



MAYOR & COUNCIL COMMUNICATION

September 11, 2024

Subject: Calling a Special Election on March 11, 2025, for a Proposed Amendment to the Tucson Charter to Establish a Transaction Privilege Tax to Fund Community Investments; and Approving the Ballot Language (City Wide)

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Issue – This item is scheduled to allow the Mayor and Council to call a special election to be held in the City of Tucson, Arizona, on March 11, 2025, for the purpose of submitting to the City’s qualified electors, for approval or rejection, a proposed ballot measure that would amend the Tucson Charter to establish a temporary (10 year) one-half cent (0.5%) transaction privilege and use tax to fund certain community investments.

City Manager's Office Recommendation – It is recommended that the Mayor and Council adopt the attached ordinances, which will have the effect of calling a Special Election for March 11, 2025, and approving the proposed ballot language for the Charter amendment. Consistent with the Mayor and Council’s direction given at the August 27, 2024, Study Session, the ordinance frames the ballot question as authorizing a 10-year, half-cent tax, with 30.75% of the revenues allocated to capital investments for first responders, 22.75% to enhanced emergency response, 17.50% to affordable housing and shelter, 16.75% to neighborhood and community resilience, and 12.25% to technology investments.

Background Considerations – During its Study Session on August 27, 2024, the Mayor and Council reviewed and discussed a potential Charter amendment that would establish a proposed sales tax to fund defined investments in projects and programs to enhance the quality of life in our community. The agenda materials from the Study Session meeting, including the Mayor and Council Memorandum and its 3 attachments (which together describe in detail the proposed ballot measure) are attached for your reference and consideration. The proposed ballot measure, as recommended by the City Manager, reacts to a projected \$400 million loss of state-shared revenue over the next 10 fiscal years due to the Arizona Legislature’s adoption of the flat rate state income tax; and is informed by community priorities gathered from recent engagement, as well as the operational needs of the City organization. At the conclusion of that Study Session discussion, the Mayor and Council unanimously approved a motion directing the City Manager and staff to return at this Sept. 11, 2024, Mayor and Council Regular Meeting with the materials necessary to call a March 11, 2025, special election asking for voter approval of the proposed Charter amendment.

Present Consideration(s) – The Mayor and Council now wish to call a special election on March 11, 2025, for the purpose of submitting to the City’s qualified electors a proposed ballot measure establishing a temporary (10 year) one-half cent (0.5%) sales tax to fund community investments to promote quality of life for our residents and businesses. The proposal is designed to coalesce community priorities with organizational need by investing in five vital areas:

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- Affordable Housing & Shelter (17.50%)
- Neighborhood & Community Resilience (16.75%)
- Enhanced Emergency Response (22.75%)
- Technology Investments (12.25%)
- Capital Investment for First Responders (30.75%)

Each of these investment areas is depicted graphically in the attached materials from the August 27th Study Session, and in particular Attachment C to the Mayor and Council Memorandum. Based on current projections, the proposed tax could generate about \$800 million (\$800M) over 10 years, averaging \$80M per year. Since actual tax proceeds will vary year to year, the percentages by category will govern the actual distribution of funds across the proposed programmatic areas.

The special election on March 11, 2025, will be called as a vote by mail election. Any necessary IGAs with the Pima County Recorder and the Pima County Elections Division for election-related services will be negotiated in advance of the election.

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 – 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.

The City Attorney’s Office has drafted the attached ordinances. The first ordinance calls the March 11, 2025, Special Election for the purpose of voter consideration of the proposed Charter amendment. The second ordinance establishes the approved ballot language, including the language of the amendment to Chapter IV of the Tucson Charter.

The proposed date of the Special Election – March 11, 2025 - 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, under Article XIII, § 2 of the Arizona Constitution, this statute and cannot be applied to Tucson because it conflicts with

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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.") The Arizona Attorney General, through an Opinion issued March 25, 2024 (Opinion No. I24-006 (R24-004)) has confirmed that the City of Tucson can call and conduct this proposed Charter amendment election on the March 2025 election date, because the timing of Tucson's special election to amend its Charter is a matter of purely municipal concern.

If the Mayor and Council adopt and approve the attached Ordinances, the next steps will be to approve the Community Investments Plan (the "Plan") (see Attachment C to the August 27, 2024 Mayor and Council Memorandum, "Safe and Vibrant City Investments"); and to consider and adopt a "Truth in Taxation" resolution that will establish the ongoing independent oversight of the expenditure of the tax funds, if the measure is approved by the City's voters. The final Plan and the oversight resolution will be scheduled for a future Mayor and Council meeting for approval.

Respectfully submitted,



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City Manager

TMT/DPM/MR/dg
City Attorney

Attachment(s): August 27, 2024 Study Session Agenda Materials (Mayor and Council Memorandum and Attachments)
Ordinances