



## BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 5747  
September 1, 2020  
Regular Business

### AGENDA BILL INFORMATION

<b>TITLE:</b>	AB 5747: First reading of 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.	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed:
<b>RECOMMENDED ACTION:</b>	Set Ordinance No. 20C-20 for second reading and adoption on September 15, 2020.	<input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution

<b>DEPARTMENT:</b>	City Council
<b>STAFF:</b>	Jessi Bon, City Manager Bio Park, City Attorney LaJuan Tuttle, Deputy Finance Director
<b>COUNCIL LIAISON:</b>	
<b>EXHIBITS:</b>	1. Ord. No. 20C-20
<b>CITY COUNCIL PRIORITY:</b>	n/a

<b>AMOUNT OF EXPENDITURE</b>	\$ n/a
<b>AMOUNT BUDGETED</b>	\$ n/a
<b>APPROPRIATION REQUIRED</b>	\$ n/a

### SUMMARY

The City is preparing for potential litigation to enforce the terms of the City's 2017 Settlement Agreement ("Settlement Agreement") with Sound Transit. A temporary increase to the utility tax has been identified as the revenue source to offset the costs of litigation. 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 temporary rate increase is estimated to generate \$1.5 million in new tax revenue.

#### Background

The City has a [Settlement Agreement](#) with Sound Transit that restricts the operation of buses serving regional commuters who will transfer to and from the future Mercer Island light rail station. The Settlement Agreement limits all passenger pick-up and drop-off, as well as bus layovers, to the south side of North Mercer Way. Layovers are further restricted to 15-minutes and only between the hours of 3:30 PM to 7:00

PM. Buses are restricted from circulating through Town Center, except in emergency situations. Finally, buses may not be scheduled to exceed the daily volumes designated in the Settlement Agreement.

For over a year, the City has expressed its disapproval of Sound Transit's plans to change the design and operations of the bus/rail interchange previously agreed to in the Settlement Agreement. Sound Transit's 60% plans and communications to-date regarding operations contradict the pick-up, drop-off, and layover restrictions in the Settlement Agreement. Representatives from the City of Mercer Island have met with Sound Transit representatives, including Sound Transit's CEO, in an attempt to resolve this dispute. In August, Sound Transit refused the City's good faith offer to engage in mediation as a final attempt to avoid litigation. Soon thereafter, the City Council issued its [message](#) to the Mercer Island community expressing the City Council's resolve to enforce the terms of the Settlement Agreement.

Unfortunately, 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 the same approach the City used 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.

#### **Ordinance No. 20C-20**

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 \$1,500,000 in new tax revenue. This new revenue will be used to pay for costs related to litigation to enforce the terms of the Settlement Agreement.

Initially, the City's General Fund will borrow from the City's utility funds through an interfund loan to pay for costs related to litigation. (The Resolution authorizing the interfund loan will be brought before the City Council concurrently with the second reading of Ordinance No. 20C-20.) The additional revenue from the utility tax increase will then be used to repay the loan, amortized for three years, from the General Fund to the utility funds.

If the City is able to resolve its dispute with Sound Transit without expending the full amount initially authorized, the interfund loan may be paid back early. Likewise, 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**

Set Ordinance No. 20C-20 for second reading and adoption on September 15, 2020.