

City of Piedmont
COUNCIL AGENDA REPORT

DATE: August 16, 2021

TO: Mayor and Council

FROM: Sara Lillevand, City Administrator

SUBJECT: Introduction and 1st Reading of Ordinance 762 N.S., Authorizing the Issuance of General Obligation Bonds and Levying an Ad Valorem Property Tax Sufficient to Pay Such Bonds, as Approved at the General Election of November 3, 2020 (Measure UU)

RECOMMENDATION

Approve the 1st reading of Ordinance 762 N.S. authorizing the borrowing of money via issuance, in one or more series, of general obligation bonds in the amount of \$19.5 million approved at the general election held on November 3, 2020 (Measure UU), and levying an ad valorem property tax sufficient to pay such bonds.

BACKGROUND

The City is empowered under Section 1 of Article XIII A of the California Constitution, the City of Piedmont Charter, and the California Government Code to issue general obligation bonds that have been authorized by two-thirds of the electors voting on the proposition, and to levy an ad valorem property tax sufficient to pay such bonds. At the General Municipal Election of November 3, 2020 an election measure (Measure UU) to issue general obligation bonds and levy the related tax was passed by the requisite two-thirds of the electors, for the purpose of financing 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”).

Under the City Charter, the City is authorized to make and enforce all laws and regulations concerning municipal affairs and certain other matters, and is required to authorize certain actions pursuant to an ordinance. Pursuant to such authority as well as the authority provided by the California Government Code, the City Council now considers the borrowing of money via issuance, in one or more series, of general obligation bonds of the City and the levying an ad valorem property tax sufficient to pay such bonds, all as approved in accordance with Measure UU and presented in greater detail in the proposed Ordinance.

The proposed Ordinance authorizes the City to issue bonds in a principal amount of \$19.5 million and to levy an ad valorem property tax in an amount sufficient to pay such bonds. City staff initially determined that the \$19.5 million figure, together with original issue

premium on the bonds, provided sufficient funds based on rough “hard cost” estimates to meet the objectives of Measure UU. The cost estimates include costs and expenses incidental to or connected with the authorization, issuance and sale of the bonds. To ensure that sufficient funds are available to finance the Community Pool project, it is Staff’s objective to maximize bond proceeds while keeping the tax burden on residents consistent with the projected tax burden anticipated at the time of the election. The Budget Advisory and Financial Planning Committee (BAFPC) is being consulted regarding the structuring of the bond issuance.

As detailed in the Ordinance, passage of the Ordinance gives the City authority to issue and sell the general obligation bonds in one or more series, in the maximum principal amount and for the objects and purposes set forth in the Ordinance, and provides for the establishment of an oversight committee which will have responsibility for reviewing and reporting to the City Council and the community on the expenditure of the proceeds of the bonds. It is anticipated that this bond oversight committee will be appointed by the Council October.

Introduction and adoption of the Ordinance is the first step in the process required for the City to authorize the issuance and sale of the bonds. Following the effective date of the Ordinance and receipt of recommendations from the BAFPC, Staff and the City’s financing team will return to the City Council to present the following:

- a resolution that would approve the structure and terms of the general obligation bonds proposed to be issued later in 2021
- a Preliminary Official Statement describing the City and the bonds, and related documents and actions.

Final pricing and closing of the bonds is anticipated to occur in December, at which point funds would be available for the Improvements.

By: Michael Szczech, Finance Director

Attachment:

A. Ordinance 762 N.S.

ORDINANCE NO. 762 N.S.

AN ORDINANCE AUTHORIZING THE BORROWING OF MONEY VIA
ISSUANCE, IN ONE OR MORE SERIES, OF GENERAL OBLIGATION BONDS
APPROVED AT THE GENERAL ELECTION HELD ON NOVEMBER 3, 2020
(MEASURE UU), AND LEVYING AN AD VALOREM PROPERTY TAX
SUFFICIENT TO PAY SUCH BONDS

The City Council of the City of Piedmont 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 Charter of the City of Piedmont, 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, the City Council proposes to borrow money via issuance, in one or more series, of general obligation bonds of the City and levy an ad valorem property tax sufficient to pay such bonds.

SECTION 2. FINDINGS

The City Council hereby makes the following findings:

- A. On July 20, 2020, the City Council adopted, by a two-thirds vote of all its members, Resolution No. 57-2020, pursuant to which the City Council found and determined that the public interest and necessity demanded the issuance of general obligation bonds to finance the cost of municipal improvement projects related to the Piedmont Community Pool.
- B. On August 3, 2020, the City Council adopted Ordinance 754 N.S., ordering the submission of the proposition of incurring bonded indebtedness for the purposes set forth therein to the qualified voters of the City at the regular election to be held in the City on November 3, 2020, which proposition was consolidated with other propositions and labeled “Measure UU” (the “Bond Measure”).
- C. The object and purpose of the Bond Measure was 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”).
- D. The City is empowered under Section 1 of Article XIII A of the California Constitution, the Charter of the City of Piedmont, and the California Government Code to issue general obligation bonds that have been authorized by two-thirds of the electors voting on the proposition, and to levy an ad valorem property tax sufficient to pay such bonds.

- E. On November 3, 2020, more than two-thirds of the electors in the City voting on the Bond Measure voted in favor.
- F. On December 7, 2020, the City Council adopted Resolution No 89-2020, finding and declaring that the required number of votes had been received for passage of the Bond Measure.
- G. The City proposes to borrow money via the issuance of general obligation bonds (the “Bonds”), in one or more series, in an aggregate principal amount not to exceed \$19,500,000 (the “Bond Authorization”), for the purposes specified in the Bond Measure, and to levy an ad valorem property tax sufficient to pay such Bonds.
- H. Section 2.11(3) of the Charter of the City of Piedmont provides that the City Council may only levy taxes, except as otherwise provided in the Charter of the City of Piedmont with respect to the property taxes levied by adoption of the budget, pursuant to the adoption of an ordinance.
- I. Section 2.11(5) of the Charter of the City of Piedmont provides that the City Council may only authorize the borrowing of money pursuant to the adoption of an ordinance.
- J. The issuance of the Bonds to finance the Improvements pursuant to the Bond Measure is a municipal affair and promotes a necessary and essential public purpose.
- K. Being fully advised in the matter, the City Council wishes to adopt this Ordinance providing for the issuance of the Bonds, the use of the proceeds of the Bonds, and the levying of an ad valorem property tax to pay the Bonds.

SECTION 3. ISSUANCE OF BONDS AUTHORIZED

The City is authorized to issue the Bonds pursuant to Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (Section 53506 et seq.), as augmented and supplemented by this Ordinance (as so augmented and supplemented, the “Bond Law”). The City Council shall, by resolution, provide for the issuance of the Bonds, in one or more series from time-to-time in an aggregate principal amount not exceeding the Bond Authorization pursuant to the Bond Law, with each resolution setting forth the form and terms of the applicable series of Bonds.

SECTION 4. LEVY OF AD VALOREM PROPERTY TAX AUTHORIZED

The City is authorized to levy an ad valorem tax upon taxable real property in the City to pay the Bonds. The ad valorem tax shall be levied and collected in the manner prescribed by the Constitution and laws of the State of California. The revenue generated from the ad

valorem tax levied and collected will be used for the payment of the Bonds. All of the Bonds shall be equally and ratably secured, without priority, by the taxing power of the City.

SECTION 5. USE OF BOND PREMIUM AUTHORIZED

The City is authorized to use any premium generated from the issuance of a series of Bonds for the purposes set forth in the applicable resolution of the City Council for that series of Bonds, including deposit into the improvement fund for the financing of the Improvements, payment of underwriter's discount and other costs of issuance, and payment of capitalized interest.

SECTION 6. 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 or fund shall be created and held by the City, into which the proceeds of the Bonds shall be deposited and applied solely for the purpose of financing the projects specified in the Bond Measure.
- (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 projects authorized to be financed with the Bonds.

SECTION 7. ESTABLISHMENT OF OVERSIGHT COMMITTEE

The City Council shall establish and appoint members to an oversight committee for the Bonds, which shall have responsibility for reviewing and reporting on the expenditure of the proceeds of the Bonds to the City Council.

SECTION 8. POWERS AND AUTHORITY GRANTED

The provisions of this Ordinance are intended to provide a complete additional and alternative method for doing the things authorized by this Ordinance. The powers and authority conferred by this Ordinance are supplemental and additional to the powers and authority conferred by any other laws, and the limitations imposed by this Ordinance do not affect the powers or authority conferred by any other law.

SECTION 9. OFFICIAL ACTIONS

The Mayor, the City Administrator, the Finance Director, the City Clerk, and any of their designees, are hereby authorized to execute any and all documents and to perform any and all acts necessary to accomplish the purposes of this Ordinance.

SECTION 10. 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 issuance of any series of Bonds by the City shall void or invalidate any such proceedings or any such Bonds that are issued, or the levy of ad valorem taxes to pay for such Bonds.

SECTION 11. 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 in this Ordinance are declared to be severable.

SECTION 12. POSTING; EFFECTIVE DATE

This ordinance shall be posted at City Hall after its second reading by the City Council for at least thirty (30) days and shall become effective thirty (30) days after such second reading and approval by the City Council.

[END OF ORDINANCE]