



MAYOR & COUNCIL COMMUNICATION

February 6, 2024

Subject: Calling a Special Election on August 6, 2024 for a Proposed Amendment to the Tucson Charter to Establish a Transaction Privilege Tax to Fund Community Investments (City Wide) Page: 1 of 2

Issue – Calling a special election, to be held in the City of Tucson, Arizona, on August 6, 2024, for the purpose of submitting to the City’s qualified electors a proposed ballot measure or measures, to include a proposed amendment to the Tucson Charter providing for the establishment of a transaction privilege and use tax via Chapter IV, Section 4 of the Tucson Charter, to voters for approval or rejection at this election.

City Manager's Office Recommendation – It is recommended that the Mayor and Council adopt the attached ordinance formally calling a Special Election for August 6, 2024.

Background Considerations – The Mayor and Council desire to establish an election for August 2024 for the purpose of voter consideration of a referred ballot measure or measures that would amend the Tucson Charter to establish a dedicated transaction privilege tax (TPT, or sales tax) to fund community investments to promote quality of life for our residents and businesses. After calling the election date, the Mayor and Council will engage in further public discussions to determine the specific nature of the proposed TPT and the expenditures that would be funded.

Present Consideration(s) – The Mayor and Council now wish to call a special election on August 6, 2024, for the purpose of submitting to the City’s qualified electors a proposed ballot measure or measures, to include a proposed charter amendment providing for the establishment of a defined transaction privilege tax and use tax to fund community investments to promote quality of life for our residents and businesses.

Article XIII, § 2 of the Arizona Constitution and Chapter XX, § 2 and Chapter XXVI, § 1 of the Tucson City Charter authorize amendment of the Tucson Charter by amendments proposed and submitted by the Mayor and Council to the City’s qualified electors at a general or special election, ratified by a majority of the qualified electors voting thereon, and approved by the Governor.

Tucson Charter Chapter XVI, § 6 states that the conducting and carrying on of all City elections shall be under the control of the Mayor and Council and that they shall, by ordinance, provide for the holding of all municipal elections. Tucson Charter Chapter IV, § 1, ¶ 20 empowers Mayor and Council to specify the time of City elections.

It is in the best interests of the citizenry of the City of Tucson, Arizona, that this special election be called as early as possible prior to the election to: (1) provide optimal notice to the citizenry of the City of Tucson of the election; (2) permit citizens to submit arguments for or against the proposed charter amendment(s) or ballot measures at least 90 days before the election, as required by A.R.S. § 19-141(C); (3) permit the City Clerk to meet any other administrative requirements; and (4) provide an opportunity for any election contest to be filed in advance of the called election in light of the fact that the date of the called election directly and expressly conflicts with existing (but invalid) state law, specifically A.R.S. § 16-204(F)(4).

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The special election on August 6, 2024 will be called as a polling place election, not a vote by mail election. The necessary IGAs with the Pima County Recorder and the Pima County Elections Division for election-related services are in place to conduct the August 6, 2024 Special Election on behalf of the City of Tucson.

Plan Tucson Consideration(s) – This item relates to Chapter Four, Plan Implementation & Administration. Specifically, this item addresses the need to have the right foundational elements in place to support/foster the City’s ability to implement *Plan Tucson*.

Financial Considerations – The costs associated with the various equipment, facilities and staffing required to conduct a Special Election is anticipated not to exceed \$1,100,000.00.

Legal Considerations – The City Attorney’s Office has drafted the attached ordinance. Please note that the proposed date of the Special Election – August 6, 2024 – directly conflicts with the provisions of A.R.S. § 16-204(F)(4), which on its face requires that any local election for the approval of or authorizing the assessment of transaction privilege taxes by a county, city or town must be held in November of an even-numbered year (i.e., in a statewide general election). However, this state law is unconstitutional under Article XIII, § 2 of the Arizona Constitution; and cannot be applied to Tucson because it conflicts with Tucson’s Charter, which authorizes the Mayor and Council to call elections to amend the Tucson Charter at times specified by the Mayor and Council, at a general or special election. *See State ex rel. Brnovich v. City of Tucson (2021) 251 Ariz. 45, 42 Arizona Cases Digest 4, 484 P.3d 624* (“... the decision whether to hold municipal elections on cycle or off cycle is a matter of purely municipal concern. If a city's charter authorizes the city to make that determination, state law cannot preempt the resulting decision.”)

Respectfully submitted,



Michael J. Ortega, P.E.
City Manager

MJO/DPM/MR/dg
City Attorney

Attachment: Ordinance