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RESOLUTION NO. 2018-R__062

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, AUTHORIZING THE CITY COUNCIL OR CERTAIN COUNCIL MEMBERS TO SUBMIT ARGUMENTS REGARDING TWO (2) MEASURES RELATING TO ONE (1) TAX MEASURE AND ONE (1) PROPOSED CHARTER AMENDMENT, FOR THE NOVEMBER 6, 2018 SPECIAL MUNICIPAL ELECTION.

WHEREAS, a Special Municipal Election (the "Election") is to be held in the City of Culver City on November 6, 2018, at which time there will be submitted to the voters the following two (2) questions (the "Measures"):

Measure __:_____: (tax measure)

YES ____

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?

NO ____

Measure ____:

YES ____

Shall the measure amending Sections 606 and 1500 of the Culver City Charter to change the date of the City's General Municipal

1 Election for City Council Members from April of even-numbered
2 years to the date of the statewide general election, currently held in NO ____
3 November of even-numbered years, effective in 2020, in accordance
4 with the California Voter Participation Rights Act be adopted?

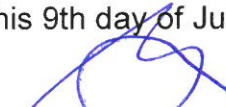
5
6 NOW, THEREFORE, the City Council of the City of Culver City, California, DOES
7 HEREBY RESOLVE as follows:

8 SECTION 1. The City Council hereby authorizes Council Members Alex Fisch
9 and Daniel Lee to prepare written arguments in support of each Measure hereinabove
10 and as set forth in their entirety in Exhibits A and B, attached hereto, for approval by the
11 entire City Council.

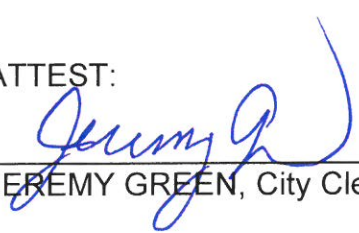
12 SECTION 2. In accordance with Article 4, Chapter 3, Division 9 of the Elections
13 Code of the State of California, changes to the arguments may be made until and
14 including the date fixed by the Elections Official after which no arguments for or against
15 the Measures may be submitted to the Elections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

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

21 APPROVED and ADOPTED this 9th day of July, 2018

22
23 
THOMAS AUJERO SMALL, MAYOR
City of Culver City, California

24
25 ATTEST:

26 
JEREMY GREEN, City Clerk

27
28 APPROVED AS TO FORM:

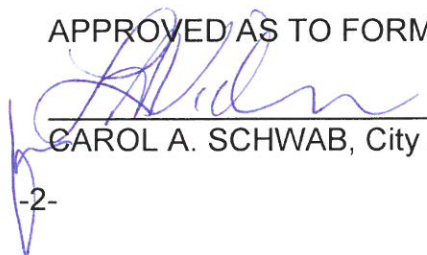

CAROL A. SCHWAB, City Attorney

EXHIBIT "A"

TO RESOLUTION NOS. 2018-R~~60~~, 2018-R~~61~~, and 2018-R~~62~~

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
29 Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the
30 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