

SUPPLEMENTAL INFORMATION No. 1

For Board of Supervisors Agenda of July 28, 2020

- Consent Agenda Item }
- Continued Public Hearing Item }
- Public Hearing Item }
- Department Report }
- Special Presentation }
- Old Business }

File ID 20-882: Adoption of a Resolution containing language of the ballot measure pursuant to Article XXXIV of the Constitution of the State of California to be consolidated with the November 3, 2020, General Election and submitting the ballot measure to qualified electors.

Since the July 7, 2020, Board of Supervisor’s meeting County Counsel has located legal guidance from the Institute for Local Government (“ILG”) regarding ballot measure activities and use of public resources.¹ Based on this information and independent research, Counsel recommends that the distribution of public information be kept to the County’s website and that a public information mailer not be developed or distributed.

The courts have distinguished between expenditure of public resources for governing and expenditure for election campaigning. Under both statutory and case law, local agencies may use public resources to draft a measure for the ballot, while use of public resources for campaigning is prohibited.

Ballot measure activities may constitute election campaigning when not consistent with normal communications patterns or styles of the agency or jurisdiction. At this time, neither the Department’s nor the County’s regular communications styles or channels include mailing newsletters or similar informational materials directly to residents in the unincorporated area of the County. Under current case law the safest approach is to deliver voter information through regular agency communication channels, and consistent with the County’s and the Department’s normal communications patterns. This means the County’s website will be the central distribution point for voter information. The ILG guidance does state staff may provide unbiased informational presentations upon request to community organizations and may respond to public queries via County email. Ultimately ILG encourages staff to work closely with counsel on the application of ballot measure activity restrictions to avoid missteps.

While following Counsel’s recommendation means the County will rely largely on a voter information webpage to disseminate information to voters, it will eliminate this \$23,300 expenditure and reduce the overall July 7, 2020 supplemental budget request from \$77,800 to \$54,500, as show in Attachment 1.

¹ Institute of Local Government, Legal Issues Associated with Use of Public Resources and Ballot Measure Activities, June 24, 2010: <https://voiceofoc.org/wp-content/uploads/2017/03/ILG-Memo.pdf> (accessed July, 14, 2020).