



## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Steve Quintanilla, City Attorney

**AGENDA DATE:** August 6, 2024

**TITLE:** LOCAL MORENO VALLEY ESSENTIAL SERVICES REAUTHORIZATION MEASURE

**TITLE SUMMARY:** Local Moreno Valley Essential Services Reauthorization Measure

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### **Recommendation(s)**

That the City Council:

1. Adopt the attached Resolution placing the Local Moreno Valley Essential Services Reauthorization Measure, a one cent (1¢) general transactions and use tax (sales tax) to be administered by the California Department of Tax and Fee Administration (CDTFA) on behalf of the City of Moreno Valley, on the November 5, 2024, Consolidated General Election ballot.

### **SUMMARY**

Although transactions and use taxes are, in common parlance, considered "sales taxes," the California Department of Tax and Fee Administration (CDTFA), which administers local sales taxes, refused to administer the one-cent sales tax approved by the voters in 2021, since CDFTA opined that the former sales tax proposal (measure), albeit approved by the voters, constituted a sales tax under the Bradley-Burns Uniform Local Sales and Use Tax Law, as set forth in Revenue and Taxation Code sections 7200-7226, rather than a sales tax under the Transactions and Use Tax Law as set forth in Revenue and Taxation Code sections 7251 - 7279.6. In order to resolve the dispute with CDFTA, the City Attorney recommends that since the City's regularly scheduled municipal election is scheduled for this November 5, 2024, the most prudent action to take at this point is to seek reauthorization of the one-cent (1¢) sales tax previously approved by the voters in 2021, rather than to proceed with expensive and lengthy litigation with the State to enforce

compliance with the will and intent of the voters of the City of Moreno Valley, as expressed in their 2021 vote approving the proposed one-cent (1¢) sales tax measure.

In light of the foregoing, it is recommended that the City Council place a measure on the November 5, 2024, Consolidated General Election ballot that will ask the voters to reauthorize the enactment of the previously approved one-cent (1¢) sales tax, but this time, under the Transactions and Use Tax Law as set forth in Revenue and Taxation Code sections 7251 - 7279.6, rather than under the Bradley-Burns Uniform Local Sales and Use Tax Law, as set forth in Revenue and Taxation Code sections 7200-7226.

## **BACKGROUND**

In 2021, in response to years of takeaways of local funds by the State, and to protect the critical services that were projected to be impacted, Moreno Valley voters approved Measure G, enacting a one-cent (1¢) local sales tax, until ended by voters, to maintain 9-1-1 emergency response times, robbery and burglary prevention programs, neighborhood police patrols, and fire engine service levels as well as to address homelessness, repair streets and potholes; keep public areas safe and clean; help retain local businesses; maintain senior services, and establish youth and afterschool programs with funding that cannot be taken by the State.

However, as described above, because the CDTFA claimed that the proposed one-cent (1¢) sales tax measure, approved by the voters, should have been characterized as a Transactions and Use Tax rather than a Bradley-Burns Uniform Local Sales and Use Tax, CDTFA refused to agree to implement or administer the voter-approved one-cent (1¢) sales tax measure even though there would be no change in the amount of the tax as approved by the voters, regardless of whether it was labeled a Transactions and Use Tax. As a result of this technical dispute between CDTFA and the City and regardless of the fact the voters approved the one-cent (1¢) sales tax measure, the tens of millions of dollars of additional revenue approved by the voters to address essential local services have been lost.

While one-time federal funding was utilized to mitigate the worst of the damage from the State's actions, significant and needed investments to basic services, including 911 emergency, street and pothole repair, and investments in addressing homelessness and keeping public areas safe and clean have been delayed. Now, this one-time funding is exhausted, the delayed maintenance needs are more significant than ever, and there is no stable long-term funding the community can rely to address ongoing funding needs without making significant service cuts.

Having conceded to CDTFA's demands, in lieu of any protracted and expensive litigation, the City Attorney believes the most prudent action to take at this time is to ask Moreno Valley voters (again) to re-authorize the one-cent (1¢) sales tax increase they approved two years ago in order for it to go into effect.

Pursuant to a recent survey, the data shows 63% of the survey respondents would be interested in reauthorizing Measure G, and the feedback the City has received from a

task force, meetings, and mailer feedback show that the services the re-authorized measure could help maintain are highly valued by residents, and they include, among other services, the following:

- Maintaining fire service levels
- Maintaining 911 response times
- Maintaining robbery and burglary prevention
- Keeping public areas safe and clean
- Addressing homelessness

In response to this community feedback, staff is recommending that the City Council act to place a reauthorization of Measure G’s one-cent (1¢) sales tax increase for local voters to consider on the November 5, 2024, Consolidated General Election ballot.

## DISCUSSION

The City of Moreno Valley’s sales tax (Transactions and Use Tax) is 7.75%. The table below shows the allocation of sales tax to various jurisdictions, which illustrates why for every sales tax dollar generated in Moreno Valley, the City receives only 13 cents.

Rate	Jurisdiction	Purpose	Apportioned %
3.69%	State	Goes to State’s General Fund	47.58%
0.25%	State	Goes to State’s General Fund	3.23%
0.50%	State	Goes to Local Public Safety Fund to support local criminal justice activities (1993)	6.45%
0.50%	State	Goes to Local Revenue Fund to support local health and social services programs (1991 Realignment)	6.45%
1.06%	State	Goes to Local Revenue Fund 2011	13.71%
0.25%	Local	0.25% Goes to county transportation funds	3.23%
0.50%	Local	0.50% Goes to Riverside County Transportation Commission (RCTC)	6.45%
1.00%	Local	1.00% Goes to city or county operations	12.90%
<b>7.75%</b>	State/Local	Total Statewide Base Sales and Use Tax Rate	<b>100.00%</b>

The average sales tax in Southern California is 8.65%. In Western Riverside County, the average sales tax is 8.31%. This means 10 out of 18 cities have a sales tax rate of 8.75% as opposed to the City’s 7.75%.

Pursuant to Article XIII C, section 2 of the California Constitution (“Proposition 218”), cities are authorized to levy a “Transactions and Use Tax” for general purposes pursuant to Revenue and Taxation Code section 7285.9, if proposed by a two-thirds vote of all members of the governing body (City Council) and approved by a majority vote of the electorate at a regularly scheduled general election for members of the governing body of the local government (City Council). As it turns out, the November 5, 2024, Consolidated General Election is also the City’s regularly scheduled general election for members of the Moreno Valley City Council, which means the City Council may add such a measure to the November 5, 2024, Consolidated General Election ballot, without having to make a formal determination that the City is in a Fiscal Emergency.

## Ballot Question

The following ballot question is what staff recommends be submitted to the voters on the November 5, 2024, Consolidated General Election ballot:

<p><b>Moreno Valley Essential Services Reauthorization Measure.</b></p>	
<p>To maintain critical Moreno Valley services, including 911 response times, robbery/burglary prevention, neighborhood police patrols/fire service levels; address homelessness; repair streets/potholes; keep public areas safe/clean; help retain businesses; and for general government use, shall the measure</p>	<p><b>YES</b></p>
<p>establishing a locally-controlled 1¢ transaction and use (sales) tax, first enacted by local voters in 2021, generating approximately \$30,000,000 annually until ended by voters, with audits/spending disclosure, be adopted?</p>	<p><b>NO</b></p>

**Proposed Ordinance**

In the interest of full and convenient public transparency, staff recommends that the attached proposed ordinance be included in the Registrar of Voter’s “Voter Information Guide” (Voters Pamphlet), rather than requiring voters to submit requests to review the proposed ordinance. The proposed ordinance will take effect only if the ballot measure is approved by a simple majority of the voters voting to approve the ballot measure at the November 5, 2024, Consolidated General Election. If approved, the proposed ordinance will become a binding ordinance of the City of Moreno Valley and shall be considered as adopted upon the date that the vote is declared by the City Council, with the ordinance taking official effect 10 days after that date, albeit the operative date of the additional one percent sales and use tax will not happen until April 1, 2025, as mandated under applicable state law.

Highlights of the proposed ordinance include the following:

- **Anticipated Revenue**. Estimated to produce approximately \$30 million per year, which may be used to fund general municipal services, and which shall remain in effect unless subsequently repealed by the voters.
- **Local Use of Proceeds**. May be used for any local general municipal purpose including, but not limited to, maintaining 9-1-1 emergency response times, robbery/burglary prevention, and neighborhood police patrols/fire engine service levels; addressing homelessness and traffic issues; repairing potholes/streets; keeping public areas safe/clean; helping retain local businesses; and maintaining senior services and youth/afterschool programs – all until ended by voters, and subject to independent financial audits, and public review.
- **Annual Independent Audits**. Financial records, accounting practices and internal controls related to the collection, deposit and expenditure of the revenue produced by the one percent transactions and use tax shall be examined by means of an annual audit conducted by an independent auditor whose services shall be

retained by the City through a contract for services as an independent contractor and which shall be made available to the public for review.

## **Resolution**

Elections Code section 9222 authorizes the City Council to submit to the voters, without a petition, a proposition (measure) for the repeal, amendment, or enactment of any ordinance, to be voted upon at any succeeding regular election. If the proposition (measure) is approved by the requisite number of votes cast on the measure at the election, the ordinance shall be repealed, amended, or enacted accordingly. Elections Code section 9222 further provides that such a proposition (measure) may be submitted to the voters by ordinance or resolution, provided the election is held not less than 88 days after the date of the order of election. Consistent with Elections Code section 9222, the Riverside County Registrar's General Election Calendar indicates that August 9, 2024, is the last day to submit a resolution calling for a measure to be submitted to the Registrar of Voters for inclusion on the November 5, 2024, Consolidated General Election ballot.

The Resolution is the mechanism used to place the proposed measure on the ballot. The Resolution provides the ballot measure language that the City wants placed on the ballot, along with provisions related to the conduct of the election and the submittal of the City Attorney's "Impartial Analysis." The City Attorney's Impartial Analysis of the ballot measure must explain the effect of the ballot measure on existing law and the operation of the ballot measure in accordance with Elections Code section 9280, and it shall not exceed 500 words in length.

Moreover, the Resolution provides information regarding the submittal of arguments for and against the measure. With respect to the ballot arguments, the City Clerk will consider written arguments for and against the ballot measure filed by bona fide associations of citizens or individual residents who are eligible to vote or any combination of voters and associations. Arguments for or against the measure must not exceed 300 words in length and rebuttal arguments must not exceed 250 words in length. All arguments will be included in the Voters Pamphlet.

## **ALTERNATIVES**

1. Adopt the Resolution to place the measure on the November 5, 2024, ballot to provide the voters an opportunity to reauthorize a one cent (1¢) sales tax that the voters approved in 2021, but this time it will be labeled as a "local transaction and use tax."
2. Do not adopt the Resolution.

## **FISCAL IMPACT**

If adopted by the voters, the one cent (1¢) sales tax would provide an estimated \$30,000,000 of locally controlled revenues to the General Fund to be used for any lawful expenditure, including but not limited to, preventing robberies and burglaries, maintaining

9-1-1 emergency response times; addressing homelessness, repairing potholes, local streets, and roads , maintaining the number of fire engines in service and gang and youth violence preventing programs maintaining safe and clean public areas; and enhancing recreation and youth programs and facilities.

**PREPARATION OF STAFF REPORT**

Prepared By:  
Steven B. Quintanilla  
City Attorney

Brian Mohan  
Assistant City Manager

## Report Approval Details

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This report and all of its attachments were approved and signed as outlined below:

**No Signature - Task assigned to Steve Quintanilla was completed by workflow administrator Patty Rodriguez**

Steve Quintanilla

Natalia Lopez

Launa Jimenez

Brian Mohan

Mike Lee