of Stockton Special Library and Recreation Transactions and Use Tax (SSLR)	0.25%	04-01-2017	
Stockton (City)	City of Stockton Transactions and Use Tax (STKN)	0.75%	04-01-2014	
Tracy (City)	City of Tracy Transactions and Use Tax (TRCG)	0.50%	04-01-2017	
<b>San Luis Obispo County</b>				
Arroyo Grande (City)	City of Arroyo Grande Transactions and Use Tax (ARGD)	0.50%	04-01-2007	
Atascadero (City)	City of Atascadero Transactions and Use Tax (ATAC)	0.50%	04-01-2015	
Grover Beach (City)	City of Grover Beach Transactions and Use Tax (GRBH)	0.50%	04-01-2007	
Morro Bay (City)	City of Morro Bay Transactions and Use Tax (MRBY)	0.50%	04-01-2007	
Paso Robles (City)	City of Paso Robles Transactions and Use Tax (PRBG)	0.50%	04-01-2013	
Pismo Beach (City)	City of Pismo Beach Transactions and Use Tax (PSMO)	0.50%	10-01-2008	
San Luis Obispo (City)	City of San Luis Obispo Essential Services Transactions and Use Tax (SLOG)	0.50%	04-01-2007	
<b>San Mateo County</b>	San Mateo County Retail Transactions and Use Tax (SMGT)	0.50%	04-01-2013	
	San Mateo County Transit District (SMCT)	0.50%	07-01-1982	
	San Mateo County 2018 Transit District (SMTD)	0.50%	07-01-2019	
	San Mateo County Transportation Authority (SMTA)	0.50%	01-01-1989	
Belmont (City)	City of Belmont Transactions and Use Tax (BMTG)	0.50%	04-01-2017	
Burlingame (City)	City of Burlingame Essential Services Transactions and Use Tax (BUEG)	0.25%	04-01-2018	
East Palo Alto (City)	City of East Palo Alto Transactions and Use Tax (EPAG)	0.50%	04-01-2017	



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Redwood (City)	City of Redwood City Transactions and Use Tax (REDG)	0.50%	04-01-2019	
So. San Francisco (City)	So. San Francisco Fiscal Stability and Essential Services Transactions and Use Tax (SSFR)	0.50%	04-01-2016	
San Mateo (City)	City of San Mateo Transactions and Use Tax (SMTG)	0.25%	04-01-2010	
<b>Santa Barbara County</b>	Santa Barbara County Local Transportation Authority (SBAB)	0.50%	04-01-1990	
<b>Carpinteria (City)</b>	City of Carpinteria Local Transactions and Use Tax (CARG)	1.25%	04-01-2019	
Guadalupe (City)	City of Guadalupe Transactions and Use Tax (GUAD)	0.25%	04-01-2015	
Santa Barbara (City)	City of Santa Barbara Infrastructure Services Transactions and Use Tax (SBIG)	1.00%	04-01-2018	
Santa Maria (City)	City of Santa Maria Public Safety Transactions and Use Tax (SMPG)	1.00%	04-01-2019	
Santa Maria (City)	City of Santa Maria Transactions and Use Tax (SMAG)	0.25%	10-01-2012	3-31-19
<b>Santa Clara County</b>	Santa Clara County Retail Transactions and Use Tax (SCCR)	0.125%	04-01-2013	
	Santa Clara County Transit District (SCCT)	0.50%	10-01-1976	
	Santa Clara County Valley Transportation Authority (SCVT)	0.50%	04-01-2006	
	Santa Clara VTA BART Operating and Maintenance Transactions and Use Tax (SVTB)	0.125%	07-01-2012	
	Silicon Valley Transportation Solutions Tax (Santa Clara TA) (SVTS)	0.50%	04-01-2017	
Campbell (City)	City of Campbell Vital City Services, Maintenance and Protection Transactions and Use Tax (CMPL)	0.25%	04-01-2009	
Los Gatos (City)	City of Los Gatos Transactions and Use Tax (LGTG)	0.125%	04-01-2019	
San Jose (City)	City of San Jose Transactions and Use Tax (SJGT)	0.25%	10-01-2016	
<b>Santa Cruz County</b>	Santa Cruz County Public Library Transactions and Use Tax (SZPL)	0.25%	04-01-1997	
	Santa Cruz County Transportation Transactions and Use Tax (SCZT)	0.50%	04-01-2017	
	Santa Cruz County Unincorporated Area Transactions and Use Tax (SCUG)	0.50%	04-01-2019	
	Santa Cruz Metropolitan Transit District (SCMT)	0.50%	01-01-1979	
Capitola (City)	City of Capitola Permanent Retail Transactions and Use Tax (CPRG)	0.25%	04-01-2013	
Capitola (City)	City of Capitola Transactions and Use Tax (CPGT)	0.25%	04-01-2005	
Santa Cruz (City)	City of Santa Cruz 2018 Transactions and Use Tax (SCGT)	0.25%	10-01-2018	
Santa Cruz (City)	City of Santa Cruz Replacement Transactions and Use Tax (STCZ)	0.50%	04-01-2007	
Scotts Valley (City)	City of Scotts Valley Temporary Transactions and Use Tax (SVLY)	0.50%	04-01-2014	
Watsonville (City)	City of Watsonville Public Safety Transactions and Use Tax (WTPS)	0.50%	10-01-2014	
Watsonville (City)	City of Watsonville Transactions and Use Tax (WTVL)	0.25%	04-01-2007	
<b>Shasta County</b>				
Anderson (City)	City of Anderson Transactions and Use Tax (ANDG)	0.50%	10-01-2014	
<b>Siskiyou County</b>				
Dunsmuir (City)	City of Dunsmuir Transactions and Use Tax (DUNS)	0.50%	04-01-2016	
Mount Shasta (City)	City of Mt. Shasta Libraries Transactions and Use Tax (MTSH)	0.25%	10-01-2011	
Yreka (City)	City of Yreka Transactions and Use Tax (YRKG)	0.50%	04-01-2017	
Weed (City)	City of Weed Transactions and Use Tax (WEED)	0.25%	07-01-2015	
<b>Solano County</b>	Solano County Public Library Transactions and Use Tax (SLPL)	0.125%	10-01-1998	
Benicia (City)	City of Benicia Transactions and Use Tax (BNCG)	1.00%	04-01-2015	

**District Taxes, Rates, and Effective Dates**

<b>Tax Area</b>	<b>District Name and Acronym</b>	<b>Rate</b>	<b>Effective Date</b>	<b>End Date</b>
Fairfield (City)	City of Fairfield Transactions and Use Tax (FLDG)	1.00%	04-01-2013	
Rio Vista (City)	City of Rio Vista General Transactions and Use Tax (RVGG)	0.75%	04-01-2013	
Suisun (City)	City of Suisun Transactions and Use Tax (SUGT)	1.00%	04-01-2017	
Vacaville (City)	City of Vacaville 2017 Transactions and Use Tax (VCGT)	0.75%	04-01-2018	
Vacaville (City)	City of Vacaville Transactions and Use Tax (VACG)	0.25%	04-01-2013	03-31-2018
Vallejo (City)	City of Vallejo Transactions and Use Tax (VJGT)	1.00%	04-01-2012	
<b>Sonoma County</b>	County of Sonoma Measure F (SAPD)	0.25%	04-01-2011	
	Sonoma County Library Maintenance, Restoration, Enhancement Act (SCLM)	0.125%	04-01-2017	
	Sonoma County Parks and Safety Transactions and Use Tax (SCPS)	0.125%	04-01-2019	
	Sonoma County Transportation Authority (SNTA)	0.25%	04-01-2005	
	Sonoma-Marin Area Rail Transit District (SMRT)	0.25%	04-01-2009	
Cotati (City)	City of Cotati 2014 Transactions and Use Tax (COTI)	1.00%	10-01-2014	
Healdsburg (City)	City of Healdsburg Transactions and Use Tax (HDBG)	0.50%	04-01-2013	
Rohnert Park (City)	City of Rohnert Park Transactions and Use Tax (RPGF)	0.50%	10-01-2010	
Santa Rosa (City)	City of Santa Rosa 2010 Transactions and Use Tax (SRGF)	0.25%	04-01-2011	
Santa Rosa (City)	City of Santa Rosa 2018 Transactions and Use Tax (SATG)	0.25%	04-01-2019	
Santa Rosa (City)	City of Santa Rosa Public Safety Transactions and Use Tax (SRPS)	0.25%	04-01-2005	
Sebastopol (City)	City of Sebastopol Community Transactions and Use Tax (SEBG)	0.25%	04-01-2005	
Sebastopol (City)	City of Sebastopol Increase in the Community Transactions and Use Tax (SBCGS)	0.50%	04-01-2013	
Sonoma (City)	City of Sonoma Transactions and Use Tax (SOGT)	0.50%	10-01-2012	
<b>Stanislaus County</b>	Stanislaus County Library Transactions and Use Tax (STCL)	0.125%	07-01-1995	
	Stanislaus Measure L Local Roads First Transportation (SLFR)	0.50%	04-01-2017	
Ceres (City)	City of Ceres Public Safety Transactions and Use Tax (CRPS)	0.50%	04-01-2008	
Oakdale (City)	City of Oakdale Transactions and Use Tax (ODGT)	0.50%	04-01-2012	
<b>Tehama County</b>				
Corning (City)	City of Corning Transactions and Use Tax (CORG)	0.50%	10-01-2016	
Red Bluff (City)	City of Red Bluff 2014 Transactions and Use Tax (RDBF)	0.25%	04-01-2015	
<b>Tulare County</b>	Tulare County Transportation Authority (TCTA)	0.50%	04-01-2007	
Dinuba (City)	City of Dinuba Police and Fire Protection Transactions and Use Tax (DNBA)	0.75%	04-01-2006	
Farmersville (City)	City of Farmersville Transactions and Use Tax (FAMG)	0.50%	04-01-2018	
Farmersville (City)	City of Farmersville Transactions and Use Tax (FMGT)	0.50%	04-01-2005	
Lindsay (City)	City of Lindsay Transaction and Use Tax (LDSG)	1.00%	10-01-2017	
Porterville (City)	City of Porterville 2018 Transactions and Use Tax (PVGt)	1.00%	04-01-2019	
Porterville (City)	City of Porterville Public Safety, Police and Fire Protection Transactions and Use Tax (PTVL)	0.50%	04-01-2006	
Tulare (City)	City of Tulare Transactions and Use Tax (TLRE)	0.50%	04-01-2006	
Visalia (City)	City of Visalia Public Safety Transactions and Use Tax (VPST)	0.25%	07-01-2004	
Visalia (City)	City of Visalia Transactions and Use Tax (VISG)	0.50%	04-01-2017	

**District Taxes, Rates, and Effective Dates**

<b>Tax Area</b>	<b>District Name and Acronym</b>	<b>Rate</b>	<b>Effective Date</b>	<b>End Date</b>
Woodlake (City)	City of Woodlake Transactions and Use Tax (WLKG)	1.00%	04-01-2018	
<b>Tuolumne County</b>				
Sonora (City)	City of Sonora Transactions and Use Tax (SPFW)	0.50%	01-01-2005	
<b>Ventura County</b>				
Oxnard (City)	City of Oxnard Vital Services Transactions and Use Tax (OXND)	0.50%	04-01-2009	
Port Hueneme (City)	City of Port Hueneme Essential Services Transactions and Use Tax (PHEG)	1.00%	04-01-2019	
Port Hueneme (City)	City of Port Hueneme Transactions and Use Tax (PTHN)	0.50%	04-01-2009	
Santa Paula (City)	City of Santa Paula Transactions and Use Tax (SPLT)	1.00%	04-01-2017	
Ventura (City)	City of Ventura Transactions and Use Tax (SBVT)	0.50%	04-01-2017	
<b>Yolo County</b>				
Davis (City)	City of Davis Transactions and Use Tax (DVSG)	1.00%	10-01-2014	
West Sacramento (City)	City of West Sacramento 2018 Transactions and Use Tax (WSGT)	0.25%	04-01-2019	
West Sacramento (City)	City of West Sacramento Transactions and Use Tax (WSCG)	0.25%	04-01-2017	
West Sacramento (City)	City of West Sacramento Transactions and Use Tax (WSTU)	0.50%	04-01-2003	
Woodland (City)	City of Woodland Supplemental Transactions and Use Tax (WOSF)	0.25%	10-01-2010	
Woodland (City)	City of Woodland Transactions and Use Tax (WDLD)	0.50%	10-01-2006	
<b>Yuba County</b>				
Yuba County Unincorporated Area	Yuba County Unincorporated Area Transactions and Use Tax (YBUA)	1.00%	04-01-2019	
Marysville (City)	City of Marysville Transactions and Use Tax (MARG)	1.00%	10-01-2016	
Wheatland (City)	City of Wheatland Transactions and Use Tax (WTLT)	0.50%	04-01-2011	

<sup>1</sup> The 0.25 percent tax **will not** be imposed in the cities of Compton, Long Beach, Lynwood, Pico Rivera, Santa Monica, and South Gate because doing so would cause the rate in those cities to exceed the 10.25 percent maximum tax rate allowed under the law in Los Angeles County. If and when an existing tax in one of these cities expires, the Measure H tax will be imposed in that city immediately.

<sup>2</sup> Santa Fe Springs may exceed the maximum rate of 10.25 percent in Los Angeles County by 0.50 percent per Revenue and Taxation Code section 7286.27.



**Contra Costa County**  
**Summary Parcel Count (Unincorporated & City), by Use Code** *as of April 12, 2019*

Use Code Type	Use Code	Description	Countywide
<b>Residential</b>	10	Vacant, Unbuildable	1,722
	11	Single Family: 1 Res. On 1 Site	228,068
	12	Single Family: 1 Res. On 2+ Sites	1,036
	13	Single Family: 2+ Res. On 1+ Sites	2,851
	14	Single Family: Other than Single Family Land	8,196
	15	Misc. Improvements, 1 Site	953
	16	Misc. Improvements, On 2 or more sites	21,228
	17	Vacant, 1 Site (Includes PUD Sites)	8,026
	18	Vacant, 2 or More Sites	388
	19	Single Family Res, Detached, w/ Com. Area	46,482
<b>Multiple</b>	20	Vacant	260
	21	Duplex	3,089
	22	Triplex	463
	23	Fourplex	1,499
	24	Combinations; e.g. Single & Double	410
	25	Apartments, 5-12 Units, Inclusive	950
	26	Apartments, 13-24 Units, Inclusive	265
	27	Apartments, 25-59 Units, Inclusive	243
	28	Apartments, 60 Units or more	282
	29	Attached PUD's, Cluster Homes, Co-ops, Condos	33,423
<b>Commercial</b>	30	Vacant Land	917
	31	Commercial Stores (not Supermarkets)	1,966
	32	Small Grocery Stores (e.g. 7-11, Quick Stop)	56
	33	Office Buildings	1,253
	34	Medical; Dental	349
	35	Service Stations; Car Washes; Bulk Plants, Mini Lube	318
	36	Auto Repair	488
	37	Community Facilities; Recreational; Swim Pool	107
	38	Golf Courses	247
	39	Bowling Alleys	7
	40	Boat Harbors	192
	41	Supermarkets (not in shopping centers)	32
	42	Shopping Centers	720
	43	Financial Buildings (Ins./Title Comp., Banks)	93
	44	Motels, Hotels, & Mobile Home Parks	161
	45	Theaters	20
	46	Drive-In Restaurants (Hamburger, Taco, etc.)	174
	47	Restaurants (not drive-in; inside serv. only)	177
	48	Multiple and Commercial; Misc. Improved	208
	49	Auto Agencies	118

**Contra Costa County**  
**Summary Parcel Count (Unincorporated & City), by Use Code** *as of April 12, 2019*


Use Code Type	Use Code	Description	Countywide
<b>Industrial</b>	50	Vacant Land	703
	51	Industrial Park (w/ structures)	432
	52	Research and Development, w/ or w/out structures	28
	53	Light Industrial	749
	54	Heavy Industrial	169
	55	Mini-Warehouse	105
	56	Misc. Imps.	162
<b>Land</b>	61	Rural, Residential Improved (1A up to 10A)	1,261
	62	Rural, w/ or w/out Misc. Structures (1A up to 10A)	717
	63	Urban Acreage (10A up to 40A)	296
	64	Urban Acreage (40A and over)	97
	65	Orchards, Vineyards, Row Crops, Irrig. Past (10A up to 40A)	427
	66	Orchards, Vineyards, Row Crops, Irrig. Past (40A and more)	111
	67	Dry Farming, Farming, Grzing & Pasturing (10A up to 40A)	263
	68	Dry Farming, Farming, Grzing & Pasturing (40A and more)	227
	69	Agricultural Preserves	380
<b>Institutional</b>	70	Intermediate Care Fac. (Rehab, Nursing)	45
	71	Churches	682
	72	Schools & Colleges (Public or Private)	518
	73	Acute Care Hospitals, w/ or w/out imp	23
	74	Cemeteries & Mortuaries	59
	75	Fraternal & Service Orgs.; Group Homes, Shelters	63
	76	Res. Care Facilities	69
	77	Cultural Uses (Libraries, Museums)	14
	78	Parks and Playgrounds	231
	79	Gov't owned, w/ or w/out Bldgs.	7,025
<b>Miscellaneous</b>	81	Private Roads	318
	82	Pipelines & Canals	30
	83	State Board Assessed Parcels	291
	84	Utilities, w/ or w/out bldgs. (not assessed by State Board of Equal.	14
	85	Public and Private Parking	430
	86	Taxable Municipally-Owned Property	242
	87	Cmn Area Pcls in PUD's (Open Spaces, Rec. Fac.)	5,829
	88	Manufactured Housing	2,223
	89	Other; Split Parcels in different tax code areas	134
<b>Total Parcel Count</b>			<b>391,804</b>

**Office of the County Counsel**  
651 Pine Street, 9th Floor  
Martinez, CA 94553

Contra Costa County  
Phone: (925) 335-1800  
Fax: (925) 646-1078

**Date:** October 1, 2019

**To:** Finance Committee

**From:** Sharon L. Anderson, County Counsel  
By: Thomas L. Geiger, Assistant County Counsel 

**Re:** ANALYSIS OF UNIFORMITY REQUIREMENT IN PARCEL TAX MEASURES

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### SUMMARY

This responds to the Finance Committee's request for an analysis of *Borikas v. Alameda Unified School District* (2013) 214 Cal.App.4th 135, a case involving a school district parcel tax with different rates for different types of properties. In *Borikas*, the Court of Appeal invalidated the district's parcel tax because the same tax rate was not applied to all parcels regardless of the parcel's size or characteristics. The Court invalidated the tax because the statute authorizing the tax required the tax to be applied uniformly to all property and taxpayers. But not all enabling statutes include a requirement that parcel taxes must be applied uniformly. Whether a court upholds a parcel tax measure with different tax rates based on a parcel's use or size depends on whether the tax measure's authorizing statute includes a uniformity requirement.

### DISCUSSION

#### 1. Parcel Taxes Generally

A parcel tax is a tax collected on the property tax roll that is based on either a flat, per-parcel rate or a rate that varies based on other factors such as parcel size, use, or other physical attributes other than value. (*Heckendorn v. City of San Marino* (1986) 42 Cal.3d 481, 487.) Parcel taxes based upon the value of the property are invalid as a violation of Proposition 13's limits on ad valorem property taxes -- i.e., taxes based on the assessed value of property. (Cal. Const., art. XIII A, § 1; see *City of Oakland v. Digre* (1988) 205 Cal.App.3d 99, 110.) Section 3 of article XIII D limits the types of taxes that can be imposed upon a parcel of property to two types -- the ad valorem property tax imposed pursuant to article XIII and article XIII A, and any special tax receiving a two-thirds vote pursuant to Section 4 of article XIII A. Accordingly, a parcel tax may be imposed only as a special tax. (*Nielson v. City of California City* (2006) 133 Cal.App.4th 1296, 1312.) A special tax means "any tax imposed for specific purposes," including a tax imposed for specific purposes and placed into a general fund. (Cal. Const., art. XIII C, § 1(d).) The California Supreme Court has described a special tax as a tax "levied to fund a specific governmental project or program." (*Rider v. County of San Diego* (1991) 1



Cal.4th 1, 15.)<sup>1</sup>

## **2. Analysis of *Borikas v. Alameda Unified School District***

In *Borikas*, the First District Court of Appeal considered whether it was appropriate to impose a parcel tax with varied rates based on different property types. The lawsuit arose out of a 2008 vote on Measure H, a parcel tax measure for the Alameda Unified School District that was narrowly approved by the voters. The measure imposed a parcel tax with differing rates based on use and size of the parcel. A taxpayer sued, arguing that the tax had to be the same rate for each parcel because the law that authorized the tax included a uniformity requirement. The school district's defense was that rationally-based classifications were permissible.

The Court of Appeal agreed with the plaintiff, noting that with limited exceptions, the statute on which the tax was based required that it "apply uniformly" to all taxpayers or all real property within the school district.<sup>2</sup> In reviewing the legislative intent behind the statute, the court concluded: "It is ... apparent that when the Legislature added the 'apply uniformly' language to these enabling statutes, it also viewed classification and differential tax rates as matters requiring *express* authorization." (*Borikas, supra*, 214 Cal.App.4th at pp. 163-164.) Based on this analysis, the Court concluded that the enabling statute at issue did not empower school districts to classify taxpayers and property, and impose different tax rates. (*Borikas, supra*, 214 Cal.App.4th at p. 151.) The Alameda Unified School District appealed to the California Supreme Court; however, the Supreme Court denied the request for rehearing, which meant that the District was required to repay about \$7 million in taxes it collected under the invalid tax measure.

## **3. Other Authorizing Statutes**

A county's power to tax arises from statute. (*Santa Clara County Local Transportation Authority v. Guardino* (1995) 11 Cal.4th 220, 247-249.) Like the statute at issue in *Borikas*, some statutes that authorize counties to impose a parcel tax include a uniformity requirement. For example, a library tax levied under Government Code section 53717 must "apply uniformly to all taxpayers or all real property within the city, county, city and county, or library district." Similarly, the parcel tax authorization found in the County Service Area Law, Government Code section 25215.2, specifically requires that special taxes imposed to support County Service Area services must be "applied uniformly to all taxpayers or all real property within the county service area, except that unimproved property may be taxed at a lower rate than improved property."

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<sup>1</sup> The analysis on tax uniformity in this memo applies only to parcel taxes. It does not apply to sales taxes, the "transactions and use tax" imposed under Division 2, Part 1.7, Chapter 2 of the Revenue and Taxation Code.

<sup>2</sup> The statute at issue in *Borikas* was Government Code section 50079, which provides in pertinent part: "(a) Subject to Section 4 of Article XIII A of the California Constitution, any school district may impose qualified special taxes within the district pursuant to the procedures established in Article 3.5 (commencing with Section 50075) and any other applicable procedures provided by law. (b) (1) As used in this section, 'qualified special taxes' means special taxes that *apply uniformly to all taxpayers or all real property within the school district*, except that unimproved property may be taxed at a lower rate than improved property." [Emphasis added.]

In contrast, other parcel tax enabling statutes do not include a uniformity requirement. For example, a Mello-Roos Community Facilities District special parcel tax may “be on or based on a benefit received by parcels of real property, the cost of making facilities or authorized services available to each parcel, or some other reasonable basis as determined by the legislative body.” (Gov. Code, § 53325.3.) Similarly, a special tax for police or fire under Government Code section 53978 can be applied in zones and can vary based on the class of improvement on property or the use of property.

### **CONCLUSION**

Whether to adopt an ordinance to authorize the levy of a special parcel tax is a policy decision for the Board of Supervisors, subject to final approval by the voters. If the Board of Supervisors authorizes the preparation of a parcel tax measure to be placed on an upcoming ballot, this office will work with the County Administrator’s Office to prepare the ordinance and analyze whether the authorizing statute for the Board’s proposed measure includes a uniformity requirement.

TLG:

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# Contra Costa County Board of Supervisors

## Subcommittee Report

### FINANCE COMMITTEE

7.

**Meeting Date:** 11/04/2019

**Subject:** Potential Sales Tax Measure Ad Hoc Committee Facilitator

**Submitted For:** FINANCE COMMITTEE,

**Department:** County Administrator

**Referral No.:** 10/22/19 D.6

**Referral Name:** Sales Tax

**Presenter:** Lisa Driscoll, County  
Finance Director

**Contact:** Lisa Driscoll, County Finance Director  
(925) 335-1023

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### **Referral History:**

At the October 22, 2019 Board of Supervisors meeting, the Finance Committee presented their report and recommendations to the full Board of Supervisors. After discussion and public comment, the Board of Supervisors approved the establishment of a Potential Sales Tax Measure Ad Hoc Committee. Board members discussed the possibility of hiring an outside facilitator for the Committee.

### **Referral Update:**

### **Recommendation(s)/Next Step(s):**

Consider hiring a facilitator to work with the Potential Sales Tax Measure Ad Hoc Committee.

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### **Attachments**

*No file(s) attached.*

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# Contra Costa County Board of Supervisors

## Subcommittee Report

### FINANCE COMMITTEE

8.

**Meeting Date:** 11/04/2019

**Subject:** Employee Recognition

**Submitted For:** David Twa, County Administrator

**Department:** County Administrator

**Referral No.:** 6/18/2019 C.104

**Referral Name:** Employee Recognition Programs

**Presenter:** Lisa Driscoll, County  
Finance Director

**Contact:** Lisa Driscoll, County Finance Director  
(925) 335-1023

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### **Referral History:**

On June 18, 2019, the Board of Supervisors referred to the Finance Committee the issues of employee recognition programs; and directed staff to provide to the committee a list of all department employee recognition programs, the cost of them and how those programs are funded.

On July 29, 2019, the Finance Committee meeting received a report regarding department employee recognition programs. The Finance Committee asked staff to prepare a Board Order directing that no general fund dollars be spent on employee recognition until a uniform program was developed. Staff was directed to come back to Finance Committee with recommendations for a countywide policy.

### **Referral Update:**

Staff has reviewed with Labor the current countywide employee recognition program, which includes carve-outs for the CCC Fire Protection and the Sheriff-Coroner agencies (attached). Staff verified that any change in these policies would require agreement through a Meet and Confer process with all affected bargaining groups. Rather than attempt to negotiate what would be a takeaway for many employees, for consistency and fairness staff recommends that department heads be reminded of the County's countywide policy and coached to adhere to those policies. Per current practice, any exceptions to those countywide policies requiring departmental funding would require Board of Supervisors approval.

### **Recommendation(s)/Next Step(s):**

CONSIDER accepting update and staff recommendation regarding employee recognition programs.

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### **Attachments**

Administrative Bulletin 410

CCCFPD Personnel Bulletin 45

Office of the Sheriff Policy 10.04.21

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CONTRA COSTA COUNTY  
Office of the County Administrator

ADMINISTRATIVE BULLETIN

Number: 410.4  
Date: 9-1-15  
Section: Personnel

**SUBJECT: Service Recognitions and Awards**

**I. APPLICABILITY.\***

Effective July 1, 2009, the Service Award Program, as established in Section 16.3 of the Contra Costa County Salary Regulations, was suspended due to budget shortfalls. This action discontinued the County-supplied service award pins and gifts administered by a third party recognition company.

This bulletin is applicable to all County departments regarding employee service awards, in an effort to continue to promote recognition of employees' milestone service years and dedication to Contra Costa County.

**II. AUTHORITY.**

In accordance with the provisions of Contra Costa County Ordinance Code Section 24-4.008, the County Administrator has the authority and responsibility to establish and enforce personnel policies in County departments and agencies. As set forth in Contra Costa Salary Regulations section 16.1, Responsibility for the administration of this program is the Human Resources Department. (Prior code §2460; Ord. 787; prior Ord. §36-10.20.)

**III. SCOPE AND RESPONSIBILITIES.**

The Human Resources Department will send department heads, or designees, a biannual service year listing of employees reaching 10 years of service and every five (5) years of service after.

Department heads, or designees, will identify departmental staff reaching milestone service years, and recognize them as set forth:

**IV. FORM AND FREQUENCY OF RECOGNITIONS AND AWARDS.\***

a. County Employees Recognitions

i. Ten Years of Service

Recognition ceremonies are to be made within departments by the department heads, or designee for larger departments. To give the recognition meaning, it is recommended that ceremonies are conducted

at the department level with the department head in his/her office or conference room with immediate supervisors and fellow workers in attendance.

ii. Fifteen Years of Service

In addition to IV.a.(i) above, employees who reach 15 years of service are eligible to take a Service Day Off (up to 8 hours) with pay (administrative leave) within thirty (30) days of their service award date, subject to approval of the department head or designee.

1. Within thirty days means the time period that starts thirty days prior to the service award date, and up to thirty days after the service award date.
2. Employees are responsible for requesting the Service Day-Off timely and using it within thirty days of their service award date.
3. Employees taking a Service Day-Off are responsible for appropriately reflecting the day off on their timecard in the timekeeping system (code T01).

iii. Twenty Years, or More, of Service

In addition to IV.a.(ii)., employees that reach 20 years, and every five service years after, have the option to:

1. Be recognized at the Board of Supervisors' meeting, upon approval by the department head.
  - a. Department heads, or designees, desiring to recognize employees at a ceremony before the Board of Supervisors will need to do the following:
    - i. Review the Board of Supervisors meeting schedule and agenda deadlines to identify meeting dates designated for County Service Awards.
    - ii. Contact the Clerk of the Board office and provide the desired Board of Supervisors meeting date, and name of the service award recipient and presenter.
    - iii. Initiate the request by submitting a board order.
    - iv. Inform the employee being recognized of the Board of Supervisors meeting the ceremony is scheduled for.
  - b. At the Board of Supervisors' meeting, the Chair of the Board will call the employee and presenter to the podium where the presenter will give a brief overview of the employee's service. Upon receiving recognition, the employee may also make a brief comment, if desired. In



2. Be recognized within the department by the department head, or designee, as stated in IV a (i), if the employee chooses not to be recognized before the Board of Supervisors.

As stated in Contra Costa County Salary Regulation section 16.2, the length of service credits for each employee of the County shall date from the beginning of the last period of continuous County employment (including temporary, provisional, and permanent status and absences on approved leave of absence). When an employee separates from a permanent position in good standing and within two years is reemployed in a permanent County position, service credits shall include all credits accumulated at time of separation, but shall not include the period of separation. The Director of Human Resources shall determine these matters based on the employee status records in his/her department.

\*These sections do not apply to staff of the Contra Costa County Fire Protection District or Office of the Sheriff. Refer to Contra Costa County Fire Protection District Personnel Bulletin No. 45 and Contra Costa County Office of the Sheriff Policy No. 1.04.21 for additional information.

References:

- Contra Costa County Salary Regulations Section 16
- Contra Costa County Office of the Sheriff Policy No. 1.04.21
- Contra Costa County Fire Protection District Personnel Bulletin No. 45
- Board Order C.135, as approved on June 26, 2012
- Memorandum to Department Heads from Ted J. Cwiek, Director of Human Resources, dated July 29, 2009

**PERSONNEL BULLETIN**

**SUBJECT: SERVICE AWARD PROGRAM**

I. POLICY

Resolution 71/400F of the Board of Supervisors adopted a Service Award Program for the Fire District.

Service Awards shall be a pin, tie clip or similar item (herein called pins) and, in addition, a time piece after 30 years of service.

II. AWARDS

A. The first service pin shall be awarded after each employee's first ten (10) years of service. Thereafter, a new pin shall be awarded after each additional five (5) years of service.

B. The following procedures shall apply with respect to service awards:

1. Ten (10) Year Service Award

a. Shift Employees

Presentation by Battalion Chief at duty station

b. Non-Shift Employees

Presentation by division head

2. Fifteen (15), Twenty (20), Twenty Five (25) Year Service Awards

a. Shift Employees

Presentation by Fire Chief at Fire Commission meeting (voluntary)

Shall receive 11 hours of vacation credit.

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b. Non-Shift Employees

Presentation by Fire Chief at Fire Commission meeting (voluntary).

Shall receive a day off to be scheduled with division supervisor.

3. Thirty (30) Year Service Awards

a. Shift Employees

Presentation by Board of Supervisors at a Supervisors meeting (voluntary).

Shall receive 11 hours of vacation credit.

b. Non-Shift Employees

Presentation by Board of Supervisors at a Supervisors meeting (voluntary).

Shall receive a day off to be scheduled with division supervisor.



<p style="text-align: center;"><b>Contra Costa County</b>  <b>Office of the Sheriff</b></p> <p style="text-align: center;">General Policy and Procedure</p>	<p style="text-align: center;">CCCSO</p>	<p style="text-align: center;">NUMBER: 1.04.21</p>
	<p><b>RELATED ORDERS:</b>  County Ordinance 36-10.202, 36-10.204, 36-10.206;  Administrative Bulletin 310.2.</p>	
<p><b>ISSUE DATE:</b> 2-1-2006  <b>REVISION DATE:</b> 12-19-2013</p>	<p><b>CLEARANCE:</b>  <p style="text-align: center;">Office of the Sheriff</p> </p>	
<p><b>CHAPTER:</b>  <p style="text-align: center;">Employee Benefits and Assistance</p> </p>	<p><b>SUBJECT:</b>  <p style="text-align: center;">County Service Employee Award Program</p> </p>	

**I. POLICY.**



- A.** Office of the Sheriff employees shall receive official recognition for specified lengths of service in the employment of the County.

**II. GENERAL.**

- A. ELIGIBLE EMPLOYEES.** The Human Resources Department will notify the Office of the Sheriff when an employee has qualified to receive a County Service Award.
- B. FREQUENCY OF AWARDS.** The first service award shall be awarded after ten years of service. A new and distinguishable award shall be awarded after each additional five years of service.
1. **Ten Year Service Award.** The Office of the Sheriff will be responsible for the ordering and purchase of lapel pins for employees with 10 years of service. The Division Commander or designee will make the presentation of the lapel pin for 10 years of service.
  2. **Fifteen or More Years of Service Awards.** Employees eligible for 15 or more years of service awards will receive a personalized packet containing a service award brochure and an order form direct from a private vendor under contract to Contra Costa County. It is the responsibility of the employee to complete the order form and return it as directed.
    - a. The Sheriff's Office will receive, on a quarterly basis, the selected awards and a status report showing the date packets were sent, the order form returned, what the employee ordered and the shipping date.
    - b. Employees receiving 15 year service award as defined above and each 5 year increment thereafter, are entitled to a day off with pay within 30 days of their anniversary date. The date of the day off with pay is subject to approval by Division Commander.
- C. PRESENTATION OF AWARDS.** The Sheriff or designee will present the service awards at the quarterly award ceremony for those employees with 15 years or more service.

1. Employees with 20 or more years of service may voluntarily elect to go before the Board of Supervisors to accept their award. The award ceremony will be held the last Tuesday of every month. The Sheriff's Service Award Coordinator will notify the Human Resources Department Labor Relations, at least two weeks prior to the selected Board date the employee has requested. The Service Award Coordinator will notify the Sheriff as to the date and time of the ceremony of the employee(s) scheduled to have their award presented before the Board of Supervisors.
  2. Those eligible employees not desiring to appear before the Board of Supervisors may elect to voluntarily have their award presented by the Sheriff or designee at the quarterly award ceremony; or may receive their award without a ceremony.
- D. **CALCULATING SERVICE.** Length of service shall date from the beginning of the last period of continuous County employment including temporary, provisional, permanent status and during approved leaves of absence. Employees who have separated from a permanent position in good standing and within two years are re-employed in a permanent County position shall be credited with all service accumulated at time of separation not including the period of separation.
- E. **SERVICE AWARD COORDINATOR.** The position of Sheriff's Service Award Coordinator shall consist of civilian volunteers selected by Administrative Services. The responsibilities of the Service Award Coordinator include:
1. Upon notice of an employee's eligibility for a service award from the Human Resources Department, the Service Award Coordinator will verify the date of hire and length of service.
  2. Upon receipt of the awards from the vendor, determine in what manner the employee wishes the award to be presented.
  3. Notify the respective Division Commander of employees eligible for ten-year service lapel pins and provide them.
  4. Contact the Training Deputy to arrange date and time of the quarterly award ceremony for awards of 15 years or more and request the Training Deputy arrange for photographs to be taken.
  5. Notify the Service Award Administrator for the Human Resources Department of those employees eligible who have requested award presentation before the Board of Supervisors at least two weeks prior to the selected board date. The award ceremony will be held the last Tuesday of every month.
  6. Solicit and secure biographical information about each employee receiving an award before the Board of Supervisors or at the quarterly ceremony and provide it to the Training Deputy.
  7. Notify the Sheriff as to the date and time of the ceremony and the names and biographies of employees who have been chosen to receive the Service Award before the Board of Supervisors or at the quarterly awards ceremony.

8. Prepare all awards for presentation by the Sheriff, beginning with employees who have the longest time in service and supply a photograph to the employee.

F. FORM OF AWARDS.

1. The service award for ten years of service shall be a lapel pin.
2. Service awards for fifteen years and over shall be selected from the service award brochure which will be sent by the vendor in the personalized packet containing an order form directly to the eligible employee at the last known address as provided by the employee.