



The City of San Diego

Staff Report

DATE ISSUED: March 22, 2021

TO: City Council

FROM: Office of the Mayor

SUBJECT: Declaration of Measure C to Have Been Approved in the Municipal Special Election Held in the City of San Diego on March 3, 2020 and Authorization of the Issuance of Bonds for Homelessness Programs and Convention Center Modernization in Accordance with Measure C

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Council District(s): Citywide

OVERVIEW:

This action is to declare that Measure C has been approved in the Municipal Special Election held on March 3, 2020. Additionally, the City is seeking a court determination that Measure C is an approved ballot measure and that the City's issuance of certain bonds under Measure C is lawfully authorized and valid.

PROPOSED ACTIONS:

1. Approve a Resolution Declaring Measure C to Have Been Approved in the Municipal Special Election Held in the City of San Diego on March 3, 2020.
2. Approve a Resolution Authorizing the Issuance of Bonds for Homelessness Programs In Accordance with Measure C
3. Approve a Resolution Authorizing the Issuance of Bonds for Modernization Improvements at the Convention Center In Accordance with Measure C

DISCUSSION OF ITEM:

On April 7, 2020, the San Diego City Council adopted Resolution R-312901 declaring the results of the Municipal Primary Election and the Municipal Special Election held on March 3, 2020. This Municipal Special Election was held for the purpose of submitting two ballot measures, known as Measure C and Measure D, to the qualified voters of the City of San Diego. Measure C resulted from a citizens' initiative proposing a special tax in the form of an increase in the City's existing Transient Occupancy Tax for specified purposes and the City's issuance of related bonds. Measure C increased the City of San Diego's 10.5% hotel visitor tax to 11.75, 12.75 and 13.75 percentage points, depending on hotel location, through at least 2061 for the Convention Center expansion, modernization, promotion and operations, homelessness services and programs, and street repairs.

In the April 2020 Resolution, the Council declared that, out of the total number of 366,373 votes cast upon Measure C in the Municipal Special Election, 239,024 (65.24 percent) were in favor of Measure C.

Instead of declaring in the April 2020 Resolution whether Measure C had been approved or rejected on the basis of the voting results, the Council noted that:

- (i) a split of authority exists in California as to whether a majority vote or a two-thirds supermajority vote is required for the passage of a special tax proposed by citizens' initiative;
- (ii) the ballot and ballot pamphlet stated a two-thirds vote threshold for approval of Measure C, based on the City Attorney's determination as to the legal precedent and usual practice in California at the time of submittal of Measure C to the voters; and
- (iii) it is anticipated that the California Supreme Court will issue a final decision in the future resolving the ambiguity as to the vote threshold applicable to a special tax proposed by citizens' initiative, and the California Supreme Court's decision may impact Measure C.

At the time of the April 2020 Resolution, the split of authority in California existed because the trial court in San Francisco had concluded that a majority vote is required for the passage of a special tax proposed by citizens' initiative and the trial court in Fresno had concluded that a two-thirds supermajority vote is required for the passage of a special tax proposed by citizens' initiative. Since then, three appellate court decisions have been issued, all concluding that only a simple majority vote is required for the passage of a special tax proposed by citizens' initiative. In light of this new legal precedent that resolves the ambiguity noted in the April 2020 Resolution, the Council wishes to declare that Measure C has been approved.

Additionally, the City is seeking a court determination that Measure C is an approved ballot measure and that the City's issuance of certain bonds under Measure C is lawfully authorized and valid. Until the City obtains a favorable trial court judgment or outcome in the lawsuit, the City will not impose or collect the increase in the City's Transient Occupancy Tax, issue any bonds contemplated by Measure C, or take other steps to implement Measure C

City Strategic Plan Goal(s)/Objective(s):

Goal # 2: Work in partnership with all of our communities to achieve safe and livable Neighborhoods

Objective #3: Invest in infrastructure

Objective #4: Foster services that improve quality of life

Goal 3: Create and sustain a resilient and economically prosperous City

Objective #1: Create dynamic neighborhoods that incorporate mobility, connectivity, and sustainability

Objective #3: Diversify and grow the local economy

Objective #5: Enhance San Diego's global standing

Fiscal Considerations:

The Measure C Fiscal Impact Analysis noted, based on pre-recession 2020 data, that the measure could generate \$6.8 billion in additional hotel tax revenues, including approximately \$4.0 billion for the Convention Center, \$2.1 billion for Homelessness, and \$0.7 billion for Street Repairs.

Charter Section 225 Disclosure of Business Interests:

N/A (no contract associated with the action)

Environmental Impact:

This activity, the declaration of Measure C to have been approved and the authorization and issuance of bonds in accordance with Measure C, is not a project pursuant to CEQA Guidelines Sections 15378(b)(4), which includes the creation of governmental funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and 15378(b)(5), which includes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. As such, this activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3). This determination is predicated on CEQA Guidelines Section 15004, which provides direction to lead agencies

on the appropriate timing for environmental review. Future development proposals for which the funds are targeted will be subject to CEQA review at the appropriate future date.

Equal Opportunity Contracting Information (if applicable):

N/A

Previous Council and/or Committee Actions:

On April 7, 2020, the San Diego City Council adopted Resolution R-312901 declaring the results of the Municipal Primary Election and the Municipal Special Election held on March 3, 2020.

Key Stakeholders and Community Outreach Efforts:

N/A

Jessica Lawrence

Director of Policy