

RESOLUTION NO. RES-16-0033

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH CREATING THE TRANSACTIONS AND USE TAX CITIZENS' ADVISORY COMMITTEE

WHEREAS, on February 23, 2016, the City Council approved the placement of a general tax measure for the June 7, 2016 regular election to adopt a transactions and use tax ("TUT") for a period of ten years; and

WHEREAS, in Resolution No. RES-16-0018, the City Council expressed priorities for the use of the TUT revenue, if approved by the voters; and

WHEREAS, the City Council also requested that a five-member Transactions and Use Tax Citizens' Advisory Committee be created to periodically review the City's use of TUT revenue and make recommendations on the use of TUT revenue, in keeping with the intent expressed in Resolution No. RES-16-0018 and the language contained in the ballot measure expressed in Resolution No. RES-17-0017;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as follows:

Section 1. Creation. There is hereby created an advisory committee to be known as the Transactions and Use Tax Citizens' Advisory Committee, for the purpose of reviewing the City's use of the TUT revenue and advising and making recommendations to the City Council regarding the use of TUT revenue.

Section 2. Members. The Committee shall be composed of five (5) members, appointed by the Mayor and confirmed by the City Council. The members are required to be residents of the City.

Section 3. Except as expressly set forth herein, the requirements set forth in Chapter 2.18 of the Long Beach Municipal Code shall apply to the Committee.

Section 4. Duties. The purpose of the Transactions and Use Tax

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CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 Citizens' Advisory Committee shall be to advise the City Council regarding the use of  
2 TUT revenue according to the priorities enumerated in Resolution No. RES-16-0018 and  
3 with the language contained in the ballot measure expressed in Resolution No. RES-16-  
4 0017. In furtherance of its purpose, the Transactions and Use Tax Citizens' Advisory  
5 Committee may engage in any of the following activities:

6 A. Receiving and reviewing periodic reports prepared by  
7 Financial Management, through the City Manager, in connection with the  
8 analysis of the use of the TUT revenues as result of a successful voter-  
9 approved ballot measure on June 7, 2016. A review should include the  
10 examination of TUT revenue use for all infrastructure projects.

11 "Infrastructure" is as defined in Resolution No. RES-16-0018 and with the  
12 language contained in the ballot measure expressed in Resolution No.  
13 RES-16-0017.

14 B. Receiving and reviewing copies of the City's annual financial  
15 reports and any associated audits.

16 C. Reviewing projects funded with TUT revenue, and receiving  
17 periodic updates from City staff on the status of those projects.

18 D. Provide periodic reports to the City Council on the City's use  
19 of TUT revenues.

20 Section 5. The City Manager, or City Manager designated department(s),  
21 shall provide the Transactions and Use Tax Citizens' Advisory Committee with technical  
22 assistance and shall provide administrative assistance in furtherance of its purpose and  
23 sufficient resources to publicize the conclusions of the committee, including any periodic  
24 reports to the Budget Oversight Committee and/or City Council on the work of the  
25 Transactions and Use Tax Citizens' Advisory Committee and the proposed use of the  
26 TUT revenues, and may use TUT revenue for that purpose.

27 Section 6. All committee proceedings shall be open to the public and  
28 shall comply with the Ralph M. Brown Act. The committee shall issue regular reports on

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CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 the results of its activities. A report shall be issued at least once a year. Minutes of the  
2 proceedings of the Transactions and Use Tax Citizens' Advisory Committee and all  
3 documents received and reports issued shall be a matter of public record and be made  
4 available on an internet website maintained by the City.

5 Section 7. If the TUT measure is not approved by the voters at the June  
6 7, 2016 general election, this resolution shall be of no force or effect.

7 Section 8. This resolution shall take effect immediately upon its adoption  
8 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

9 I hereby certify that the foregoing resolution was adopted by the City  
10 Council of the City of Long Beach at its meeting of April 5, 2016,  
11 by the following vote:

12  
13 Ayes: Councilmembers: Gonzalez, Price, Supernaw, Mungo,  
14 Andrews, Uranga, Richardson.

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16  
17 Noes: Councilmembers: None.

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19 Absent: Councilmembers: Lowenthal, Austin.

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23 Marina del L. Garcia  
City Clerk

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3 A RESOLUTION OF THE CITY COUNCIL OF THE  
4 CITY OF LONG BEACH CALLING FOR THE PLACEMENT  
5 OF A GENERAL TAX MEASURE ON THE BALLOT OF THE  
6 JUNE 7, 2016 REGULAR ELECTION TO ADOPT A  
7 TRANSACTIONS AND USE TAX FOR A PERIOD OF TEN  
8 (10) YEARS, AND ALSO CALLING FOR THE PLACEMENT  
9 OF ANOTHER MEASURE ON THE SAME BALLOT  
10 ESTABLISHING A BUDGET STABILIZATION ("RAINY  
11 DAY") FUND  
12

13 WHEREAS, the City Council of the City of Long Beach ("City") is authorized  
14 to levy a Transactions and Use Tax for general purposes pursuant to California Revenue  
15 and Taxation Code section 7285.9, subject to approval by a majority vote of the  
16 electorate pursuant to Article XIII C, Section 2 of the California Constitution ("Proposition  
17 218"); and

18 WHEREAS, the City Council would like to submit to the voters a measure  
19 establishing a Transactions and Use Tax ("TUT") for a period of ten (10) years on the  
20 sale and/or use of all tangible personal property sold at retail in the City, initially at a rate  
21 of one cent (1%) for the first six (6) years of the tax, and declining to one-half cent for the  
22 remaining four (4) years of the tax; and

23 WHEREAS, the City Council intends to adopt an Ordinance to add Chapter  
24 3.62 to the City's Municipal Code, thereby imposing a TUT for a period of ten (10) years,  
25 initially at a rate of one cent (1%) for the first six (6) years of the tax, and declining to one-  
26 half cent for the remaining four (4) years of the tax, subject to voter approval; and

27 WHEREAS, the TUT is a general tax, the revenue of which will be placed in  
28 the City's general fund and will be used to pay for important general City services; and

1 WHEREAS, like many other cities, the City has been undergoing a financial  
2 crisis due to the economic downturn, takeaways by the state and decreasing revenues;  
3 and

4 WHEREAS, the City has made significant cuts to the budget, including cuts  
5 to public safety services; and

6 WHEREAS, the City has evaluated the impacts of decreased general fund  
7 revenues on the City's ability to provide services to the public, including evaluation and  
8 implementation of measures to reduce costs, as well as measures to increase revenue;  
9 and

10 WHEREAS, the City believes only a locally-approved voter funding source  
11 would guarantee that new revenue stays in the City to help City residents and provide for  
12 public safety services such as emergency response, neighborhood police patrols, fire  
13 protection services/firefighters, and improving and maintaining roads and infrastructure;  
14 and

15 WHEREAS, without voter approval of the proposed TUT, the City will face  
16 serious financial shortfalls and be required to further reduce municipal services and, as  
17 such, there is a need for TUT revenue in order to maintain adequate funding for City  
18 services at existing levels; and

19 WHEREAS, pursuant to Proposition 218, any general tax measure  
20 submitted to the voters must be consolidated with a regularly scheduled election for  
21 members of the City Council; and

22 WHEREAS, the next regularly scheduled election at which City Council  
23 members are to be elected is June 7, 2016; and

24 WHEREAS, pursuant to California Revenue and Taxation Code Section  
25 7285.9, a two-thirds (2/3) supermajority vote of the City Council is required to approve  
26 and place a transactions and use tax measure on the June 7, 2016 ballot; and

27 WHEREAS, the City Council would also like to submit to the voters a  
28 second measure adding Chapter 3.94 to the Long Beach Municipal Code to establish a

1 budget stabilization (“rainy day”) fund into which one percent (1%) of all newly created or  
 2 newly increased general tax revenue (including the proceeds of the TUT, if approved) will  
 3 be deposited and may only be spent in cases of City fiscal hardship declared by the City  
 4 Council;

5 NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
 6 follows:

7 Section 1. Incorporation of Recitals. The foregoing recitals are true and  
 8 correct and are hereby incorporated and made an operative part of this Resolution.

9 Section 2. Pursuant to California Revenue and Taxation Code Section  
 10 7285.9 and any other applicable requirements of the laws of the State of California  
 11 relating to charter cities, the City Council, by a two-thirds (2/3) supermajority vote, hereby  
 12 calls and orders to be held in the City of Long Beach on Tuesday, June 7, 2016, a  
 13 General Municipal Election for the purpose of submitting the ballot measure ordinance  
 14 attached hereto as Exhibit “A” and incorporated herein by this reference to the qualified  
 15 electors of the City (the “TUT Measure”).

16 Section 3. The City Council, pursuant to Elections Code Section 9222,  
 17 hereby orders that the following question be submitted to the qualified electors of the City  
 18 of Long Beach at the election to be held on June 7, 2016:

19 “CITY OF LONG BEACH PUBLIC SAFETY, INFRASTRUCTURE REPAIR AND 20 NEIGHBORHOOD SERVICES MEASURE. To maintain 911 emergency	Yes
21 response services; increase police, firefighter/paramedic staffing; repair 22 potholes/streets; improve water supplies; and maintain general services; shall 23 the City of Long Beach establish a one cent (1%) transactions and use (sales) 24 tax for six years, generating approximately \$48 million annually, declining to one- 25 half cent for four years and then ending, requiring a citizens’ advisory committee 26 and independent audits, with all funds remaining in Long Beach?”	No

27 Section 4. The City Council additionally calls and orders to be held in the  
 28 City of Long Beach on June 7, 2016, a General Municipal Election for the purpose of

1 submitting the budget stabilization (“rainy day”) fund ballot measure ordinance attached  
 2 hereto as Exhibit “B” and incorporated herein by this reference to the qualified electors of  
 3 the City (the “Rainy Day Fund Measure”).

4 Section 5. The City Council, pursuant to Elections Code Section 9222,  
 5 hereby orders that the following question also be submitted to the qualified electors of the  
 6 City of Long Beach at the election to be held on June 7, 2016:

7 “CITY OF LONG BEACH BUDGET STABILIZATION (“RAINY DAY”) FUND. To 8 help maintain city services, such as police, firefighter, paramedic, park, library, 9 street repair and community programs, during economic recessions that cause 10 temporary budget shortfalls, shall the City of Long Beach establish a budget 11 stabilization (“rainy day”) fund as part of the General Fund to provide short-term 12 funding for such general services into which one percent of any new general tax 13 revenues shall be deposited and spent only to balance the budget?”	Yes
	No

14 Section 6. Pursuant to California Elections Code Section 9280, the City  
 15 Council hereby directs the City Clerk to transmit a copy of both the TUT Measure and  
 16 Rainy Day Fund Measure to the City Attorney. The City Attorney shall prepare an  
 17 impartial analysis of both Measures, each not to exceed five hundred (500) words in  
 18 length, showing the effect of the Measures on the existing law and the operation of the  
 19 Measures, and transmit such impartial analyses to the City Clerk not later than the  
 20 deadline for submittal of primary arguments for or against the Measures.

21 Section 7. The impartial analysis shall include a statement indicating  
 22 whether the Measure was placed on the ballot by a petition signed by the requisite  
 23 number of voters or by the City Council. In the event the entire text of the Measure is not  
 24 printed on the ballot, nor in the voter information portion of the sample ballot, there shall  
 25 be printed immediately below the impartial analysis, in no less than 10-font bold type, the  
 26 following: “The above statement is an impartial analysis of Ordinance or Measure \_\_\_\_.  
 27 If you desire a copy of the ordinance or measure, please call the Office of the City Clerk  
 28 at (562) 570-6101 and a copy will be mailed at no cost to you.”

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

3           Section 9.    Notice of the election is hereby given.  Additionally, the City  
4 Clerk is authorized, instructed and directed to procure and furnish any and all official  
5 ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be  
6 necessary in order to properly and lawfully conduct the election.

7           Section 10.  The City Treasurer is hereby authorized and directed to  
8 appropriate the necessary funds to pay for the City's cost of placing the Measures on the  
9 election ballot.

10          Section 11.  The City Council finds that this Resolution is not subject to the  
11 California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the  
12 activity will not result in a direct or reasonably foreseeable indirect physical change in the  
13 environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378)  
14 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it  
15 has no potential for resulting in physical change to the environment, directly or indirectly.

16          Section 12.  Severability.  The provisions of this Resolution are severable  
17 and if any provision of this Resolution is held invalid, that provision shall be severed from  
18 the Resolution and the remainder of this Resolution shall continue in full force and effect,  
19 and not be affected by such invalidity.

20          This resolution shall take effect immediately upon its adoption by the City  
21 Council, and the City Clerk shall certify the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of February 23, 2016, by the following vote:

Ayes: Councilmembers: Gonzalez, Lowenthal, Price,  
Supernaw, Mungo, Andrews, Uranga,  
Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: Austin.

*Maria del L. Garcia*  
City Clerk

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Long Beach, CA 90802-4664

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ORDINANCE NO.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF  
LONG BEACH , CALIFORNIA, ADDING CHAPTER 3.62 TO  
THE LONG BEACH MUNICIPAL CODE TO IMPOSE A  
TRANSACTIONS AND USE TAX TO BE ADMINISTERED  
BY THE STATE BOARD OF EQUALIZATION

WHEREAS, pursuant to California Revenue and Taxation Code Section  
7285.9 the City of Long Beach ("City") is authorized to levy a Transactions and Use Tax  
for general purposes, subject to majority voter approval; and

WHEREAS, the people of the City desire to levy a Transactions and Use  
Tax for a period of ten (10) years for general purposes to fund, enhance and maintain  
important City services, including public safety services and an investment in City  
infrastructure, with the rate initially set at one cent (1%) for the first six (6) years of the  
tax, and declining to one-half cent for the remaining four (4) years of the tax; and

WHEREAS, the people of the City believe that only a local voter-approved  
funding source would guarantee that new revenue stays in Long Beach to help the City  
provide necessary services to its residents; and

WHEREAS, the City's Transactions and Use Tax ordinance will be added to  
the Long Beach Municipal Code as Chapter 3.62:

NOW, THEREFORE, The City Council of the City of Long Beach ordains as  
follows:

Section 1. Title and Text. This ordinance shall be known as the Long  
Beach Transactions and Use Tax ordinance, the full text of which is set forth in  
Attachment "1", attached hereto and incorporated herein by reference.

Section 2. Approval by the City Council. Pursuant to California Revenue  
and Taxation Code, Section 7285.9, this ordinance was duly introduced on February 23,

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2016 and approved upon second reading for placement on the ballot by a two-thirds (2/3) supermajority of all members of the City Council on \_\_\_\_\_, 2016.

Section 3. Approval by the Voters. Pursuant to California Elections Code Section 9217, this ordinance shall be deemed adopted and take effect only if approved by a majority of the eligible voters of the City of Long Beach voting at the Regular Election of June 7, 2016, and shall be deemed adopted and take effect ten (10) days after the City Council has certified the results of that election by resolution.

Section 4. Operative Date. "Operative Date" for the Transactions and Use Tax means the first day of the first calendar quarter commencing more than one hundred ten (110) days after the effective date of this ordinance, as set forth in Section 3 above.

Section 5. 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.

ATTACHMENT "1"

Chapter 3.62  
TRANSACTIONS AND USE TAX

Sections:

- 3.62.010 - Purpose.
- 3.62.020 - Contract with State.
- 3.62.030 - Transactions Tax Rate.
- 3.62.040 - Place of Sale.
- 3.62.050 - Use Tax Rate.
- 3.62.060 - Adoption of Provisions of State Law.
- 3.62.070 - Limitations on Adoption of State Law and Collection of Use Taxes.
- 3.62.080 - Permit Not Required.
- 3.62.090 - Exemptions and Exclusions.
- 3.62.100 - Amendments.
- 3.62.110 - Enjoining Collection Forbidden.
- 3.62.120 – Sunset of Tax
- 3.62.130 – Citizens' Advisory Committee.

3.62.010 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 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

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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 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 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.

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.

3.62.020 Contract with State.

Prior to the operative date, the City shall contract with the State Board of Equalization 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 State Board of Equalization 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.

1           3.62.030       Transactions tax rate.

2                       For the privilege of selling tangible personal property at retail, a tax is  
3 hereby imposed upon all retailers in the incorporated territory of the City at  
4 the rate of one cent (1%) of the gross receipts of any retailer from the sale  
5 of all tangible personal property sold at retail in said territory on and after the  
6 operative date of this ordinance. The rate shall remain at one cent (1%) until  
7 the sixth anniversary of the Operative Date, after which the rate shall be  
8 reduced to one-half cent for the remaining term of the tax.

9           3.62.040       Place of sale.

10                      For the purposes of this ordinance, all retail sales are consummated  
11 at the place of business of the retailer unless the tangible personal property  
12 sold is delivered by the retailer or his agent to an out-of-state destination or  
13 to a common carrier for delivery to an out-of-state destination. The gross  
14 receipts from such sales shall include delivery charges, when such charges  
15 are subject to the state sales and use tax, regardless of the place to which  
16 delivery is made. In the event a retailer has no permanent place of  
17 business in the State or has more than one place of business, the place or  
18 places at which the retail sales are consummated shall be determined under  
19 rules and regulations to be prescribed and adopted by the State Board of  
20 Equalization.

21           3.62.050       Use tax rate.

22                      An excise tax is hereby imposed on the storage, use or other  
23 consumption in the City of tangible personal property purchased from any  
24 retailer on and after the operative date of this ordinance for storage, use or  
25 other consumption in said territory at the rate of one cent (1%) of the sales  
26 price of the property. The sales price shall include delivery charges when  
27 such charges are subject to state sales or use tax regardless of the place to  
28 which delivery is made. The rate shall remain at one cent (1%) until the

1 sixth anniversary of the Operative Date, after which the rate shall be  
2 reduced to one-half cent for the remaining term of the tax.

3 3.62.060 Adoption of provisions of State law.

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

10 3.62.070 Limitations on adoption of State law and collection of use taxes.

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

13 A. Wherever the State of California is named or referred to as  
14 the taxing agency, the name of this City shall be substituted therefor.

15 However, the substitution shall not be made when:

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

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

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

26 a. Provide an exemption from this tax with respect  
27 to certain sales, storage, use or other consumption of tangible personal  
28 property which would not otherwise be exempt from this tax while such

1 sales, storage, use or other consumption remain subject to tax by the State  
2 under the provisions of Part 1 of Division 2 of the Revenue and Taxation  
3 Code, or;

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

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

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

14 3.62.080 Permit not required.

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

18 3.62.090 Exemptions and exclusions.

19 A. There shall be excluded from the measure of the transactions  
20 tax and the use tax the amount of any sales tax or use tax imposed by the  
21 State of California or by any city, city and county, or county pursuant to the  
22 Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any  
23 state-administered transactions or use tax.

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

26 1. Sales of tangible personal property, other than fuel or  
27 petroleum products, to operators of aircraft to be used or consumed  
28 principally outside the county in which the sale is made and directly and



1 exclusively in the use of such aircraft as common carriers of persons or  
2 property under the authority of the laws of this State, the United States, or  
3 any foreign government.

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

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

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

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

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

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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 ordinance, 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.

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 ordinance.

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 ordinance.

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

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

15                   7.       “A retailer engaged in business in the City” shall also  
16 include any retailer of any of the following: vehicles subject to registration  
17 pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the  
18 Vehicle Code, aircraft licensed in compliance with Section 21411 of the  
19 Public Utilities Code, or undocumented vessels registered under Division  
20 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer  
21 shall be required to collect use tax from any purchaser who registers or  
22 licenses the vehicle, vessel, or aircraft at an address in the City.

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

1 3.62.100 Amendments.

2 All amendments subsequent to the effective date of this ordinance to  
3 Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and  
4 use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of  
5 Division 2 of the Revenue and Taxation Code, and all amendments to Part  
6 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall  
7 automatically become a part of this ordinance, provided however, that no  
8 such amendment shall operate so as to affect the rate of tax imposed by  
9 this ordinance.

10 The City Council, by majority vote of the full Council, may lower the  
11 rate of the retail transactions and use tax adopted by this Chapter to 0%.

12 3.62.110 Enjoining collection forbidden.

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

18 3.62.120 Sunset of tax.

19 The tax imposed by this article shall automatically be terminated,  
20 without further action by the city council, or the electors of the city, ten (10)  
21 years after the Operative Date. After said date, the tax imposed by this  
22 chapter can only be continued or reestablished by a majority vote of Long  
23 Beach voters pursuant to California Proposition 218.

24 3.62.130 Citizens' Advisory Committee.

25 There is hereby established a five-member citizens' advisory  
26 committee, whose members shall be appointed by the Mayor and confirmed  
27 by the City Council. The committee shall periodically review the City's use

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OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Lond Beach, CA 90802-4664

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of revenues generated by this Tax and shall make recommendations to the  
City Council with regard to the use of the Tax.

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ORDINANCE NO.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF  
LONG BEACH, CALIFORNIA, ADDING CHAPTER 3.94 TO  
THE LONG BEACH MUNICIPAL CODE TO ESTABLISH A  
BUDGET STABILIZATION ("RAINY DAY") FUND

The City Council of the City of Long Beach ordains as follows:

Section 1. Chapter 3.94 is hereby added to the Long Beach Municipal  
Code to read as follows:

Chapter 3.94

BUDGET STABILIZATION ("RAINY DAY") FUND

3.94.010 Establishment of the fund.

There is hereby established within the City of Long Beach the  
"Budget Stabilization Fund", which shall be either a subfund within the City's  
General Fund or in a separate fund (the "Budget Stabilization Fund").

3.94.020 Purpose.

The Budget Stabilization Fund shall be used to fund future City  
operations and activities that would otherwise be reduced in scope,  
suspended or eliminated due to unanticipated shortfalls in General Fund  
structural revenues, whether caused by economic recession or other  
financial hardship of the City. For purposes of this Subsection, the phrase  
"General Fund structural revenues" means on-going revenues which are  
available to fund on-going General Fund operations.

3.94.030 Transfers into and from the Budget Stabilization Fund.

1           A.     Automatic Deposit of New General Tax Revenues into the  
2 Budget Stabilization Fund. The Budget Stabilization Fund shall be funded  
3 by an automatic deposit/transfer of one percent (1%) of any new general  
4 tax revenues generated each year, commencing with Fiscal Year 2017. For  
5 purposes of this subsection, the phrase "new general tax revenues" means  
6 all revenues generated from any new or increased general tax which has  
7 been approved by the voters of the City on or after the effective date of this  
8 Chapter including, but not limited to revenues from the Transactions and  
9 Use Tax which was submitted to the voters concurrently with this ordinance.

10           B.     Discretionary Deposits into Budget Stabilization Fund not  
11 Prohibited. Nothing in this Chapter shall prohibit the City Council, as part of  
12 the budgeting process, from contributing additional revenues to the Budget  
13 Stabilization Fund, as determined in the City Council's sound legislative  
14 discretion.

15           C.     Expenditures from the Budget Stabilization Fund. The City  
16 Council may expend up to fifty percent (50%) of funds available from the  
17 Budget Stabilization Fund in any single fiscal year if the City Council  
18 declares a fiscal hardship requiring the use of such resources to maintain  
19 current levels of City services and programs. For purposes of this section,  
20 a "fiscal hardship" shall be deemed to occur whenever the City Manager, in  
21 the proposed budget for a fiscal year, projects a level of General Fund  
22 structural revenues that will result in a two percent (2%) or greater reduction  
23 in funding for general City services, as compared to the base budget that  
24 would be needed to maintain existing services. For purposes of this  
25 subsection, the phrase "base budget" means the projected on-going costs  
26 needed to maintain the same level of General Fund operations as the prior  
27 fiscal year's budget. The City Council may not draw down from the Budget  
28 Stabilization Fund more than three (3) consecutive years, after which the

1 City Council must consider alternative revenue sources or permanent  
2 reductions in general City services for the ensuing fiscal year. An  
3 assessment of the City's long-term financial outlook should be considered  
4 when making decisions about how much to expend from the Budget  
5 Stabilization Fund, including a projection of how Budget Stabilization Fund  
6 resources are expected to be used and at least partially replenished over  
7 the following years..

8 D. Maximum balance for Budget Stabilization Fund. At no time  
9 shall the balance of the Budget Stabilization Fund exceed five percent (5%)  
10 of the City's General Fund structural revenues forecast in the adopted  
11 budget for the subsequent fiscal year. Automatic transfers of revenues into  
12 the Budget Stabilization Fund as required by Subsection A shall be made  
13 only to the extent that the Fund balance does not exceed the five percent  
14 (5%) threshold, as calculated above, and any automatic transfer that would  
15 result in such an excess balance shall be suspended.

16 E. Suspension of automatic transfer. The automatic transfer  
17 described in Subsection A shall be temporarily suspended when revenue  
18 forecasts underlying the adopted budget anticipate a decline in General  
19 Fund structural revenues, as compared to the structural revenue underlying  
20 the adopted or amended budget, whichever is greater, for the fiscal year  
21 immediately prior. Automatic transfers shall remain suspended until  
22 positive revenue growth is reflected in the structural revenue forecasts  
23 underlying the adopted budget. The automatic transfer described in  
24 Subsection A shall also be temporarily suspended in any year where the  
25 Council authorizes an expenditure from the Budget Stabilization Fund.

26 F. Resumption of automatic transfer. In the first fiscal year  
27 during which positive General Fund structural revenue growth is again  
28 forecast, and during which the Council does not authorize an expenditure



1 from the Budget Stabilization Fund, the automatic transfer shall resume,  
2 and shall continue in each fiscal year thereafter, unless (i) the City again  
3 forecasts a nominal decline in General Fund structural revenues, (ii) the  
4 Budget Stabilization Fund reaches five percent (5%) of the City's General  
5 Fund revenues, or (iii) the City Council again authorizes an expenditure  
6 from the Budget Stabilization Fund.  
7

8 Section 2. Approval by the City Council. This ordinance was duly  
9 introduced on February 23, 2016 and approved upon second reading for placement on  
10 the ballot by the City Council on \_\_\_\_\_, 2016.  
11

12 Section 3. Approval by the Voters – Transactions and Use Tax Measure  
13 Contingency. Pursuant to California Elections Code Section 9217, this ordinance shall  
14 be deemed adopted and take effect only if approved by a majority of the eligible voters of  
15 the City of Long Beach voting at the Regular Election of June 7, 2016. Notwithstanding  
16 the above, this ordinance shall only become effective if the City's Transactions and Use  
17 Tax Measure, which is on the ballot for the same Election, is also approved by the eligible  
18 voters of the City of Long Beach.  
19

20 Section 4. Severability. If any provision of this ordinance or the  
21 application thereof to any person or circumstance is held invalid, the remainder of the  
22 ordinance and the application of such provision to other persons or circumstances shall  
23 not be affected thereby.  
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OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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RESOLUTION NO. RES-16-0018

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH EXPRESSING ITS INTENT TO  
PRIORITIZE SPENDING OF TRANSACTIONS AND USE  
TAX (TUT) REVENUE FOR SPECIFIC PURPOSES

WHEREAS, on February 23, 2016, the City Council of the City of Long Beach called a General Municipal Tax Election to be held on June 7, 2016, for the purpose of submitting to the voters the question of whether to adopt an ordinance adding Chapter 3.62 to the Long Beach Municipal Code, which would enact a transactions and use tax ("TUT") for a period of ten (10) years on the sale and use of tangible personal property within the City, initially at a rate of one cent (1%) for the first six (6) years of the tax, and declining to one-half cent for the remaining four (4) years of the tax; and

WHEREAS, pursuant to the proposed TUT ordinance, the TUT is a general tax enacted solely to raise revenue for the general governmental purposes of the City and all of the proceeds from the tax shall be placed in the City's general fund and used for the usual current expenses of the City; and

WHEREAS, the general fund pays for important City services such as police, fire and paramedic services, street operations and maintenance, community center and recreation services, and general municipal services to the public; and

WHEREAS, the City Council desires to adopt this resolution expressing its intent, if the TUT is enacted by the voters, to commit to spend TUT revenue for various purposes, with priorities as identified herein;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as follows:

Section 1. Findings. The City Council finds that all of the preceding recitals are true and correct.

1                   Section 2.   Priorities for Spending TUT Revenue. The City Council  
2 hereby expresses its intent, if the TUT is enacted by the voters, to prioritize spending of  
3 future TUT revenue for the following purposes:

4                   A.    Public Safety: Future TUT revenue may be spent on the  
5 costs of providing public safety services, consisting of: police patrol,  
6 response, investigation, apprehension and law enforcement, emergency 9-  
7 1-1 response, fire prevention and suppression services, paramedic  
8 services, and ambulance services.

9                   B.    Public Infrastructure: Future TUT revenue may also be spent  
10 on the costs of improving and maintaining streets, sidewalks and alleys,  
11 improving and upgrading the City's water system for conservation, and  
12 improving and upgrading storm water/storm drain systems.

13                   Section 3.   TUT Not Deemed a Special Tax. The adoption of this  
14 Resolution shall not be construed, and it is not the City Council's intent, to convert the  
15 proposed TUT into a "special tax", as that term is defined Article XIII C §1(d) of the  
16 California Constitution, California Government Code §§ 53721 and 53724, or any  
17 combination thereof. Although this Resolution expresses the intent of the current City  
18 Council to spend future TUT revenues for certain priorities, this Resolution is non-binding  
19 on any future or subsequently constituted City Council, and the TUT shall remain a  
20 "general tax" as that term is defined in Article XIII C §1(a) of the California Constitution,  
21 and as set forth in the proposed TUT ordinance.

22                   Section 4.   This resolution shall take effect immediately upon its adoption  
23 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of February 23, 2016, by the following vote:

Ayes: Councilmembers: Gonzalez, Lowenthal, Price,  
Supernaw, Mungo, Andrews, Uranga,  
Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: Austin.

Maia de la L. Harris  
City Clerk

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664