

City of Piedmont
COUNCIL AGENDA REPORT

DATE: July 20, 2020

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: Adopting the Resolution of Necessity and First Reading of Ordinance 754 N.S., Ordering the Submission of a Measure Incurring Bonded Indebtedness to the Voters at the November 2020 General Municipal Election

RECOMMENDATION

Adopt the Resolution of Necessity determining necessity to issue bonds and conduct first reading of Ordinance 754 N.S., ordering the submission of the measure incurring bonded indebtedness for the purpose of the acquisition, construction, and improvement of certain municipal improvement projects to City voters.

BACKGROUND

At a special meeting on June 29, 2020, the City Council directed staff to begin work to place two distinct items on the November ballot regarding (1) financing of facilities maintenance through an increase to the real property transfer tax, and (2) replacement of City facilities via issuance of long-term bonds of the City. With respect to the replacement of City facilities, City Council provided further direction at the regular meeting on July 6, 2020 to pursue options related to the placement of a General Obligation Bond measure on the November ballot to fund the replacement of the Piedmont Community Pool. It was determined additional time was needed to prepare the necessary documents for consideration of a bond measure to finance the renovation or reconstruction of the public safety facilities. Staff has spent the intervening time preparing the appropriate documents to place a General Obligation Bond measure on the November ballot, which documents and related actions are being presented as part of this agenda item. On July 14, the City received updated cost estimates for the conceptual design adopted by Council in 2016. Hard construction cost estimates have increased over four years by roughly 23% from \$15 million to \$18.5 million. With escalation to account for construction start date delay, as well as all soft costs and contingencies, the total project cost could reach \$23,000,000. Given the current bond market, the par bond amount needed to yield \$23 million in expendable proceeds is \$18.2 million. Staff is recommending a par amount of \$19.5 million in order to offer some interest rate protection.

DOCUMENTS

Resolution of Necessity

The Resolution of Necessity (Attachment A), required by California Government Code §43607 to be passed by an affirmative vote of at least four Council members, determines that the public interest or necessity demands the acquisition, construction, or completion of the municipal improvements, and that the costs of the improvements will require an expenditure of the City greater than allowed by the City's annual levy. The resolution also authorizes the execution of consultant services agreements with Hilltop Securities, Inc., as municipal advisor to the City, and Jones Hall, as bond counsel. In accordance with the Charter, such agreements would be subject to approval as to form by the City Attorney.

Ordinance 754 N.S.

Ordinance 754 N.S. (Attachment B) includes information required by California Government Code §43610, including the object and purpose of bonds, the estimated costs of the improvements, and the manner of holding the election. In addition, the Ordinance will be provided to voters as part of the voter information guide.

The Ordinance specifies that the purpose of issuing the General Obligation Bonds is to finance the costs of municipal improvement projects of the City, primarily the replacement of the existing Piedmont Community Pool. The Ordinance also provides an anticipated cost of the authorized improvements (including the costs of issuance and sale of bonds) and sets a maximum limit on the principal amount of bonds not to exceed \$19,500,000 which would be issued at an interest rate that of no more than the maximum interest rate of 12%. If the issuance of bonds is approved by voters, the actual interest rate would be determined at the time of issuance. As of June 29th interest rates on General Obligation Bonds issued by the City, if assigned credit ratings of "AA+" by Standard & Poor's and "Aa2" by Moody's Investors Service with level annual payments, would bear an estimated interest rate of approximately 2.93% for a 30-year term. The Ordinance would also authorize the establishment of a bond oversight committee and other accountability measures.

If introduced on July 20, the Ordinance would need to be brought back to the Council for approval on August 3, before being submitted (along with other required documents) to the Alameda County Registrar of Voters by the August 7, 2020 deadline for the measure to appear on the November ballot.

Approval of the General Obligation Bond measure requires that 2/3^{rds} of all qualified voters voting on the proposition vote in favor. As detailed in the Ordinance, if this requirement is met, the City would have authority to issue and sell the General Obligation Bonds in one or more series, in the maximum amount and for the objects and purposes set forth in the Ordinance. The bonds would be general obligations of the City payable from, and secured by, ad valorem taxes levied and collected on taxable property in the City. The revenue generated from the ad valorem taxes would be used solely for the payment of debt service on the bonds.

FISCAL IMPACT

The fiscal impact to the City would primarily be in the costs of issuance of the bonds and the repayment, thirty years, to the bondholders. Pre-election costs for bond counsel will be approximately \$8,000. Should the measure be adopted by the voters, costs of bond issuance may range from \$80,000 to \$95,000. The City will engage a municipal advisor, with a fiduciary responsibility to the City, to advise and assist it with the bond issuance process at a cost of \$30,000, of which \$25,000 is contingent on a successful bond placement. Bond counsel and municipal advisor fees and costs of issuance associated with the issuance of bonds following a successful election may be paid from the bond proceeds, in the event voters approve issuance of the bonds.

The fiscal impact to Piedmonters would be an increase in their property taxes to repay the bonds. Assuming that the city issued bonds in the amount of \$19,500,000, it would cost \$257 per year in additional tax for the median home. The chart below indicates the estimated median annual tax per range of assessed property valuation:

Assessed Value by Quintile	Median Annual Tax in Quintile
\$0 - \$364,000	\$ 39
\$364,001 - \$773,000	\$ 143
\$773,001 - \$1,243,000	\$ 257
\$1,243,001 - \$1,948,000	\$ 395
\$1,948,001 and higher	\$ 660

STEPS TO PLACE THE MEASURE ON THE BALLOT

Should the Council approve the 1st reading of the Ordinance tonight, a 2nd reading would be scheduled for the next regular meeting on August 3rd. Assuming the Council approves the second reading, it would then take up a resolution placing the measure on the ballot, setting the 75 word ballot question, and setting other procedural details regarding the election. The Council would also consider actions related to authorship of direct and rebuttal arguments for the measure which would appear in the voter information guide.

The 75 word ballot question is what will appear on the each voter’s ballot as the official statement of the measure. The current draft under review reads, “Shall the measure to prevent the permanent closure of Piedmont’s Community Pool by constructing new pool facilities including upgrades to restrooms, improvements for plumbing, sewer and electrical systems to preserve energy and water, and to authorize Piedmont to issue \$19,500,000 in bonds at legal rates, generating \$1,257,950 annually at an average rate of 2.6 cents per \$100 of assessed valuation while bonds are outstanding, with all money staying local and independent citizens’ oversight be adopted?”

ATTACHMENTS

- A: Resolution of Necessity
- B: Ordinance 754 N.S.

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PIEDMONT
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY DEMAND THE
ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF MUNICIPAL
IMPROVEMENT PROJECTS, AND THEIR FINANCING THROUGH THE
ISSUANCE OF GENERAL OBLIGATION BONDS

WHEREAS, the City of Piedmont (the “City”) is a municipal corporation and charter city duly organized and existing under the Constitution and laws of the State of California; and

WHEREAS, the City is authorized to call an election for the proposition of incurring a bonded indebtedness and to issue such bonds to finance municipal improvements pursuant to certain provisions of the California Government Code, including Article 1 of Chapter 4 of Division 4 of Title 4 (commencing with Section 43600) and Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 (commencing with Section 53506) (collectively, the “Bond Law”); and

WHEREAS, the City intends to issue its general obligation bonds (the “Bonds”) under and pursuant to the Bond Law to finance the cost of the acquisition, construction and improvement of municipal improvement projects of the City to prevent the permanent closure of, and replace, the Piedmont Community Pool, and to make improvements to adjacent areas (the “Improvements”); and

WHEREAS, in order to initiate proceedings under the Bond Law to provide for the issuance of general obligation bonds, the City Council of the City (the “City Council”) must make certain findings and determinations;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Piedmont does hereby resolve, declare, determine and order as follows:

SECTION 1. Declaration of Necessity to Issue Bonds. The public interest and necessity demand, and it is the intention of the City Council to require the acquisition construction and improvement of the Improvements, and to issue the Bonds to finance the cost thereof, subject to completion of the proceedings required by the Bond Law.

SECTION 2. Findings. The City Council hereby finds and determines that the estimated costs of the Improvements will require an expenditure by the City greater than the amount allowed for it by the annual tax levy of the City. The principal amount of the Bonds will not exceed the estimated cost of the Improvements.

SECTION 3. Issuance of the Bonds. This Resolution is adopted, and the Bonds, if approved by two-thirds of all qualified voters voting on the issuance of the Bonds, are to be issued pursuant to the Bond Law.

SECTION 4. Appointment of Consultants. In connection with the proposed issuance of the Bonds and related election matters, the City Council hereby authorizes and ratifies the appointment of Hilltop Securities, Inc., as municipal advisor to the City, and Jones Hall, A Professional Law Corporation, as Bond Counsel and Disclosure Counsel to the City. The City Administrator is hereby authorized and directed to execute, on behalf of the City, a professional services agreement with each such firm.

[END OF RESOLUTION]

ORDINANCE NO. 754 N.S.

AN ORDINANCE ORDERING THE SUBMISSION OF A PROPOSITION
INCURRING BONDED INDEBTEDNESS TO THE QUALIFIED VOTERS OF THE
CITY OF PIEDMONT AT THE GENERAL MUNICIPAL ELECTION TO BE HELD
ON NOVEMBER 3, 2020, FOR THE PURPOSE OF FINANCING THE COST OF THE
ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF CERTAIN
MUNICIPAL IMPROVEMENT PROJECTS

The City Council (the “City Council”) of the City of Piedmont (the “City”) hereby ordains as follows:

SECTION 1. PURPOSE AND INTENT

Under sections 3, 5, and 7 of article XI of the California Constitution and Section 1.03 of the City of Piedmont Charter, the City is authorized to make and enforce all laws and regulations concerning municipal affairs and certain other matters. Pursuant to such authority as well as the authority provided by the California Government Code and California Elections Code, the City Council proposes to order the submission of a proposition authorizing the City to issue general obligation bonds (the “Bonds”) to the qualified voters of the City at the general municipal election to be held on November 3, 2020.

SECTION 2. FINDINGS

The City Council hereby makes the following findings with respect to the proposed measure for the Bonds:

- A. The City owns and operates the Piedmont Community Pool, which, due to its age and condition, is in need of significant repair and/or replacement.
- B. On July 20, 2020, the City Council adopted, by a two-thirds vote of all its members, a resolution entitled “A Resolution of the City Council of the City of Piedmont Determining that the Public Interest and Necessity Demand the Acquisition, Construction and Improvement of Certain Municipal Improvement Projects, and Their Financing Through the Issuance of General Obligation Bonds,” pursuant to which the City Council has found and determined that the public interest and necessity demand the issuance of general obligation bonds to finance the cost of municipal improvement projects.
- C. In order to provide for the issuance by the City of general obligation bonds to provide financing for the municipal improvement projects, it is necessary for the City Council to adopt an ordinance ordering the submission of the proposition of incurring bonded indebtedness for such purpose to the qualified voters of the City at a municipal election.

- D. The City Council desires to submit said ballot measure to the qualified voters of the City at the regular election to be held in the City on November 3, 2020, and to consolidate the bond election with other elections held within the City on that date.

SECTION 3. CALL FOR ELECTION

The City Council hereby orders that there be submitted to the qualified voters of the City a proposition on incurring bonded indebtedness for the purposes set forth in this Ordinance, at the regular election to be held on November 3, 2020.

SECTION 4. BALLOT PROPOSITION

The City Council hereby submits to the qualified voters of the City, at the regular election to be held on November 3, 2020, a proposition on issuing the Bonds. The statement of the measure shall be in substantially the form set forth in the resolution of the City placing the measure on the ballot.

SECTION 5. OBJECT AND PURPOSE OF BONDS

The object and purpose of the Bonds is to finance the costs of municipal improvement projects of the City to prevent the permanent closure of, and replace, the Piedmont Community Pool and to make improvements to adjacent areas (the "Improvements"), which Improvements are anticipated to consist generally of the acquisition, construction and/or improvement of community pools, related community facilities (for example, showers, restrooms, locker rooms and multi-use rooms), and adjacent spaces.

The authorized Improvements also include all work, facilities and expenditures necessary and incidental to the project described above. Examples of such work, facilities, and expenditures include, but are not limited to: costs of design, engineering, architect and other professional services, inspections, site preparation, utilities (including improvements to plumbing, sewer and electrical systems to preserve energy and water), landscaping, construction management and other planning and permitting, legal, accounting and similar costs; a customary construction contingency; demolition and disposal of existing structures; rental or construction of storage facilities and other space on an interim basis for materials and other equipment and furnishings displaced during construction; interim facilities for municipal functions, including modular facilities; addressing unforeseen conditions revealed by construction or renovation, and other necessary improvements required to comply with existing building codes; environmental improvements to preserve energy and water; access requirements of the Americans with Disabilities Act; costs of the election; bond issuance costs; and project administration during the duration of such projects, as permitted by law.

The final costs, locations, designs, layouts and other details of the Improvements will be determined as plans are finalized, construction bids are awarded, and projects are

completed. Therefore, the City Council cannot guarantee that the Bonds will provide sufficient funds to allow completion of all needed Improvements.

SECTION 6. ESTIMATED COST OF IMPROVEMENTS

The estimated cost of the Improvements is \$23,000,000. The estimated cost includes legal or other fees, the costs of printing the Bonds, and other costs and expenses incidental to or connected with the authorization, issuance and sale of the Bonds.

SECTION 7. PRINCIPAL AMOUNT OF BONDS

The amount of the principal of the Bonds shall not exceed \$19,500,000.

SECTION 8. MAXIMUM INTEREST RATE

The maximum rate of interest to be paid on the Bonds shall be the statutory maximum of 12% per annum. Said interest shall be payable semiannually, except that interest for the first year after the date of the Bonds may be made payable at the end of said year.

SECTION 9. ISSUANCE AND SALE OF BONDS

The City proposes to issue and sell the Bonds pursuant to Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 of the California Government Code, or Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, in one or more series, in the maximum amount and for the objects and purposes set forth above if two-thirds of all qualified voters voting on the proposition set forth above vote in favor thereof. The Bonds will be general obligations of the City payable from and secured by ad valorem taxes levied and collected in the manner prescribed by laws of the State of California. The revenue generated from the ad valorem tax levied and collected will be used for the payment of debt service on the Bonds. All of the Bonds shall be equally and ratably secured, without priority, by the taxing power of the City.

SECTION 10. MANNER OF CONDUCTING ELECTION

The election held on November 3, 2020 shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted, and returned, returns canvassed, results declared, and all other proceedings incidental to and connected with the election shall be regulated and done in accordance with the provisions of law regulating the election with which it is consolidated.

SECTION 11. PROCEDURE FOR VOTING ON PROPOSITION

Ballots for the election shall be provided in the form and in the number provided by law. Voters shall be provided an opportunity to vote for or against the proposition on the ballot,

in accordance with procedures to be adopted by the authorized officers of the County of Alameda (the “County”) charged with conducting the election.

SECTION 12. ACCOUNTABILITY REQUIREMENTS

In accordance with Sections 53410 and 53411 of the California Government Code, the City Council hereby adopts the following accountability requirements relating to the Bonds:

(a) A separate account shall be created and held by the City, into which the proceeds of the Bonds are deposited and applied solely for the purpose of financing the Improvements.

(b) The Finance Director of the City shall file a report with the City Council at least annually showing the amount of Bond proceeds collected and expended, and the status of the Improvements.

SECTION 13. IDENTIFICATION OF TAX

The tax imposed by this measure is an ad valorem tax levied upon taxable real property in the City, and will be used to pay the principal and interest on the Bonds.

SECTION 14. ESTABLISHMENT OF OVERSIGHT COMMITTEE

In the event the ballot proposition is passed by two-thirds of all qualified voters voting on the proposition, the City Council shall establish and appoint members to an oversight committee, which shall have responsibility for reviewing and reporting on the expenditure of the proceeds of the Bonds.

SECTION 15. OFFICIAL ACTIONS

The Mayor, the City Administrator, the Finance Director, the City Clerk, and any of their designees, are hereby authorized to execute any documents and to perform all acts necessary to place the bond measure on the ballot.

SECTION 16. INTERPRETATION

The provisions of this Ordinance, being necessary for the health, welfare, and safety of the City and its residents, is to be liberally interpreted to carry out its purposes. No error, irregularity or informality, and no neglect or omission of any officer, in any proceeding taken related to the submission of the proposition incurring bonded indebtedness to the qualified voters of the City shall void or invalidate any such proceeding, any Bonds issued by the City or any levy of ad valorem taxes to pay principal of and interest on the Bonds.

SECTION 17. SEVERABILITY.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications, and to this end the provisions this Ordinance are declared to be severable.

SECTION 18. PUBLICATION OF ORDINANCE

This Ordinance shall be published once a day for at least seven days in a newspaper published at least six days a week in the City, or once a week for two weeks in a newspaper published less than six days a week in the City. The first of said publications shall, in either event, be within 15 days after the adoption of this Ordinance.

SECTION 19. EFFECTIVE DATE

In accordance with Section 2.12(C) of the City of Piedmont Charter and Section 36937(a) of the California Government Code, this Ordinance shall become effective immediately, as an ordinance relating to an election, upon its adoption by two-thirds vote of all the members of this City Council.

[END OF ORDINANCE]

**Item #7 – Actions Related to Placement of a Pool Bond on the November Ballot
Correspondence Received before 3:00 p.m. on Monday, July 20, 2020**

Dear Mayor McBain and City Council,

I support the use of a GO bond and could not support the creation of a Mello-Roos District. While I am somewhat disappointed that your discussion did not include meaningful alternate uses for the pool site, clearly there is a strong advocacy by a core committed group in Piedmont to retain and expand the decaying pool. That commitment has remained consistent and it is best that this Pool Bond pass now. I presume a reasonable plan will be presented and not the Olympic Village type of facility previously envisioned. Importantly, this Council has acted wisely in not bundling the pool with an expensive multi-mission tax or bond measure. Let taxpayers decide the merit of other projects individually.

Kindly vote affirmatively on the November Pool Bond; I will encourage public support. Your service and commitment in these difficult times is much appreciated. Thank you.

Respectfully,

Rick Schiller

Let me add my voice to those others who want to keep the Piedmont Pool open. It is a hugely valuable resource enjoyed by thousands of people a year. When my daughter was younger I took her there and I know many other families who enjoy every opportunity to use it. I see swim classes there year round. I see water polo trainings and games there. I watch the elderly community participate in the daily exercise programs and I personally am a member and swim 2-3 times a week year round. I would even ask, how can city like Piedmont not have a pool. Even the City of Richmond, larger but nowhere near as well-off as Piedmont, just rebuilt their natatorium <http://www.ci.richmond.ca.us/2140/Richmond-Plunge>. If the City of Piedmont cannot afford it, I'd seek out sponsors. Whatever you do; don't let it go.

Kind regards,

Bradley Mart
