

City of Piedmont
COUNCIL AGENDA REPORT

DATE: August 3, 2020

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: Consideration of the 2nd Reading of Ordinance 754 N.S., Ordering the Submission of a Measure Incurring Bonded Indebtedness to the Qualified Voters at the General Municipal Election to be Held on November 3, 2020

RECOMMENDATION

Approve the 2nd 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 its meeting of July 20, 2020, the Council approved the first reading of Ordinance 754 N.S which would order 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. The principal amount of the General Obligation Bonds that would be voted upon is \$19,500,000.

As detailed in the Ordinance, the object and purpose of the General Obligation 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”). 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 estimated cost of the Improvements is \$23,000,000. The estimated cost includes legal and other fees, the costs of printing the General Obligation Bonds, and other costs and expenses incidental to or connected with the authorization, issuance and sale of the General Obligation Bonds.

If the Council wishes to place this matter before the voters at the General Municipal Election of November 3, 2020, a second and final reading is required. State law requires that this Ordinance be passed by a 4/5^{ths} vote of the Council. The Ordinance would require 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.

By: John O. Tulloch, City Clerk

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]