



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5749
September 15, 2020
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 5749: Temporary Increase in Utility Tax Rates (Ordinance No. 20C-20 Second Reading and Adoption) and Interfund Loans Authorization (Resolution No. 1586) for Potential Litigation Costs to Enforce the Terms of the City's 2017 Settlement Agreement with Sound Transit.	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution
RECOMMENDED ACTION:	Adopt Ordinance No. 20C-20 temporarily increasing utility tax rates, pass Resolution No. 1586 authorizing interfund loans and appropriate proceeds for potential litigation costs.	
DEPARTMENT:	City Council	
STAFF:	Jessi Bon, City Manager Bio Park, City Attorney Lajuan Tuttle, Deputy Finance Director	
COUNCIL LIAISON:	n/a	
EXHIBITS:	1. Ordinance No. 20C-20 temporarily increasing utility tax rate 2. Resolution No. 1586 authorizing an interfund loan	
CITY COUNCIL PRIORITY:	n/a	

AMOUNT OF EXPENDITURE	\$ 1,500,000.00
AMOUNT BUDGETED	\$ 0
APPROPRIATION REQUIRED	\$ 1,500,000.00

SUMMARY

On September 1, 2020, the City Council set Ordinance No. 20C-20 for second reading and adoption on September 15, 2020. Ordinance No. 20C-20 temporarily increases the utility tax rate on water, sewer, and stormwater utilities within Mercer Island from 5.3 percent to 8.0 percent for a 36-month period from November 1, 2020 through October 31, 2023. The new tax revenue will be used to pay back the interfund loans authorized by Resolution No. 1586.

Resolution No. 1586 authorizes the City's water and sewer utility funds to lend \$750 thousand each, for a combined total of \$1.5 million, to the General Fund to finance the cost of potential litigation to enforce the terms of the City's [2017 Settlement Agreement](#) with Sound Transit. The dispute with Sound Transit is described in [AB 5747](#).

Since Ordinance No. 20C-20 was introduced on September 1, 2020 and set for second reading, Sound Transit has submitted their [90% construction plans for the Bus/Rail Interchange](#). Their 90% plans continue to include

design features that are inconsistent with the Settlement Agreement. Sound Transit has failed to provide responses to the City's previous questions regarding these issues in the plan submittal process.

As noted in AB 5747, the City has few tools at its disposal to finance the costs of litigation, however, one option is to implement a temporary utility tax rate increase. A temporary utility tax increase was used by the City to fund the 2017 litigation with Sound Transit that led to the Settlement Agreement limiting Sound Transit's use of North Mercer Way for the bus/rail interchange.

TEMPORARY UTILITY TAX INCREASE

Ordinance No. 20C-20 temporarily increases the utility tax rate on water, sewer, and stormwater utilities within Mercer Island from 5.3% to 8.0% for a 36-month period from November 1, 2020 through October 31, 2023. The temporary rate increase is estimated to generate \$1.5 million in new tax revenue, which will be used to pay back the interfund loans from the City's utility funds to cover the immediate expenses related to potential litigation to enforce the terms of the Settlement Agreement.

INTERFUND LOAN

Resolution No. 1586 authorizes interfund loans from the City's water and sewer utility funds to the General Fund. The authorized total amount is \$1.5 million, which will be paid back within 36 months at a fixed interest rate of 0.5%. The interest rate is set to reimburse the Utility Funds for opportunity cost, which is the interest the funds would earn in the local government investment pool, which is currently paying interest at a rate of 0.26%. There will be no penalty for early repayment of the loan.

If the City is able to resolve its dispute with Sound Transit without expending the full amount borrowed, the interfund loan may be paid back early. Accordingly, the City Council may adopt a new ordinance reducing the period of the temporary utility tax rate increase implemented by Ordinance No. 20C-20.

RECOMMENDATION

1. Adopt Ordinance No. 20C-20 temporarily increasing utility tax rates to raise additional revenue for potential litigation to enforce the terms of the City's 2017 Settlement Agreement with Sound Transit.
2. Pass Resolution No. 1586 authorizing interfund loans in the amount of \$750 thousand each, for a combined total of \$1.5 million, from the City's water and utility funds to the General Fund.
3. Appropriate \$1.5 million in loan proceeds authorized in Resolution No. 1586 for litigation costs.