



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
www.Hayward-CA.gov

## Cover Memo

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**File #:** LB 16-022, **Version:** 1

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**DATE:** March 1, 2016

**TO:** Mayor and City Council

**FROM:** Assistant City Manager

### **SUBJECT**

Adoption of a Resolution Placing Renewal of the Utility User Tax (UUT) on the June 2016 Ballot

### **RECOMMENDATION**

That Council takes the following actions to place renewal of the Utility User Tax (UUT) measure on the June 2016 ballot, levying a 5.5% tax on the use of electricity, gas, telecommunications, and video services before the voter of Hayward:

- 1) Adopts a Resolution approving the ballot statement and full text of the measure (the proposed Ordinance, Exhibit A of Attachment I) as it will appear on the ballot and requesting the Alameda County Board of Supervisors to authorize the County Clerk and Registrar of Voters to provide election services and canvass the returns (Attachment I); and
- 2) Directing the City Attorney to Develop an Impartial Analysis of the measure.

### **SUMMARY**

The Utility Users Tax (UUT) was approved by Hayward voters as part of a special election in May of 2009 as a means of protecting critical City services in the wake of the devastating impacts of the Great Recession. The UUT is a 5.5% tax on the use of electricity, natural gas, telecommunications (including traditional telephone service, long distance service and cellular phone service), and video/cable television services. The tax was initially adopted with a ten-year sunset clause, meaning that the tax is set to expire in 2019, unless renewed by the voters. The action recommended in this report would place a measure on the June 2016 ballot to renew the UUT at its current rate for a period of twenty years, beginning after the sunset of the current tax (Measure A) and expiring in 2039.

### **BACKGROUND**

The Utility Users Tax (UUT) was approved by Hayward voters as part of a special election in May of 2009 as a means of protecting critical city services in the wake of the devastating impacts of the Great Recession. The UUT is a 5.5% tax on the use of electricity, natural gas, telecommunications (including traditional telephone service, long distance service and cellular phone service), and video/cable television services. The tax was initially adopted with a ten-year sunset clause, meaning that the tax is set to expire in 2019, unless renewed by the voters.

The UUT currently generates about \$16 million per year and is now the City's third largest General Fund revenue source behind property and sales taxes. About 75% of the revenue (roughly \$12 million) is allocated to public safety operations (police and fire). The remaining \$4 million generated by the UUT funds other City programs such as streets and roads maintenance, library services and economic development programs. Even with an improving economy in recent years, revenues have lagged behind the increasing demand for services and their rising cost. The City has walked a tightrope, dramatically reducing its budget while maintaining high levels of service. At the same time, employees from all bargaining groups have shouldered more of the cost of their benefits as the City has adjusted its compensation structure. Even with these efforts, without the critical revenue provided by the UUT, the City would have had no choice but to enact severe cuts to critical services like police and fire in order to maintain fiscal stability and a balanced budget.

In the summer of 2015, staff began discussing the renewal of the City's UUT. The UUT was originally adopted during a special election for the City. The City is pursuing renewal of the UUT at this point so that the matter can be placed on the ballot during a regular election held by the City. Should Council decide to seek renewal of the UUT at this time, staff is recommending that it be put on the ballot for the upcoming regular municipal election in June so that if that renewal effort is unsuccessful, there will be an opportunity for two additional years of outreach and engagement with the Hayward community about the critical need for this revenue source before the last possible renewal point in June 2018.

At the January 26, 2016 City Council meeting, the Council received the results from preliminary polling done last fall and confirmed the recommendation of the Budget & Finance Committee to proceed with outreach efforts around a renewal of the 5.5% UUT measure for either ten or twenty years (see staff report here:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=2555232&GUID=6B112550-623A-434B-A3AF-281484E67165>).

At the February 23, 2016 City Council meeting, the Council received the results of polling done at the end of February and reviewed the community outreach around the renewal of the measure (see staff report here:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=2575580&GUID=4497DE09-188A-4D95-BE92-74D8BC9FE351>). The Council asked staff to return with the actions necessary to place renewal of the measure with a twenty-year sunset on the June 2016 ballot.

## DISCUSSION

Based on the feedback received in the outreach process conducted to date, balanced with the projected financial needs of the organization to sustain at least the current essential service levels, staff recommends that Council approves the attached Resolution seeking voter approval for renewing the UUT during the June 2016 election. If the measure is approved, implementation of the UUT Ordinance would continue (Exhibit A of Attachment I) and include the following provisions:

- 1) Maintains the current UUT tax rate at 5.5%.
- 2) Applies UUT tax to gas, electric, video services, and telecommunications (e.g., wired and wireless telephone), regardless of the technological or market method of delivery; and does not apply it to water, sewer, or garbage.
- 3) Includes an exemption or rebate for low income households and taxpayers, which applies to

households or individuals (depending on the specific utility) at or below 50% Area Median income (AMI) and/or already eligible for utility Lifeline Service. This exemption will be administered consistent with already existing processes within the City (e.g., as currently applied to water customers); or by the utility collecting the tax contingent upon the customer being qualified for Lifeline Service according to the criteria of each specific utility provider.

- 4) Provides for a twenty-year sunset provision such that the UUT tax ends in twenty years unless reenacted by the voters (i.e., sunset would be June 30, 2039, unless re-enacted in a regular election in 2038 or before.).

If Council chooses to go forward with the renewal of the UUT, the following is the suggested ballot language for Council's adoption as reflected in the approving Resolution (Attachment I):

“To maintain City of Hayward services including: neighborhood police patrols, fire stations and 911, firefighter, paramedic response times; preserving youth and anti-gang programs; emergency and disaster preparedness; and city streets, sidewalks and lighting; shall the City of Hayward renew the existing Utility Users Tax at the current rate of 5.5 percent on gas, electricity, video and telecommunications services, providing \$16 million annually for 20 years from the current end date, with exemptions for low-income lifeline users; and all money used for City of Hayward services?”

Additional Considerations About the UUT -- As of July 2015, there were 158 cities and four counties levying UUTs, covering 50% of California's total population. The average UUT tax rate in the State is 5.4%, with rates ranging from 1% to 11%.

## **ECONOMIC AND FISCAL IMPACT**

The current proposal would maintain the budget priorities and service provision goals of the City and Council. Renewing the UUT for twenty years will preserve the quality of City services, including firefighters, paramedics, fire stations, and neighborhood police patrols, emergency response times, youth /anti-gang programs, disaster preparedness initiatives, and economic development services. However, the loss of the UUT revenue would have significant and immediate impacts on critical services for residents resulting in across the board cuts to City services and staffing levels, including in public safety.

As mentioned earlier in this report, the UUT currently generates about \$16 million per year and is now the City's third largest General Fund revenue source behind property and sales taxes. About 75% of the revenue (roughly \$12 million) is allocated to public safety operations (police and fire). The remaining \$4 million generated funds other City programs such as streets and roads maintenance, library services and economic development programs.

Based on recent information from the County Registrar of Voters, the City could spend approximately \$200,000 for an election held during the regular municipal election cycle (June 2016). As this is a year for our regular municipal elections, the City Clerk has already included this cost in the FY 2016 budget. If the City chose to pursue a stand-alone election date (a date when there are no other elections and the municipality would bear the costs), that cost could possibly double unless the decision was made to utilize a mail-in ballot process.

## **PUBLIC CONTACT**

Throughout the year and particularly over the last two months, the City has engaged in extensive public outreach to determine if our community generally believes the City has honored the commitments made in seeking voter approval of the initial UUT; and to determine if the voting community supports the potential renewal of the UUT. This positive outreach was presented to Council in previous staff reports on January 26 and February 23, 2016 as noted above..

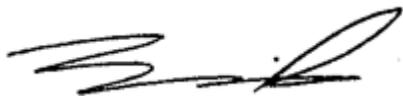
#### **NEXT STEPS**

If Council chooses to adopt the attached resolution approving the submission of a UUT Tax Renewal Measure to the voters of Hayward for the June 2016 Election, the City Clerk and City Attorney will prepare the appropriate paperwork for submission of the measure to the County.

*Prepared by:* John Stefanski, Management Analyst

*Recommended by:* Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

#### Attachments:

Attachment I	Resolution Exhibit A to Attachment I: UUT Ordinance (Article 18 Hayward Municipal Code)
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