

1 RESOLUTION NO. 2019-R__

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3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
4 CULVER CITY, CALIFORNIA, AUTHORIZING THE CITY
5 COUNCIL OR CERTAIN COUNCIL MEMBERS TO SUBMIT
6 ARGUMENTS REGARDING ONE (1) MEASURE RELATING
7 TO ONE (1) TAX MEASURE FOR THE MARCH 3, 2020
8 SPECIAL MUNICIPAL ELECTION.

9 WHEREAS, a Special Municipal Election (the "Election") is to be held in the
10 City of Culver City on March 3, 2020, at which time there will be submitted to the voters
11 the following one (1) question (the "Measure"):

Measure __: (tax measure)	YES ____
CONTINUATION OF CITY SERVICES TRANSACTIONS AND	
USE TAX. Shall the measure to maintain 911 emergency response	
services by retaining firefighters/ police officers/ paramedics;	
addressing homelessness; fixing potholes/streets; maintaining	
storm drains, parks, after-school programs, senior services, and	
other general fund services, by continuing the voter approved one-	NO ____
half cent sales tax, generating approximately 9.8 million dollars	
annually, until ended by voters, requiring independent annual audits,	
all funds used locally, with no tax rate increase, be adopted?	

21 NOW, THEREFORE, the City Council of the City of Culver City, California, DOES
22 HEREBY RESOLVE as follows:

23 SECTION 1. The City Council hereby authorizes Council Members

24 _____ and _____ to prepare written arguments in support of

1 the Measure hereinabove and as set forth in its entirety in Exhibit A, attached hereto, for
2 approval by the entire City Council.

3 **SECTION 2.** In accordance with Article 4, Chapter 3, Division 9 of the Elections
4 Code of the State of California, changes to the arguments may be made until and
5 including the date fixed by the Elections Official after which no arguments for or against
6 the Measures may be submitted to the Elections Official. The arguments shall be filed
7 with the Elections Official, signed, with the printed name(s) and signature(s) of the
8 author(s) submitting the written arguments. The arguments shall be accompanied by the
9 Form of Statement to Be Filed by Author(s) of Argument.

10 **SECTION 3.** That the City Clerk shall certify to the passage and adoption of this
11 resolution and enter it into the book of original resolutions.

12 **APPROVED and ADOPTED** this 28th day of October 2019.

13
14 _____
MEGHAN SAHLI-WELLS, MAYOR
City of Culver City, California

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17 ATTEST:

18 _____
JEREMY GREEN, City Clerk

APPROVED AS TO FORM:

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20 _____
CAROL A. SCHWAB, City Attorney

Exhibit A

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ORDINANCE NO. 2020 –

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, AMENDING SUBCHAPTER 3.08.300 OF THE CULVER CITY MUNICIPAL CODE “ESSENTIAL CITY SERVICES TRANSACTIONS AND USE TAX” BY REPEALING SECTION 3.08.375 TO REMOVE THE EXPIRATION DATE OF MARCH 31, 2023.

THE PEOPLE OF THE CITY OF CULVER CITY, CALIFORNIA, DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Subchapter 3.08.300 of the City of Culver City Municipal Code is hereby amended to read as follows (underline denotes addition, ~~strike-through~~ denotes deletion):

ESSENTIAL CITY SERVICES TRANSACTIONS AND USE TAX

- 3.08.300 Title
- 3.08.305 Operative date
- 3.08.310 Purpose
- 3.08.315 Contract with state
- 3.08.320 Transactions tax rate
- 3.08.325 Place of sale
- 3.08.330 Use tax rate
- 3.08.335 Adoption of provisions of state law
- 3.08.340 Limitations on adoption of state law and collection of use taxes
- 3.08.345 Permit not required
- 3.08.350 Exemptions and exclusions
- 3.08.355 Amendments
- 3.08.360 Enjoining collection forbidden
- 3.08.365 Severability
- 3.08.370 Effective date
- ~~3.08.375 Termination date~~

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§3.08.300. TITLE.

This ordinance shall be known as the City of Culver City Essential City Services Transactions and Use Tax Ordinance. The City of Culver City hereinafter shall be called "City." This Ordinance shall be applicable in the incorporated territory of the City.

§3.08.305. OPERATIVE DATE.

The Operative Date of this Ordinance shall be the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance by the voters, the date of such adoption being as set forth below.

§3.08.310. PURPOSE.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To enhance the City of Culver City's ability to offset state budget cuts and provide essential City services to the residents of Culver City, such as: preserving quality neighborhoods and ensuring effective 911 emergency response by retaining firefighters, police officers, and paramedics; fixing potholes/streets; maintaining parks, community centers, storm drains; continuing after school programs, senior services, graffiti removal, arts/cultural programs, and other general services;

B. To ensure that the City has the financial means to provide for the well-being and security of its residents and businesses as the City and its economic base grows.

C. 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.

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

E. 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 State Board of Equalization 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 State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

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

7 **§3.08.315. CONTRACT WITH STATE.**

8 Prior to the operative date, the City shall contract with the State Board of
9 Equalization to perform all functions incident to the administration and operation of this
10 transactions and use tax ordinance; provided, that if the City shall not have contracted
11 with the State Board of Equalization prior to the operative date, it shall nevertheless so
12 contract and in such a case the operative date shall be the first day of the first
13 calendar quarter following the execution of such a contract.

14 **§3.08.320. TRANSACTIONS TAX RATE.**

15 For the privilege of selling tangible personal property at retail, a tax is hereby
16 imposed upon all retailers in the incorporated territory of the City at the rate of 0.5% of
17 the gross receipts of any retailer from the sale of all tangible personal property sold at
18 retail in said territory on and after the operative date of this ordinance. The tax
19 imposed herein is in addition to any other transactions tax imposed by the City, the
20 County of Los Angeles, or the State of California.

21 **§3.08.325. PLACE OF SALE.**

22 For the purposes of this ordinance, all retail sales are consummated at the
23 place of business of the retailer unless the tangible personal property sold is delivered
24 by the retailer or its agent to an out-of-state destination or to a common carrier for
25 delivery to an out-of-state destination. The gross receipts from such sales shall
26 include delivery charges, when such charges are subject to the state sales and use
27 tax, regardless of the place to which delivery is made. In the event a retailer has no
28 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 State Board of Equalization.

§3.08.330. 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 0.5% 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. The tax imposed herein is in addition to any other
transactions tax imposed by the City, the County of Los Angeles, or the State of
California.

1 **§3.08.335. ADOPTION OF PROVISIONS OF STATE LAW.**

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

7 **§3.08.340. LIMITATIONS ON ADOPTION OF STATE LAW AND**
8 **COLLECTION OF USE TAXES.**

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

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

14 1. The word "State" is used as a part of the title of the State
15 Controller, State Treasurer, State Board of Control, State Board of Equalization, State
16 Treasury, or the Constitution of the State of California;

17 2. The result of that substitution would require action to be taken by
18 or against this City or any agency, officer, or employee thereof rather than by or
19 against the State Board of Equalization, in performing the functions incident to the
20 administration or operation of this Ordinance.

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

24 a. Provide an exemption from this tax with respect to certain
25 sales, storage, use or other consumption of tangible personal property which would
26 not otherwise be exempt from this tax while such sales, storage, use or other
27 consumption remain subject to tax by the State under the provisions of Part 1 of
28 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.

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1 **§3.08.345. PERMIT NOT REQUIRED.**

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

5 **§3.08.350. EXEMPTIONS AND EXCLUSIONS.**

6 A. There shall be excluded from the measure of the transactions tax
7 and the use tax the amount of any sales tax or use tax imposed by the State of
8 California or by any city, city and county, or county pursuant to the Bradley-Burns
9 Uniform Local Sales and Use Tax Law or the amount of any state-administered
10 transactions or use tax.

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

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

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

23 a. With respect to vehicles (other than commercial vehicles)
24 subject to registration pursuant to Chapter 1 (commencing with Section 4000) of
25 Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of
26 the Public Utilities Code, and undocumented vessels registered under Division 3.5
27 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City
28 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 ordinance.

 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 ordinance.

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

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

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

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

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

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

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

1 registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code.
2 That retailer shall be required to collect use tax from any purchaser who registers or
3 licenses the vehicle, vessel, or aircraft at an address in the City.

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

9 **§3.08.355. AMENDMENTS.**

10 All amendments subsequent to the effective date of this ordinance to Part 1 of
11 Division 2 of the Revenue and Taxation Code relating to sales and use taxes and
12 which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and
13 Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the
14 Revenue and Taxation Code, shall automatically become a part of this ordinance,
15 provided however, that no such amendment shall operate so as to affect the rate of tax
16 imposed by this ordinance.

17 **§3.08.360. ENJOINING COLLECTION FORBIDDEN.**

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

23 **§3.08.365. SEVERABILITY.**

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

27 **§3.08.370. EFFECTIVE DATE.**

28 This ordinance relates to the levying and collecting of the City transactions and
use taxes and shall take effect immediately upon its adoption by a majority vote of the
qualified electors of the City voting in an election on the subject.

~~3.08.375. TERMINATION DATE.~~

~~The authority to levy the tax imposed by this ordinance shall expire March 31,
2023.~~

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I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the People of the City of Culver City voting on the 3rd day of March, 2020.

MEGHAN SAHLI WELLS, MAYOR
City of Culver City, California

ATTEST

APPROVED AS TO FORM

JEREMY GREEN, City Clerk

CAROL A. SCHWAB, City Attorney