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# CITY OF POMONA

## COUNCIL REPORT

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September 11, 2023

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted By: Rosalia A. Butler, City Clerk

**SUBJECT: VERIFICATION OF SUFFICIENCY OF SIGNATURES FOR INITIATIVE PETITION TO REDUCE LOCAL SALES TAX RATE FROM 0.75% TO 0.50% AND TO EXTEND THE TERM OF THE TAX BY REPEALING ITS MARCH 31, 2029 SUNSET**

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### **RECOMMENDATION:**

It is recommended that the City Council:

- 1) Receive, file and accept the Certificate of Sufficiency of Initiative Petition; and
- 2) Based upon the sufficiency of the petition, take one of the actions identified below:
  - a. Adopt the initiative measure, without alteration, at this meeting, or within 10 days after; or
  - b. Submit the initiative measure to the voters at the “next regular municipal election” occurring at least 88 days later; or
  - c. Submit the initiative measure to the voters at a special municipal election occurring on a Tuesday that is not on, before or after a State holiday, that is between 88 and 103 days after the City Council calls the election; or
  - d. Direct Staff to prepare an impartial and informational report analyzing the impact of the initiative measure on the City’s finances, ability to provide public services, land use and development regulations, and the like.

### **EXECUTIVE SUMMARY:**

Over the last several months, a Pomona resident has circulated a local initiative measure in the City seeking to reduce the rate of the City’s current Transactions and Use (Sales) Tax from three-quarters percent (0.75%) to one-half percent (0.50%) and to extend the term of the Tax by repealing its March 31, 2029 expiration date/sunset. On July 5, 2023, the proponent timely submitted a signed petition to the City Clerk’s Office to qualify the initiative measure for the ballot. As required by State Elections Code, the City Clerk’s Office has verified that the petition is in proper

format and contains the required number of signatures to qualify the measure for the ballot. A Certificate of Sufficiency of Initiative Petition is attached to this report as a receive and file item.

Since the Measure has obtained the required number of signatures, the City Council's options are to either adopt the measure, without alternation, at this meeting, or within 10 days after, or to place the measure on the March 5, 2024 Primary Municipal Election ballot, or on a possible earlier special election date, as outlined in more detail below. The Council can also direct staff to prepare a report on the potential impact of the measure. Staff must present the report to the Council no more than 30 days later. After receiving the report, the Council must select one of the three options above.

At this time, staff is requesting Council direction as to which option it wishes to pursue. If the City Council wishes to place the Measure on the March 5, 2024 Primary Municipal Election ballot, three resolutions are attached to this staff report for Council action.

**FISCAL IMPACT:** The estimated cost of holding an election for this measure on March 5, 2024 or a special election for this same measure is currently unknown. However, the cost of the November 8, 2022 General Municipal Election was approximately \$388,000. The Los Angeles County Registrar-Recorder/County Clerk will invoice the City of Pomona for Election Services after the election.

**PREVIOUS RELATED ACTION:**

None.

**BACKGROUND:**

On December 21, 2022, the City received a Notice of Intent to Circulate a Petition and proposed initiative measure ("Measure") from Pomona resident John Mendoza, the proponent of the Measure. If approved, the Measure would reduce the rate of the City's current Transactions and Use (Sales) Tax from three-quarters percent (0.75%) to one-half percent (0.50%) and would extend the term of the Tax by repealing its March 31, 2029 expiration date/sunset.

Section 904 of the City's Charter provides that local initiative measures shall follow the procedures set forth in the California Elections Code, except where in conflict with the Charter or Municipal Code. There are no conflicting provisions of the Charter or Code and, therefore, the Elections Code governs the City's initiative procedure. In accordance with the Elections Code, the City Attorney's office timely prepared and sent a ballot title and summary of the Measure to the proponent on January 5, 2023. The proponent then had 6 months from receipt of the ballot title and summary to gather enough signatures to qualify the Measure for the ballot. On July 5, 2023, the proponent timely submitted a signed petition to the City Clerk's Office. The City Clerk's Office verified the validity of the petition signatures with the assistance of the Los Angeles County Registrar of Voters database.

On August 16, 2023, after verification of voter signatures was completed, the City Clerk's Office notified the proponent that the petition contained 1,527 valid signatures. For most local initiative measures, Elections Code section 9215 requires the valid signatures of at least 10 percent of the City's registered voters to qualify a local measure.

However, there is a special rule that makes it much easier to qualify local tax initiative measures. California Proposition 218, a provision of the State Constitution (Calif. Const. Art. XIII C, Sec. 3), provides that a local initiative measure that repeals, reduces or otherwise affects a local tax may qualify for the ballot if a petition contains the signatures of at least five percent (5%) of the number of the City's registered voters who voted for any candidate for Governor at the last Statewide election (November, 2022). This significantly reduces the minimum signature requirement to 1,113 voters. Therefore, the Measure has qualified for the ballot.

## **DISCUSSION:**

The Certificate of Sufficiency of Initiative Petition (Attachment No. 1) is attached to this report and it is recommended that the City Council receive, file, and accept the Certificate as valid in all respects.

Since the Measure has obtained the required number of signatures, the City Council's options under Elections Code sections 1405 and 9215 are as follows:

- a) Adopt the Measure, without alteration, at this meeting, or within 10 days after. Under this scenario there would be no election.
- b) Submit the Measure to the voters at the "next regular municipal election" occurring at least 88 days later. Under Elections Code section 348, a "[R]egular election is an election, the specific time for the holding of which is prescribed by law." In past years, this would have been the City's upcoming General Municipal Election on November 5, 2024 because the November election was the only "regular municipal election" held in Pomona every two-year cycle.

However, last year Pomona voters approved a City Charter amendment to reinstate local primary elections for Mayor and City Council, starting with the 2024 election. The amended Charter provides that each Primary Municipal Election shall coincide with the Statewide Primary Election, the next one occurring on March 5, 2024. While a local primary election is not a local "general" election (that remains in November), it is now the City's "next regular municipal election" in that it is specifically scheduled by law to occur on March 5, 2024.

- c) Submit the Measure to the voters at a special municipal election occurring on a Tuesday that is not on, before or after a State holiday, that is between 88 and 103 days after the City Council calls the election. If the Council were to call a special election tonight, the date options would be either December 12 or December 19, 2023 – unusual dates for an election; or

- d) Direct Staff to prepare an impartial and informational report analyzing the impact of the Measure on the City's finances, ability to provide public services, land use and development regulations, and the like. Staff must present the report not later than 30 days after the City Clerk certifies to the Council that the petition is sufficient (by October 11, 2023). After receiving the report, the Council must select one of the four options above.

At this time, staff is requesting Council direction as to which option it wishes to pursue. If the City Council wishes to place the Measure on the next regular municipal election occurring on March 5, 2024, three resolutions are attached to this staff report for Council action.

#### **ATTACHMENTS:**

Attachment No. 1 – Certificate of Sufficiency of Initiative Petition

Attachment No. 2 – Resolution Calling Primary Municipal Election on Measure

Attachment No. 3 – Resolution Requesting Consolidation of Primary Municipal Election

Attachment No. 4 – Resolution Setting Argument/Rebuttal Rules and Deadlines for Election