

1 RESOLUTION No. 2018- R 060

2  
3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
4 CULVER CITY, CALIFORNIA, CALLING AND GIVING NOTICE OF  
5 THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE  
6 HELD IN THE CITY ON TUESDAY, NOVEMBER 6, 2018, FOR THE  
7 SUBMISSION OF TWO (2) QUESTIONS TO THE VOTERS  
8 RELATING TO ONE (1) TAX MEASURE AND ONE (1) PROPOSED  
9 CHARTER AMENDMENT

10 WHEREAS, at its duly noticed Regular Meeting held on October 9, 2017, the City  
11 Council considered compliance with the California Voter Rights Participation Rights Act  
12 (CVRPRA), codified in Elections Code Sections 14050-14057, and appointed two council  
13 members to work with staff to draft a ballot measure question to amend the charter to  
14 align the City of Culver City's (City) general municipal elections with the date of the  
15 statewide general municipal election; and

16 WHEREAS, at its duly noticed Special meeting held on November 6, 2017, the  
17 City Council determined to hold a Special Municipal Election on November 6, 2018, and  
18 to place three measures on the ballot: one City Charter measure to change the City's  
19 municipal election date to comply with the CVRPRA, and two advisory measures in  
20 regard to the effective date of the Charter change implementation; and

21 WHEREAS, at its duly noticed Regular Meeting held on November 27, 2017, the  
22 City Council adopted a resolution approving the City's plan to consolidate the City's  
23 General Municipal Election with Statewide General Elections to comply with the  
24 CVRPRA; and

25 WHEREAS, at its duly noticed Regular Meeting held on July 9, 2018, the City  
26 Council determined to place on the ballot the City Charter measure to change the City's  
27 municipal election date to comply with the CVRPRA, effective in 2020, and to forego the  
28 two advisory measures; and

WHEREAS, the City Council has determined it wishes to submit to the voters at  
such Special Municipal Election a question relating to the establishment of a

1 Transactions and Use Tax in the City of one-quarter of one percent (0.25%), having  
2 declared a fiscal emergency; and

3 WHEREAS, Section 1501 of the City Charter provides that the City Council may,  
4 at its discretion, call an election for any reason sanctioned by law at any time it deems  
5 necessary and that such election shall be known as a Special Municipal Election; and

6 WHEREAS, the City Council has determined to submit to the voters at such  
7 Special Municipal Election two (2) questions relating to one (1) tax measure and one (1)  
8 proposed charter amendment.

9 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CULVER CITY,  
10 CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS  
11 FOLLOWS:

12 SECTION 1. Pursuant to the requirements of the City Charter related  
13 to Special Municipal Elections, there is called and ordered to be held in the City of  
14 Culver City, California, on Tuesday, November 6, 2018, a Special Municipal  
15 Election.

16 SECTION 2. That the City Council, pursuant to its right and authority,  
17 does order submitted to the voters at said Special Municipal Election the following  
18 two (2) questions, relating to one (1) tax measure and one (1) proposed Charter  
19 amendment:

20  
21 *Measure \_\_\_\_\_:*

22 **Culver City Neighborhood Safety and City Services** YES \_\_\_\_\_

23 **Protection Measure.** Shall the measure to maintain 911  
24 emergency response times by retaining firefighters, police  
25 officers, paramedics; fully staff neighborhood fire stations; fix  
26 potholes/streets; maintain senior services, after school  
27 programs, parks and other general fund City services, by  
28 increasing Culver City's sales tax one-quarter cent, until ended

NO \_\_\_\_\_

1 by voters with no rate increase, generating approximately  
2 \$4,900,000 annually, requiring independent annual audits, and  
3 all funds used locally, be adopted?

4  
5 *Measure \_\_\_\_:*

6 Shall the measure amending Sections 606 and 1500 of the YES \_\_\_\_  
7 Culver City Charter to change the date of the City's General  
8 Municipal Election for City Council Members from April of  
9 even-numbered years to the date of the statewide general  
10 election, currently held in November of even-numbered years, NO \_\_\_\_  
11 effective in 2020, in accordance with the California Voter  
12 Participation Rights Act, be adopted?  
13

14  
15 SECTION 3. That the proposed measures submitted to the voters, and the  
16 specific provision amending the Charter of the City of Culver City, is attached  
17 hereto as Exhibit "A" and incorporated herein by reference.

18 SECTION 4. That the proposed complete text of the tax measure is  
19 attached hereto as Exhibit "B" and incorporated herein by reference.

20 SECTION 5. That the ballots to be used at the election shall be in form and  
21 content as required by law.

22 SECTION 6. That the City Clerk is, directly or through consolidation with  
23 the County of Los Angeles (as such consolidation may be authorized by the City  
24 Council), authorized, instructed and directed to procure and furnish any and all  
25 official ballots, notices, printed matter and all supplies, equipment, and  
26 paraphernalia that may be necessary in order to properly and lawfully conduct the  
27 election.  
28

SECTION 7. That 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 Elections Code § 10242, except as provided in § 14401 of the Elections Code of the State of California.

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

SECTION 9. That notice of the time and place of holding the election is hereby 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. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 11. That pursuant to the City Charter, the City Clerk is empowered 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 12. That the City Clerk is directed to forward copies of all measures to be voted on at the Special Election to the City Attorney for the preparation of impartial analyses in compliance with applicable law.

PASSED, APPROVED and ADOPTED ON this 9<sup>th</sup> day of July, 2018.

THOMAS AUJERO SMALL, MAYOR  
City of Culver City, California

ATTEST

JEREMY GREEN, City Clerk

APPROVED AS TO FORM

CAROL A. SCHWAB, City Attorney

EXHIBIT "A"

TO RESOLUTION NOS. 2018-R 6 2018-R 6 1 and 2018-R 6 2

**Measure \_\_\_\_\_:**

**Culver City Neighborhood Safety and City Services Protection Measure.** Shall the measure to maintain 911 emergency response times by retaining firefighters, police officers, paramedics; fully staff neighborhood fire stations; fix potholes/streets; maintain senior services, after school programs, parks and other general fund City services, by increasing Culver City's sales tax one-quarter cent, until ended by voters with no rate increase, generating approximately \$4,900,000 annually, requiring independent annual audits, and all funds used locally, be adopted?

**Measure \_\_\_\_\_:**

Shall the measure amending Sections 606 and 1500 of the Culver City Charter to change the date of the City's General Municipal Election for City Council Members from April of even-numbered years to the date of the statewide general election, currently held in November of even-numbered years, effective in 2020, in accordance with the California Voter Participation Rights Act, be adopted?

As follows (deletions indicated by ~~strikethrough~~ text and additions indicated by underlined text):

**SECTION 606. MAYOR AND VICE MAYOR.**

Immediately following the certification of election results for any general or special municipal election at which Council Members are elected, ~~and at the second meeting in April in odd-numbered years,~~ the City Council shall elect one of its members as its presiding officer, who shall have the title of Mayor and one of its members as Vice Mayor. In odd numbered years, the City Council shall elect the Mayor and Vice Mayor at the second City Council meeting following twelve months after the prior election. Both the Mayor and Vice Mayor shall serve at the pleasure of the City Council.

**SECTION 1500. GENERAL MUNICIPAL ELECTIONS.**

General municipal elections for the filling of all elective offices, other than the Board of Education, shall be held in the City on the date of the statewide general election. ~~the second Tuesday in April in each even-numbered year.~~

The election of members of the Board of Education shall be held in accordance with State law. Expenses for Board of Education elections shall be paid by the School District.

# **Exhibit B**

ORDINANCE NO. 2018 – \_\_

**AN ORDINANCE OF THE CITY OF CULVER CITY, STATE OF CALIFORNIA, AMENDING CHAPTER 3.08 OF THE CULVER CITY MUNICIPAL CODE TO IMPOSE A TRANSACTIONS AND USE TAX FOR NEIGHBORHOOD SAFETY AND CITY SERVICES PROTECTION TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

The People of the City of Culver City, California, **DO HEREBY ORDAIN** as follows:

**Section 1.** Chapter 3.08 of the Culver City Municipal Code is hereby amended by adding subchapter 3.08.500, to read as follows:

**NEIGHBORHOOD SAFETY AND CITY SERVICES PROTECTION  
TRANSACTIONS AND USE TAX**

- 3.08.500 Title.
- 3.08.505 Operative date.
- 3.08.510 Purpose.
- 3.08.515 Contract with state.
- 3.08.520 Transactions tax rate.
- 3.08.525 Place of sale.
- 3.08.530 Use tax rate.
- 3.08.535 Adoption of provisions of state law.
- 3.08.540 Limitations on adoption of state law and collection of use taxes.
- 3.08.545 Permit not required.
- 3.08.550 Exemptions and exclusions.
- 3.08.555 Amendments.
- 3.08.560 Enjoining collection forbidden.
- 3.08.565 Severability.
- 3.08.570 Effective date.



1           **§ 3.08.500    TITLE.**

2           This ordinance shall be known as the City of Culver City Neighborhood Safety  
3 and City Services Protection Transactions and Use Tax Ordinance. The City of Culver  
4 City hereinafter shall be called "City." This Ordinance shall be applicable in the  
5 incorporated territory of the City.

6           **§ 3.08.505    OPERATIVE DATE.**

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

10           **§ 3.08.510    PURPOSE.**

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

- 13           A.    To enhance the City of Culver City's ability to offset rising costs for  
14                providing services and protecting essential City services to the residents  
15                of Culver City, such as: maintaining 911 emergency response times by  
16                retaining firefighters, police officers, paramedics; fully staffing  
17                neighborhood fire stations; fixing potholes/streets; continuing senior  
18                services and after school programs; maintaining parks and other  
19                unrestricted general fund City services.
- 20           B.    To impose a retail transactions and use tax in accordance with the  
21                provisions of Part 1.6 (commencing with Section 7251) of Division 2 of  
22                the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of  
23                Division 2 which authorizes the City to adopt this tax ordinance which  
24                shall be operative if a majority of the electors voting on the measure vote  
25                to approve the imposition of the tax at an election called for that purpose.
- 26           C.    To adopt a retail transactions and use tax ordinance that incorporates  
27                provisions identical to those of the Sales and Use Tax Law of the State  
28                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.

D. 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.

E. 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.

#### **§ 3.08.515 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 transactions and use tax ordinance; 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.

#### **§ 3.08.520 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 one-quarter of one percent (0.25%) 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

1 of this ordinance. The tax imposed herein is in addition to any other transactions tax  
2 imposed by the City, the County of Los Angeles, or the State of California.

3 **§ 3.08.525 PLACE OF SALE.**

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

14 **§ 3.08.530 USE TAX RATE.**

15 An excise tax is hereby imposed on the storage, use or other consumption in  
16 the City of tangible personal property purchased from any retailer on and after the  
17 operative date of this ordinance for storage, use or other consumption in said territory  
18 at the rate of one-quarter of one percent (0.25%) of the sales price of the property.  
19 The sales price shall include delivery charges when such charges are subject to state  
20 sales or use tax regardless of the place to which delivery is made. The tax imposed  
21 herein is in addition to any other transactions tax imposed by the City, the County of  
22 Los Angeles, or the State of California.

23 **§ 3.08.535 ADOPTION OF PROVISIONS OF STATE LAW.**

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

1                   **§ 3.08.540    LIMITATIONS ON ADOPTION OF STATE LAW AND**  
2 **COLLECTION OF USE TAXES.**

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

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

- 8                   1.       The word "State" is used as a part of the title of the State  
9                   Controller, State Treasurer, State Treasury, or the Constitution of  
10                  the State of California;
- 11                  2.       The result of that substitution would require action to be taken by  
12                  or against this City or any agency, officer, or employee thereof  
13                  rather than by or against the California Department of Tax and  
14                  Fee Administration, in performing the functions incident to the  
15                  administration or operation of this Ordinance.
- 16                  3.       In those sections, including, but not necessarily limited to sections  
17                  referring to the exterior boundaries of the State of California,  
18                  where the result of the substitution would be to:
  - 19                  a.       Provide an exemption from this tax with respect to certain  
20                  sales, storage, use or other consumption of tangible  
21                  personal property which would not otherwise be exempt  
22                  from this tax while such sales, storage, use or other  
23                  consumption remain subject to tax by the State under the  
24                  provisions of Part 1 of Division 2 of the Revenue and  
25                  Taxation Code, or;
  - 26                  b.       Impose this tax with respect to certain sales, storage, use  
27                  or other consumption of tangible personal property which  
28                  would not be subject to tax by the state under the said  
                  provision of that code.

1           4.     In Sections 6701, 6702 (except in the last sentence thereof),  
2                     6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation  
3                     Code.

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

7     **§ 3.08.545    PERMIT NOT REQUIRED.**

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

11    **§ 3.08.550    EXEMPTIONS AND EXCLUSIONS.**

12    A.     There shall be excluded from the measure of the transactions tax and  
13           the use tax the amount of any sales tax or use tax imposed by the State  
14           of California or by any city, city and county, or county pursuant to the  
15           Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of  
16           any state-administered transactions or use tax.

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

- 19           1.     Sales of tangible personal property, other than fuel or petroleum  
20                     products, to operators of aircraft to be used or consumed  
21                     principally outside the county in which the sale is made and  
22                     directly and exclusively in the use of such aircraft as common  
23                     carriers of persons or property under the authority of the laws of  
24                     this State, the United States, or any foreign government.
- 25           2.     Sales of property to be used outside the City which is shipped to a  
26                     point outside the City, pursuant to the contract of sale, by delivery  
27                     to such point by the retailer or its agent, or by delivery by the  
28                     retailer to a carrier for shipment to a consignee at such point. For

1 the purposes of this paragraph, delivery to a point outside the City  
2 shall be satisfied:

- 3 a. With respect to vehicles (other than commercial vehicles)  
4 subject to registration pursuant to Chapter 1 (commencing  
5 with Section 4000) of Division 3 of the Vehicle Code,  
6 aircraft licensed in compliance with Section 21411 of the  
7 Public Utilities Code, and undocumented vessels registered  
8 under Division 3.5 (commencing with Section 9840) of the  
9 Vehicle Code by registration to an out-of-City address and  
10 by a declaration under penalty of perjury, signed by the  
11 buyer, stating that such address is, in fact, his or her  
12 principal place of residence; and  
13 b. With respect to commercial vehicles, by registration to a  
14 place of business out-of-City and declaration under penalty  
15 of perjury, signed by the buyer, that the vehicle will be  
16 operated from that address.

- 17 3. The sale of tangible personal property if the seller is obligated to  
18 furnish the property for a fixed price pursuant to a contract entered  
19 into prior to the operative date of this ordinance.  
20 4. A lease of tangible personal property which is a continuing sale of  
21 such property, for any period of time for which the lessor is  
22 obligated to lease the property for an amount fixed by the lease  
23 prior to the operative date of this ordinance.  
24 5. For the purposes of subparagraphs (3) and (4) of this section, the  
25 sale or lease of tangible personal property shall be deemed not to  
26 be obligated pursuant to a contract or lease for any period of time  
27 for which any party to the contract or lease has the unconditional  
28 right to terminate the contract or lease upon notice, whether or not  
such right is exercised.

- 1 C. There are exempted from the use tax imposed by this ordinance, the  
2 storage, use or other consumption in this City of tangible personal  
3 property:
- 4 1. The gross receipts from the sale of which have been subject to a  
5 transactions tax under any state-administered transactions and  
6 use tax ordinance.
  - 7 2. Other than fuel or petroleum products purchased by operators of  
8 aircraft and used or consumed by such operators directly and  
9 exclusively in the use of such aircraft as common carriers of  
10 persons or property for hire or compensation under a certificate of  
11 public convenience and necessity issued pursuant to the laws of  
12 this State, the United States, or any foreign government. This  
13 exemption is in addition to the exemptions provided in Sections  
14 6366 and 6366.1 of the Revenue and Taxation Code of the State  
15 of California.
  - 16 3. If the purchaser is obligated to purchase the property for a fixed  
17 price pursuant to a contract entered into prior to the operative date  
18 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  
21 continuing purchase of such property for any period of time for  
22 which the lessee is obligated to lease the property for an amount  
23 fixed by a lease prior to the operative date of this ordinance.
  - 24 5. For the purposes of subparagraphs (3) and (4) of this section,  
25 storage, use, or other consumption, or possession of, or exercise  
26 of any right or power over, tangible personal property shall be  
27 deemed not to be obligated pursuant to a contract or lease for any  
28 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.

- 1                   6.     Except as provided in subparagraph (7), a retailer engaged in  
2                   business in the City shall not be required to collect use tax from  
3                   the purchaser of tangible personal property, unless the retailer  
4                   ships or delivers the property into the City or participates within  
5                   the City in making the sale of the property, including, but not  
6                   limited to, soliciting or receiving the order, either directly or  
7                   indirectly, at a place of business of the retailer in the City or  
8                   through any representative, agent, canvasser, solicitor, subsidiary,  
9                   or person in the City under the authority of the retailer.
- 10                  7.     "A retailer engaged in business in the City" shall also include any  
11                  retailer of any of the following: vehicles subject to registration  
12                  pursuant to Chapter 1 (commencing with Section 4000) of Division  
13                  3 of the Vehicle Code, aircraft licensed in compliance with Section  
14                  21411 of the Public Utilities Code, or undocumented vessels  
15                  registered under Division 3.5 (commencing with Section 9840) of  
16                  the Vehicle Code. That retailer shall be required to collect use tax  
17                  from any purchaser who registers or licenses the vehicle, vessel,  
18                  or aircraft at an address in the City.
- 19                  D.     Any person subject to use tax under this ordinance may credit against  
20                  that tax any transactions tax or reimbursement for transactions tax paid  
21                  to a district imposing, or retailer liable for a transactions tax pursuant to  
22                  Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to  
23                  the sale to the person of the property the storage, use or other  
24                  consumption of which is subject to the use tax.

### 25                   **§ 3.08.555    AMENDMENTS.**

26                   All amendments subsequent to the effective date of this ordinance to Part 1 of  
27                   Division 2 of the Revenue and Taxation Code relating to sales and use taxes and  
28                   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 1.6 and Part 1.7 of Division 2 of the  
Revenue and Taxation Code, shall automatically become a part of this ordinance,



provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

**§ 3.08.560 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.

**§ 3.08.565 SEVERABILITY.**

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

**§ 3.08.570 EFFECTIVE DATE.**

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.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by the People of the City of Culver City voting on the 6th day of November, 2018.

\_\_\_\_\_  
THOMAS AUJERO SMALL, MAYOR  
City of Culver City, California

ATTEST

APPROVED AS TO FORM

\_\_\_\_\_  
JEREMY GREEN, City Clerk

\_\_\_\_\_  
CAROL A. SCHWAB, City Attorney