RESOLUTION NO. 11,110

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK CALLING AN ELECTION TO BE HELD ON NOVEMBER 3, 2020, FOR VOTER CONSIDERATION OF A BALLOT MEASURE SEEKING VOTER AUTHORIZATION TO AMEND MUNICIPAL CODE CHAPTER 3.18 TO EXTEND THE TERM OF THE CITY’S EXISTING UTILITY USERS TAX WITHOUT A RATE INCREASE; ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH AN ELECTION; REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA TO CONSOLIDATE THE GENERAL MUNICIPAL ELECTION WITH THE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2020; REQUESTING CERTAIN SERVICES OF THE REGISTRAR OF VOTERS OF ALAMEDA COUNTY WITH RESPECT TO THE CONSOLIDATED GENERAL MUNICIPAL ELECTION; AND PROVIDING FOR SUBMITTAL OF BALLOT ARGUMENTS AND REBUTTALS AND AUTHORIZING THE FILING OF AN IMPARTIAL ANALYSIS

WHEREAS, the City of Newark (the “City”) is authorized to levy a Utility Users Tax (“UUT”); and

WHEREAS, Chapter 3.18 of the Newark Municipal Code establishes a UUT of three and one quarter percent (3.25%) within the City; and

WHEREAS, the UUT is paid by recipients of telecommunications, video, electric and gas utility services, collected by the utilities as part of regular billing, and remitted to the City; and

WHEREAS, the UUT will automatically expire on December 31, 2020; and

WHEREAS, the UUT raises approximately two million seven hundred fifty thousand dollars ($2,750,000) annually of the City’s General Fund Budget; and

WHEREAS, the City wishes to maintain vital services for thousands of Newark citizens every year; and

WHEREAS, extending voter-approved locally controlled funding with no increase in tax rate will maintain public safety, pothole repair and street maintenance, crime prevention, parks and recreation programs and other city services with funding that cannot be taken by the State; and

WHEREAS, the public has indicated that maintaining 911 emergency response times and fire protection is a top priority; and

WHEREAS, continuing this local funding will help keep community police officers on the streets to maintain successful crime fighting efforts that keep Newark residents safe; and
WHEREAS, the City wishes to prevent severe cuts to critical resident services in these challenging times; and

WHEREAS, voter-approved, locally controlled funding has helped maintain the City’s emergency reserves and fiscal stability; and

WHEREAS, by law, all funds from an extension of existing, voter-approved local funding must continue to stay in Newark to maintain local services – no funds can be taken by Sacramento or the federal government; and

WHEREAS, all funds will continue to be subject to mandatory financial audits, and yearly reports to the community to ensure funds are spent as promised; and

WHEREAS, Newark voters first approved the UUT in November 2010 and extended the UUT in November 2014; and

WHEREAS, Article XIIIC, section 2(b) of the California Constitution requires that any general tax for unrestricted general revenue purposes, such as a utility users tax, must be submitted to and approved by a majority vote of the voters voting on the issue of imposing any general tax; and

WHEREAS, the tax extension imposed by this proposed measure will only become effective if approved by a simple majority of the City’s voters voting on the question at the November 3, 2020 election; and

WHEREAS, based on all of the information presented at the July 23, 2020 meeting of the City Council, 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, review is not required.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that:

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

Section 2. The City Council is authorized to present a measure to the voters for their consideration pursuant to Elections Code Section 9222 and Government Code Section 53724.

Section 3. Pursuant to the requirements of the laws of the State of California, the City Council hereby calls an election at which it shall submit to the qualified voters of the City of Newark a measure that, if approved by a majority vote, would extend the term of the UUT, without a rate increase, for an additional nine (9) years. This measure shall be designated by letter by the Alameda County Registrar of Voters. Pursuant to California Elections Code Section 10400 et seq., the election for this measure shall be consolidated with the established statewide Resolution No. 11,110.
Section 4. The City Council does hereby submit for adoption by the qualified voters of the City of Newark at the General Municipal Election of November 3, 2020, the following question:

| “To maintain critical City services, including 911 emergency response/fire protection/public safety; streets/pothole repair; parks/recreation; neighborhood police patrols, crime prevention, drug/gang-prevention programs; and other city services; shall the measure extending the City of Newark’s existing voter-approved utility users tax 9 years at the current 3.25% rate, providing $2,750,000 annually, exempting seniors and low-income residents, requiring audits, with no increase in tax rate and no money for Sacramento, be adopted?” | YES | NO |

Section 5. The full text of the proposed measure to be submitted to the voters is attached as Exhibit A (the “Measure”) hereto. If a simple majority of the qualified voters voting on the Measure vote in favor therefor, the Measure shall be deemed adopted and shall be in full force and effect ten (10) days after the date the vote is declared by the City Council of the City of Newark. The City Council hereby approves the Measure, attached as Exhibit A, the form thereof, and its submission to the voters of Newark at the November 3, 2020 election.

Section 6. The Board of Supervisors of Alameda County is hereby requested to permit the Alameda County Registrar of Voters to provide such services as may be necessary to properly and lawfully hold and conduct a Consolidated General Municipal Election in the City on November 3, 2020, pursuant to this Resolution, including but not restricted to the providing and printing of ballots and polling place cards, election supplies, voting booths, flags, registration lists and any other materials and services required to lawfully conduct the election. The City recognizes that additional costs will be incurred by the County by reason of this Consolidated General Municipal Election, and the City agrees to reimburse the County based on the County's established rates. This request is made pursuant to California Elections Code Sections 10002 and 10403.

Section 7. The City Clerk is authorized, instructed and directed to work with the Office of the Registrar of Voters as needed in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. The Office of the Registrar of Voters is authorized to canvass the returns of the general municipal election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections. The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Alameda County and the Registrar of Voters of Alameda County.

Section 8. Unless otherwise specified in this Resolution, the General Municipal Election shall be held and conducted as provided in Resolution No. 11,084, and as provided by law for holding municipal elections.
Section 9.  (a) In accordance with Elections Code Sections 9282 and 9283, arguments submitted for or against the Measure shall not exceed 300 words in length, and shall be printed upon the same sheet of paper and mailed to each voter with the sample ballot for the election and may be signed by not more than five (5) persons.

(b) In accordance with Elections Code Section 9282, the following headings, as appropriate, shall precede the arguments' wording, but shall not be counted in the 300 word maximum: "Argument Against Measure ________" or "Argument In Favor Of Measure ________" (the blank spaces being filled only with the letter or number, if any, designating the Measure).

(c) In accordance with Elections Code Section 9283, printed arguments submitted to voters in accordance with Section 9282 of the Elections Code shall be filed with the City Clerk, accompanied by the printed name(s) and signature(s) of the author(s) submitting it or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers. Arguments are due in the office of the City Clerk prior to 4:00 p.m. on August 6, 2020.

(d) The City Council hereby authorizes Mayor Nagy to prepare and file a ballot argument in favor of the ballot measure set forth in this Resolution, which may be signed by members of the City Council, representatives of bona fide associations of citizens, and individual voters eligible to vote on the Measure. Members of the City Council who sign the ballot argument may use their titles. In accordance with Elections Code Section 9287, any council members authorized by the City Council to do so may sign the argument in favor of the Measure.

Section 10.  (a) Pursuant to Elections Code Section 9285, when the City Clerk has selected the arguments for and against the Measure, that will be printed and distributed to the voters, the City Clerk 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 that it seeks to rebut.

(b) Rebuttal arguments shall not exceed 250 words and may be signed by not more than five persons. However, only the first five persons to sign will be printed with the ballot measure. The persons that sign the rebuttal arguments may be different persons than the persons that signed the direct arguments.

(c) The last day for submittal of rebuttal arguments for or against the Measure shall be by 4:00 p.m. on August 17, 2020.

(d) The City Council hereby authorizes Mayor Nagy to prepare and file a rebuttal argument in favor of the ballot measure set forth in this Resolution, which may be signed by members of the City Council, representatives of bona fide associations of citizens, and individual voters eligible to vote on the Measure, who may be different from the people who signed the argument in favor of the measure. Members of the City Council who sign the rebuttal argument
may use their titles. In accordance with Elections Code Section 9287, any council members authorized by the City Council to do so may sign the rebuttal argument for the Measure.

Section 11. In accordance with Elections Code Section 9280, the City Attorney is directed to file with the City Clerk, by 4:00 p.m. on August 6, 2020, an impartial analysis of the Measure, not to exceed 500 words, showing the effect of the Measure on the existing law and the operation of the Measure.

Section 12. (a) The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Alameda County and the Alameda County Elections Department. The City Clerk is hereby authorized and directed to take all steps necessary to place the Measure on the ballot and to cause a synopsis of the Measure attached as Exhibit A to be published once in a newspaper of general circulation in accordance with California Elections Code Section 12111 and California Government Code Section 6061. A copy of the Measure shall be made available to any voter upon request. The City Clerk is authorized and directed to give further additional notice of the Measure in the time, form, and manner required by law.

(b) In all particulars not recited in this Resolution, and except as provided for in Elections Code Sections 10403 and 10418, the election shall be held and conducted as provided by law for holding municipal elections.

Section 13. The City Manager, City Attorney and City Clerk (“City Officers”) are authorized to make all approvals, expend funds, enter into any agreements, and take any and all actions necessary or appropriate to carry out and implement the terms of this Resolution and to administer the City’s obligations, responsibilities and duties to be performed herein.

Section 14. The approval of 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”), based on the general rule set forth in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This resolution places a measure on the ballot that, if approved, extends the term of the UUT, without a rate increase, for an additional nine (9) years; thus, it can be said with certainty that there is no possibility that the Measure will have a significant effect on the environment.
I HEREBY CERTIFY the foregoing resolution was introduced at a regular meeting of the City Council of the City of Newark held on July 23, 2020, by Council Member Hannon who moved its adoption and passage, which motion was carried after being duly seconded, and passed by the following vote:

AYES: Council Members Bucci, Collazo, Hannon, Vice Mayor Freitas and Mayor Nagy

NOES: None

ABSENT: None

SECONDED: Council Member Bucci

APPROVED:

s/ALAN L. NAGY
Mayor

s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:

s/KRISTOPHER J. KOKOTAYLO
Interim City Attorney