

## **RESOLUTION NO. 7820**

### **RESOLUTION OF THE CITY OF PLACERVILLE ESTABLISHING NOVEMBER 2, 2010, AS THE DATE FOR AN ELECTION ON A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL RELATING TO THE ENACTMENT OF A ONE-QUARTER OF ONE PERCENT (0.25%) TRANSACTIONS AND USE (SALES) TAX FOR THIRTY YEARS, ESTABLISHING THE POLICIES AND PROCEDURES FOR SUCH AN ELECTION AND REQUESTING THAT THE COUNTY OF EL DORADO CONDUCT SUCH AN ELECTION**

WHEREAS, beginning in 2002, to comply with federal and state clean water regulations, the City of Placerville undertook a multi-million dollar upgrade of its wastewater treatment facility, the Hangtown Creek Water Reclamation Facility; and

WHEREAS, the finished project is a state-of-the-art treatment plant that has reduced operating costs, improved the quality of water discharged into Hangtown Creek, and addressed health and safety issues, as well as bringing the City into compliance with state and federal law. As a result of the improvements, water quality has improved, as have air and land quality. The improved plant requires fewer chemicals, produces fewer solids, and results in less trucking. Because of those features, the Hangtown Creek Facility has won several awards, including Wastewater Project of the Year from the American Association of Civil Engineers – California; the 2009 Engineering Achievement Award from the California Water Environment Association – Sacramento; and one from the American Academy of Environmental Engineers; and

WHEREAS, to pay for the improvements, the City issued revenue bonds and borrowed from the State Revolving Fund, a low-interest program operated by the State of California to assist local agencies bring existing facilities up to current standards. To generate sufficient funds to repay those debts, the City increased the charges for wastewater; and

WHEREAS, because revenue from increased wastewater charges has been committed to repaying the loans and bonds for the improvements to the Hangtown Creek Facility, the City has limited funds available for water and wastewater improvement projects, such as replacing existing lines; and

WHEREAS, if an alternative revenue source were available to partially finance debt repayment for the water and wastewater system improvements and to fund water and/or wastewater construction projects, such as line replacement, the City would be able to reduce water and/or sewer rates; and

WHEREAS, at its June 22, 2010 meeting, the City Council received a report indicating there is substantial community support for a temporary sales tax (“transactions and use tax”) dedicated to the repayment of water and wastewater system debt and funding for water and /or wastewater improvement projects. submitting to the voters a ballot measure to approve a quarter percent (0.25%) sales tax for 30 years ; and

WHEREAS, at a public hearing on July 8, 2010, the Council considered calling a special election to seek voter approval of a proposed special transactions and use tax (or “sales tax”), as authorized by Revenue and Taxation Code section 7285.91; and

WHEREAS, after that hearing, the City Council concluded that all of the information presented indicated that, to create an additional source of revenue to assist with the repayment of wastewater treatment plant debt and to fund water and wastewater improvement projects, the Council should call an election to ask the voters of the City to approve a 30-year local transactions and use tax of one-quarter percent (0.25%); and

WHEREAS, on the basis of the foregoing, the City Council determined that it was appropriate to place a measure regarding a special transactions and use (sales) tax before the voters at the November 2, 2010 general election; and

WHEREAS, the tax to be submitted, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property. The tax rate would be one-quarter of one percent (0.25%) (a quarter cent for each dollar) of the sales price of the property. The tax revenue would be collected by the State Board of Equalization and remitted to the City. The tax would be in effect for 30 years, and would then expire automatically, unless extended by the voters. The tax shall be approved if the measure receives at least two-thirds of those voting on the measure; and

WHEREAS, the Placerville City Council is authorized by California Elections Code Section 9222 to place measures before the voters; and

WHEREAS, Elections Code Sections 9281 through 9287 set forth the procedures for arguments in favor of and in opposition to any City measure and for rebuttal arguments; and

WHEREAS, it is desirable that the election be consolidated with the statewide election to be held on the same date and that within the City, the precincts, polling places and election officers of the two elections be the same, and that the County Elections Department of the County of El Dorado canvass the returns of the election and that the election be held in all

respects as if there were only one election; and

WHEREAS, based on all of the information presented at the July 8, 2010 meeting, both written and oral, including the staff reports, minutes, and other relevant materials, the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378, subdivisions (2) and (4) of subdivision (b), this tax does not constitute a project under CEQA and therefore review under CEQA is not required. Additionally, it is uncertain at this time which, if any, water or wastewater improvement projects may be funded by the revenue from the tax proposed by this resolution. The City shall perform CEQA analysis for any water or wastewater improvement project funded by the revenue from the tax prior to approving the project, if the project requires analysis under CEQA,

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. Recitals. The foregoing recitals are true and correct and are hereby incorporated by reference.

2. Call Election; Placement of Measure on the Ballot. Pursuant to California Constitution Article XIIC, Section 2; Government Code Section 53724; and Elections Code Section 9222, the City Council of the City of Placerville hereby calls an election at which it shall submit to the qualified voters of the City, a measure that, if approved, would adopt a temporary general transactions and use tax, as authorized by Revenue and Taxation Code section 7285.91. This measure shall be designated by letter by the El Dorado County Elections Department. Pursuant to Election Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 2, 2010.

3. Ballot Language. The question to be presented to the voters shall be as follows:

To help pay for the State-mandated Wastewater Plant upgrade debt and water and sewer line replacements, which would help reduce water and/or sewer rates in the City, shall the City of Placerville adopt an add-on sales tax (transactions and use tax) of one-quarter percent (.25%) for 30 years, with all proceeds going only to local water and/or wastewater debt service and water and/or wastewater construction projects, with annual oversight?	YES
	NO

4. Proposed Ordinance. The ordinance authorizing the special tax to be approved by the voters pursuant to Sections 2 and 3 of this resolution is as set forth in Attachment 1 hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 2, 2010 election, as required by Revenue and Taxation Code

section 7285.91, subject to the approval of a two-thirds majority of the voters voting on the measure at the election called by the adoption of this resolution. The entire text of the ordinance, attached hereto as Attachment 1, shall be made available to the public upon request. The ordinance specifies that the rate of the transactions tax shall be one-quarter of one percent (0.25%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies that the rate of the use tax shall be one-quarter of one percent (0.25%) of the sales price of tangible personal property stored, used or otherwise consumed in the City, and that the tax shall be in effect for thirty years. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

5. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of Placerville, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

6. Request to Consolidate and Conduct Election and Canvass Returns.

(a) Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of El Dorado is hereby requested to consent and agree to the consolidation of a Municipal Election with the Statewide Election on Tuesday, November 2, 2010, for the purpose of placing the measure set forth in Sections 2 and 4 on the ballot.

(b) The County of El Dorado Elections Department is authorized to canvass the returns of the Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

(c) The Board of Supervisors is requested to issue instructions to the County of El Dorado Elections Department to take any and all steps necessary for the holding of the consolidated election.

(d) The City of Placerville recognizes that additional costs will be incurred by the County of El Dorado by reason of this consolidation and agrees to reimburse the County for any costs.

7. Submission of Ballot Argument and Impartial Analysis.

(a) The last day for submission of direct arguments for or against the measure shall be by 5:00 p.m. on July 28, 2010.

(b) The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on August 4, 2010.

(c) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The City Attorney shall prepare an impartial analysis of the measure by August 6, 2010.

(f) Pursuant to California Elections Code Section 9282, Mayor Pierre Rivas is hereby authorized to prepare a written argument in favor of the proposed measure, not to exceed three hundred (300) words, on behalf of the City Council. At Mayor Pierre Rivas' discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure, Mayor Pierre Rivas is also authorized to prepare a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure.

(g) Pursuant to California Elections Code Section 9285, when the El Dorado County Elections Department has selected the arguments for and against the measure, which will be printed and distributed to the voters, the El Dorado County Elections Department shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut.

8. Effective Date. This resolution shall become effective immediately upon its passage and adoption and the City Clerk is directed to send certified copies of this resolution to the El Dorado County Board of Supervisors and to the County Recorder-Clerk and Registrar of Voters.

9. CEQA. This resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. §§ 15000 *et seq.*, "CEQA Guidelines"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a

project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines Section 15060 review under CEQA is not required. Additionally, it is uncertain at this time which, if any, water or wastewater improvement projects may be funded by the revenue from the tax proposed by this resolution. The City shall perform CEQA analysis for any water or wastewater improvement project funded by the revenue from the tax prior to approving the project, if the project requires analysis under CEQA.

The foregoing resolution was introduced at a special meeting of the City Council of the City of Placerville held on July 8, 2010, by Vice-Mayor Machado, who moved its adoption. The motion was seconded by Councilmember Hagen. A poll vote was taken which stood as follows:

AYES: Acuna, Hagen, Machado, Rivas

NOES: None

ABSTAIN: None

ABSENT: Borelli

*Mayor Pierre Rivas*

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Mayor Pierre Rivas

ATTEST:

*Susan Zito, CMC, City Clerk*

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Susan Zito, CMC, City Clerk

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