

RESOLUTION NO. 20-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, FOR THE SUBMISSION TO THE VOTERS A PROPOSED MEASURE RELATING TO AN ORDINANCE ENACTING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, under the provisions of the applicable laws in the State of California and the City of Lancaster (“City”) Charter, the City Council desires to submit to the voters at a Special Municipal Election a proposed measure relating to an ordinance enacting a transactions and use tax to be administered by the California Department of Tax and Fee Administration; and

WHEREAS, the City Council is authorized and directed by applicable law to submit the proposed measure to the voters;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Resolution Ordering Submission to Voters. On July 14, 2020, the City Council unanimously adopted Resolution No. 20-39 (“Measure Resolution”), which ordered that the measure described in Section 2 of this resolution be submitted to the voters, directed the City Attorney to prepare an impartial analysis of the measure, set priorities for filing a written argument relating to the measure, and provided for rebuttal arguments relating to the measure. A copy of the Measure Resolution, including the full text of the proposed measure (ordinance), is attached hereto as Exhibit “A” and incorporated herein. The City Council reaffirms and incorporates herein the finding and determination made in Section 2 of the Measure Resolution that an emergency exists for purposes of Section 2(b) of Article XIII C of the California Constitution and that the measure described in Section 2 of this resolution may be submitted to voters at an election to be held on Tuesday, November 3, 2020, despite such election not being an election for members of the City Council. The City Council also hereby ratifies and reaffirms the Measure Resolution; provided, however, that any statement in the Measure Resolution indicating the election to be held on November 3, 2020, will be a “General Municipal Election” shall be and hereby is amended, *nunc pro tunc*, to indicate such election will be a “Special Municipal Election.”

[Remainder of page intentionally blank.]

SECTION 2. Call for Special Municipal Election and Submission of Ballot Measure. Pursuant to the requirements of the applicable laws of the State of California and the City Charter, there is called and ordered to be held in the City of Lancaster, on Tuesday, November 3, 2020, a Special Municipal Election for the purpose of submitting to the voters the following question:

City of Lancaster	
<p>Lancaster Essential Services Protection Measure</p> <p>Shall an ordinance protecting Lancaster’s long-term financial stability; maintaining essential city services; repairing streets/potholes; addressing homelessness; maintaining 911 emergency response; keeping public areas safe/clean for all; retaining local businesses; protecting local water sources; maintaining veterans, senior, mental health, community programs; by establishing a ¾-cent sales tax, providing approximately \$12,000,000 annually until ended by voters; requiring citizen oversight, public spending disclosures; all funds used locally in Lancaster, be adopted?</p>	YES
	NO

SECTION 3. Vote Requirement. The vote requirement for the measure to pass is a majority of the votes cast.

SECTION 4. Impartial Analysis, Arguments and Rebuttals. Procedures for the City Attorney’s impartial analysis, as well as the submission of ballot arguments and rebuttals, are set forth in the Measure Resolution.

SECTION 5. Ballots. The ballots to be used at the election shall be in the form and content as required by law.

SECTION 6. Coordination. The City Clerk is authorized, instructed, and directed to coordinate with the County of Los Angeles (“County”) to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 7. Polls. The polls for the election shall be open at seven o’clock a.m. of the day of the election and shall remain open continuously from that time until eight o’clock p.m. of the same day when the polls shall be closed, pursuant to Section 10242 of the Elections Code, except as provided in Section 14401 of the Elections Code.

SECTION 8. General. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 9. Notice. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 10. Authorization for Payment. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 11. Certification. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED this ___ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

ANDREA ALEXANDER
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF RESOLUTION
CITY COUNCIL

I, _____, _____, City of Lancaster, CA. do hereby certify that this is a true and correct copy of the original Resolution No. 20-40, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____, day of _____, _____.

(seal)

EXHIBIT "A"

MEASURE RESOLUTION

[INSERT RESOLUTION ADOPTED JULY 14]

RESOLUTION NO. 20-39

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER ORDERING THAT AN ORDINANCE BE SUBMITTED TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 3, 2020, APPROVING ENACTING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE, SETTING PRIORITIES FOR FILING A WRITTEN ARGUMENT RELATING TO THE BALLOT MEASURE, AND PROVIDING FOR REBUTTAL ARGUMENTS RELATING TO THE BALLOT MEASURE

WHEREAS, the health and safety of all residents in the City of Lancaster (“the City”) is our top priority; and

WHEREAS, the City is committed to strong community partnerships, safe neighborhoods and parks, quality services to support residents, and respectful and responsive city employees to make the City a strong, caring and safe community for all residents; and

WHEREAS, the City has been proactive in its actions to protect residents during the COVID-19 pandemic, to safely reopen businesses and partner with local employers to ensure a strong economic recovery, serving as a model for other cities in Los Angeles County; and

WHEREAS, the City is committed to maintaining quick 911 emergency response times, youth, veteran and senior services, keeping public spaces safe and clean, addressing homelessness, repairing streets, and maintaining other essential city services; and

WHEREAS, like the rest of the State and the country, the City faces serious fiscal challenges due to the fallout of the COVID-19 pandemic with funding for high-priority services threatened as a result; and

WHEREAS, the City currently expects an alarming decrease in revenues that will severely limit its ability to provide these essential City services; and

WHEREAS, the City has taken cost-saving measures, including implementing hiring and salary freezes for existing employees, reduced operating budgets, capital outlay and a workforce reduction by the elimination of vacant positions; and

WHEREAS, despite current expenditure reductions, the City’s General Fund revenues are expected to decrease by \$9.9 million in Fiscal Year 2020-21 and another \$8.8 million in Fiscal Year 2021-22 due to steep declines in sales tax, property tax, and state funding revenues; and

WHEREAS, additional locally controlled funding is necessary to protect essential city services and keep our community strong, healthy and safe into the future; and

WHEREAS, the City Council proposes to submit to the voters of the City an ordinance to increase the City’s Transactions and Use Tax (“Transactions and Use Tax”) by ¾ cent; and

WHEREAS, a Transactions and Use Tax is expected to annually generate approximately \$12,000,000 in General Fund revenue that can be used to maintain essential city services; and

WHEREAS, the Transaction and Use Tax revenue will remain in the City, overseen by a community oversight committee; and

WHEREAS, the City Council has determined that the situation and circumstances described above constitute an emergency for purposes of Section 2(b) of Article XIII C of the California Constitution.

THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines that the foregoing recitals are true and correct. The recitals are hereby incorporated into the operative provisions of this Resolution by this reference.

SECTION 2. The City Council intends to call the City’s General Municipal Election, to be held on Tuesday, November 3, 2020, for the purpose of submitting the ordinance attached hereto as Attachment 1 (the “Ordinance”) and incorporated herein to the voters pursuant to Section 9222 of the California Elections Code. The City Council hereby finds and determines that the situation and circumstances described in this Resolution constitute an emergency for purposes of Section 2(b) of Article XIII C of the California Constitution and that the Ordinance may be submitted to voters at the City’s General Municipal Election, to be held on Tuesday, November 3, 2020, despite such election not being an election for members of the City Council.

SECTION 3. The full text of the Ordinance is attached to this Resolution as Attachment 1 and shall be printed in the voter pamphlet. The measure to be submitted to the voters shall appear on the ballot as follows:

City of LANCASTER	
<p>Lancaster Essential Services Protection Measure</p> <p>“Shall an ordinance protecting Lancaster’s long-term financial stability; maintaining essential city services; repairing streets/potholes; addressing homelessness; maintaining 911 emergency response; keeping public areas safe/clean for all; retaining local businesses; protecting local water sources; maintaining veterans, senior, mental health, community programs; by establishing a ¾-cent sales tax, providing approximately \$12,000,000 annually until ended</p>	YES
	NO

by voters; requiring citizen oversight, public spending disclosures; all funds used locally in Lancaster, be adopted?"

A copy of the Ordinance shall be available for inspection by the public in the City Clerk’s Office, located at 44933 North Fern Avenue, Lancaster, California 93534. In addition, a copy of the ordinance shall be available, upon request, to any voter at the expense of the City.

SECTION 4. The proposed Ordinance enacts a general tax as defined in Article XIIC of the California Constitution, and shall not take effect unless and until approved by a vote of at least a majority of the voters voting on the question at the election.

SECTION 5. The proposed ordinance shall be submitted to the voters for approval in compliance with the election resolutions to be adopted by the City Council, with the addition of the following:

A. The City Attorney is hereby directed to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280.

B. The City Council hereby authorizes the following members of the legislative body to prepare and submit a ballot argument in favor of the measure pursuant to Elections Code Section 9282: Mayor R. Rex Parris and Council Member Darrell Dorris.

C. The City Council hereby authorizes rebuttal arguments, for this measure only, to be submitted pursuant to, and consistent with the requirements of, Elections Code Section 9285.

D. In all particulars not recited in this Resolution and the election resolutions to be adopted by the City Council, said election for the ballot measure described in Section 3 shall be held and conducted as provided by general law for holding municipal elections.

SECTION 6. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED and ADOPTED this 14th day of July, 2020, by the following vote:

AYES: Malhi, Mann, Crist, Parris

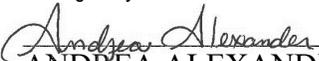
NOES: None

ABSTAIN: None

ABSENT: Dorris

ATTEST:

DocuSigned by:


ANDREA ALEXANDER

City Clerk
City of Lancaster

APPROVED:

DocuSigned by:


REX PARRIS

Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF RESOLUTION
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Resolution No. 20-39 for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)

ATTACHMENT 1

[PROPOSED ORDINANCE]

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF LANCASTER ESTABLISHING
A $\frac{3}{4}$ CENT TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX
AND FEE ADMINISTRATION**

WHEREAS, the health and safety of all residents in the City of Lancaster (“the City”) is our top priority; and

WHEREAS, the City is committed to strong community partnerships, safe neighborhoods and parks, quality services to support residents, and respectful and responsive city employees to make the City a strong, caring and safe community for all residents; and

WHEREAS, the City has been proactive in its actions to protect residents during the COVID-19 pandemic, to safely reopen businesses and partner with local employers to ensure a strong economic recovery, serving as a model for other cities in Los Angeles County; and

WHEREAS, the City is committed to maintaining quick 911 emergency response times, youth, veteran and senior services, keeping public spaces safe and clean, addressing homelessness, repairing streets, and maintaining other essential City services; and

WHEREAS, like the rest of the State and the country, the City faces serious fiscal challenges due to the fallout of the COVID-19 pandemic with funding for high-priority services threatened as a result; and

WHEREAS, the City currently expects an alarming decrease in revenues that will severely limit its ability to provide these essential City services; and

WHEREAS, the City has taken cost-saving measures, including implementing hiring and salary freezes for existing employees, reduced operating budgets, capital outlay and a workforce reduction by the elimination of vacant positions; and

WHEREAS, despite current expenditure reductions, the City’s General Fund revenues are expected to decrease by \$9.9 million in Fiscal Year 2020-21 and another \$8.8 million in Fiscal Year 2021-22 due to steep declines in sales tax, property tax, and state funding revenues; and

WHEREAS, additional locally controlled funding is necessary to protect essential City services and to keep the community strong, healthy and safe into the future; and

WHEREAS, the City Council proposes to submit to City voters an ordinance to increase the City’s Transaction and Use Tax (“Transaction and Use Tax”) by $\frac{3}{4}$ cent; and

WHEREAS, the Transaction and Use Tax is expected to annually generate approximately \$12,000,000 in additional General Fund revenue that the City can use to maintain essential services; and

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WHEREAS, the Transaction and Use Tax revenue will remain in the City, overseen by a community oversight committee.

THE PEOPLE OF THE CITY OF LANCASTER DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are true, correct and constitute a substantive part of this Ordinance.

Section 2. Amendment of Municipal Code.

(a) Chapter 3.14 (“Transactions and Use Tax”) is hereby added to the Lancaster Municipal Code to read as set forth in Exhibit A, which is attached hereto and incorporated herein.

(b) The people of the City of Lancaster desire enhanced transparency and public participation regarding the tax imposed by this Ordinance, and expect the revenues and expenditures from the tax to be regularly reviewed by a Citizen’s Advisory Committee. Therefore, the Lancaster Municipal Code is further amended by adding Section 3.14.170 to read as follows:

“3.14.170 Oversight. Following adoption of this Ordinance by the voters, the City Council shall appoint a five-member Citizen’s Advisory Committee. The City Council shall, by resolution, adopt guidelines for the duties of the Citizen’s Advisory Committee which shall include, but not be limited to, receiving semi-annual reports from City staff each fiscal year on revenues and expenditures from the tax imposed by this Ordinance and review of proposed spending plans. The revenue from the sales tax shall not be spent by the City until after the Citizen’s Advisory Committee has had an opportunity to review and comment on proposed expenditures.”

Section 4 Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of effectiveness of the remaining portions of this ordinance or any part thereof. The people of the City of Lancaster hereby declares that they would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases are declared unconstitutional, invalid or ineffective.

Section 5. Election Required. This Ordinance shall not become effective unless and until it is approved by a majority of City voters at the General Municipal Election to be held November 3, 2020.

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Section 6. Further Acts. Upon approval by the voters, the City Clerk shall certify to the adoption of this Ordinance and shall cause this ordinance to be published or posted as required by law.

PASSED, APPROVED and ADOPTED by the voters of the City of Lancaster, State of California, at a municipal election held on November 3, 2020.

ATTEST:

APPROVED:

ANDREA ALEXANDER
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

EXHIBIT A

CHAPTER 3.14

TRANSACTIONS AND USE TAX

3.14.010	Title.
3.14.020	Operative Date.
3.14.030	Purpose.
3.14.040	Contract with State.
3.14.050	Transactions Tax Rate.
3.14.060	Place of Sale.
3.14.070	Use Tax Rate.
3.14.080	Adoption of the Provisions of State Law.
3.14.090	Limitations on Adoption of State Law and Collection of Use Taxes.
3.14.100	Permit Not Required.
3.14.110	Exemptions and Exclusions.
3.14.120	Amendments to State Law.
3.14.130	Enjoining Collection Forbidden
3.14.140	Severability.
3.14.150	Effective Date.
3.14.160	Termination Date.

3.14.010 Title.

This chapter shall be known as the Lancaster Transactions and Use Tax Ordinance. As used in this chapter, the term “City” means the City of Lancaster. This chapter shall be applicable within the incorporated territory of the City.

3.14.020 Operative Date.

As used in this chapter, the term “Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance adding this chapter.

3.14.030 Purpose.

The purpose of this chapter is to achieve the following, among other purposes, and this chapter shall be interpreted and applied to accomplish such purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those

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provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.14.040 Contract with State.

Prior to the Operative Date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this chapter; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

3.14.050 Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of $\frac{3}{4}$ of a cent per dollar (0.75%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this chapter.

3.14.060 Place of Sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.14.070 Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of $\frac{3}{4}$ of a cent per dollar (0.75%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

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3.14.080 Adoption of the Provisions of State Law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.14.090 Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.14.100 Permit Not Required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

3.14.110 Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and

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county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this chapter.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

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2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code; aircraft licensed in compliance with Section 21411 of the Public Utilities Code; and/or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. Such retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this Chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.14.120 Amendments to State Law.

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part

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1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

3.14.130 Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.14.140 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

3.14.150 Effective Date.

This chapter relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

3.14.160 Termination Date.

The authority to levy the tax imposed by this ordinance shall not expire unless terminated by lawful vote of the electorate or as required or authorized by law.