



OFFICE OF THE CITY ATTORNEY
Long Beach, California

R-12

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

MONTE H. MACHIT
Assistant City Attorney

February 23, 2016

PRINCIPAL DEPUTIES

Gary J. Anderson
Dominic Holzhaus
Anne C. Lattime

DEPUTIES

C. Geoffrey Allred
Richard F. Anthony
William R. Baerg
Kendra L. Carney
LaTasha N. Corry
Charles M. Gale
Haleh R. Jenkins
Michele L. Levinson
Barbara J. McTigue
Lauren E. Misajon
Howard D. Russell
Arturo D. Sanchez
Linda T. Vu
Amy R. Webber
Theodore B. Zinger

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

- 1) Adopt Resolution Calling for the Placement of a General Tax Measure on the Ballot of the June 7, 2016 Regular Election to Adopt a Transactions and Use Tax for a Period of Ten (10) Years (Exhibit A), and Also Calling for the Placement of Another Measure on the Same Ballot Establishing a Budget Stabilization ("Rainy Day") Fund (Exhibit B);
- 2) Adopt Resolution Expressing Its Intent to Prioritize Spending of Transactions and Use Tax (TUT) Revenue for Specific Purposes;
- 3) Adopt Resolution Providing for the Filing of Primary and Rebuttal Arguments and Setting Rules for the Filing of Written Arguments Regarding Two City Measures to be Submitted at the June 7, 2016 General Municipal Election; and
- 4) Adopt Resolution Requesting the Board of Supervisors of the County of Los Angeles to Consolidate a General Municipal Election for Two Local Initiative Measures to be Held on June 7, 2016 with the Statewide Primary Election to be Held on that Date Pursuant to Section 10403 of the Elections Code.

DISCUSSION:

Pursuant to your request of February 16, 2016, this office has prepared and submits the above-described resolutions for your consideration.

SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN
City Attorney

ARW:bg A16-00181
L:\Apps\CtyLaw32\WPDocs\D018\PO27\00598507.DOC

Attachments

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE BALLOT OF THE JUNE 7, 2016 REGULAR ELECTION TO ADOPT A TRANSACTIONS AND USE TAX FOR A PERIOD OF TEN (10) YEARS, AND ALSO CALLING FOR THE PLACEMENT OF ANOTHER MEASURE ON THE SAME BALLOT ESTABLISHING A BUDGET STABILIZATION (“RAINY DAY”) FUND

WHEREAS, the City Council of the City of Long Beach (“City”) is authorized to levy a Transactions and Use Tax for general purposes pursuant to California Revenue and Taxation Code section 7285.9, subject to approval by a majority vote of the electorate pursuant to Article XIIC, Section 2 of the California Constitution (“Proposition 218”); and

WHEREAS, the City Council would like to submit to the voters a measure establishing a Transactions and Use Tax (“TUT”) for a period of ten (10) years on the sale and/or use of all tangible personal property sold at retail in 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, the City Council intends to adopt an Ordinance to add Chapter 3.62 to the City’s Municipal Code, thereby imposing a TUT for a period of ten (10) years, 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, subject to voter approval; and

WHEREAS, the TUT is a general tax, the revenue of which will be placed in 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	Yes
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?”	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.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 2016 and approved upon second reading for placement on the ballot by a two-thirds (2/3)
2 supermajority of all members of the City Council on _____, 2016.

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

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

12 Section 5. Severability. If any provision of this ordinance or the
13 application thereof to any person or circumstance is held invalid, the remainder of the
14 ordinance and the application of such provision to other persons or circumstances shall
15 not be affected thereby.

16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

1 be operative if a majority of the electors voting on the measure vote to
2 approve the imposition of the tax at an election called for that purpose.

3 B. To adopt a retail transactions and use tax ordinance that
4 incorporates provisions identical to those of the Sales and Use Tax Law of
5 the State of California insofar as those provisions are not inconsistent with
6 the requirements and limitations contained in Part 1.6 of Division 2 of the
7 Revenue and Taxation Code.

8 C. To adopt a retail transactions and use tax ordinance that
9 imposes a tax and provides a measure therefore that can be administered
10 and collected by the State Board of Equalization in a manner that adapts
11 itself as fully as practicable to, and requires the least possible deviation
12 from, the existing statutory and administrative procedures followed by the
13 State Board of Equalization in administering and collecting the California
14 State Sales and Use Taxes.

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

21 3.62.020 Contract with State.

22 Prior to the operative date, the City shall contract with the State
23 Board of Equalization to perform all functions incident to the administration
24 and operation of this transactions and use tax ordinance; provided, that if
25 the City shall not have contracted with the State Board of Equalization prior
26 to the operative date, it shall nevertheless so contract and in such a case
27 the operative date shall be the first day of the first calendar quarter following
28 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.

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

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

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

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

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

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

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

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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.

24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION NO.

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 XIIC §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 XIIC §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.

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH PROVIDING FOR THE FILING OF PRIMARY AND REBUTTAL ARGUMENTS AND SETTING RULES FOR THE FILING OF WRITTEN ARGUMENTS REGARDING TWO CITY MEASURES TO BE SUBMITTED AT THE JUNE 7, 2016 GENERAL MUNICIPAL ELECTION

WHEREAS, a General Municipal Election is to be held in the City of Long Beach, California on June 7, 2016, at which there will be submitted to the voters the following two measures:

"CITY OF LONG BEACH PUBLIC SAFETY, INFRASTRUCTURE REPAIR AND NEIGHBORHOOD SERVICES MEASURE. To maintain 911 emergency response services; increase police, firefighter/paramedic staffing; repair potholes/streets; improve water supplies; and maintain general services; shall the City of Long Beach establish a one cent (1%) transactions and use (sales) tax for six years, generating approximately \$48 million annually, declining to one-half cent for four years and then ending, requiring a citizens' advisory committee and independent audits, with all funds remaining in Long Beach?"	Yes
	No
"CITY OF LONG BEACH BUDGET STABILIZATION ("RAINY DAY") FUND. To help maintain city services, such as police, firefighter, paramedic, park, library, street repair and community programs, during economic recessions that cause temporary budget shortfalls, shall the City of Long Beach establish a budget stabilization ("rainy day") fund as part of the General Fund to provide short-term funding for such general services into which one percent of any new general tax revenues shall be deposited and spent only to balance the budget?"	Yes
	No

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

3 Section 1. Primary Arguments. That the City Council authorizes (i) the
4 City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote
5 on the above measure, (iii) a bona fide association of such citizens or (iv) any
6 combination of voters and associations, to file a written argument in favor of or against
7 either of the City measures, accompanied by the printed name(s) and signature(s) of the
8 author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections
9 Code of the State of California, and to change the argument until and including the date
10 fixed below by the City Clerk, after which no arguments for or against the City measure
11 may be submitted to the City Clerk.

12 Section 2. The deadline to submit arguments for or against either of the
13 City Measures pursuant to this Resolution is declared by the City Clerk to be Friday,
14 March 18, 2016, at 5:00 p.m. Each argument shall not exceed three hundred (300)
15 words and shall be filed with the City Clerk, signed, and include the printed name(s) and
16 signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the
17 name of the organization, and the printed name and signature of at least one of its
18 principal officers who is the author of the argument.

19 Section 3. Rebuttal Arguments. Pursuant to Section 9285 of the
20 Elections Code of the State of California, when the City Clerk has selected the primary
21 arguments for and against each of the City Measures which will be printed and distributed
22 to the voters, the Clerk shall send copies of the primary argument in favor of each
23 Measure to the authors of the primary argument against, and copies of the primary
24 argument against to the authors of the primary argument in favor. The authors or
25 persons designated by them may prepare and submit rebuttal arguments not exceeding
26 two hundred fifty (250) words. The rebuttal arguments shall be filed with the City Clerk
27 not later than Monday, March 28, 2016 at 5:00 p.m. Rebuttal arguments shall be printed
28 in the same manner as the primary arguments. Each rebuttal argument shall

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

1 immediately follow the primary argument which it seeks to rebut.

2 Section 4. Prior Resolutions. That all previous resolutions providing for
3 the filing of primary and rebuttal arguments related to City measures are repealed.

4 Section 5. June 7, 2016 Election. That the provisions of Sections 1 and
5 2 shall apply only to the election to be held on June 7, 2016, and shall then be repealed.

6 Section 6. This resolution shall take effect immediately upon its adoption
7 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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

11 Ayes: Councilmembers: _____

12 _____

13 _____

14 _____

15 Noes: Councilmembers: _____

16 _____

17 Absent: Councilmembers: _____

18 _____

19 _____

20 _____

City Clerk

21

22

23

24

25

26

27

28

1 RESOLUTION NO.
2

3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH REQUESTING THE BOARD OF
5 SUPERVISORS OF THE COUNTY OF LOS ANGELES TO
6 CONSOLIDATE A GENERAL MUNICIPAL ELECTION FOR
7 TWO LOCAL INITIATIVE MEASURES TO BE HELD ON
8 JUNE 7, 2016 WITH THE STATEWIDE PRIMARY
9 ELECTION TO BE HELD ON THAT DATE PURSUANT TO
10 SECTION 10403 OF THE ELECTIONS CODE
11

12 WHEREAS, on February 23, 2016, the City Council of the City of Long
13 Beach called a General Municipal Election to be held on June 7, 2016; for the purpose of
14 submitting to the voters two questions relating to (i) enactment of a local Transactions
15 and Use Tax and (ii) establishment of a revenue stabilization (“rainy day”) fund; and
16

17 WHEREAS, it is desirable that the General Municipal Election for the two
18 local measures be consolidated with the Statewide Primary Election to be held on the
19 same date and that within the City the precincts, polling places and election officers of the
20 two elections be the same, and that the election department of the County of Los Angeles
21 canvass the returns of the General Municipal Election and that the election be held in all
22 respects as if there were only one election;

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

25 Section 1. Request for Consolidation. Pursuant to the requirements of
26 Section 10403 of the Elections Code, the Board of Supervisors of the County of Los
27 Angeles is hereby requested to consent and agree to the consolidation of a General
28 Municipal Election with the Statewide Primary Election on Tuesday, June 7, 2016, for the
purpose of (i) submitting to the voters the question relating to the Transactions and Use

1 Tax and (ii) submitting to the voters the question relating to the revenue stabilization
2 (“rainy day”) fund.

3 Section 2. Measure Language. The two measures are to appear on the
4 ballot as follows:

5 “CITY OF LONG BEACH PUBLIC SAFETY, INFRASTRUCTURE REPAIR 6 AND NEIGHBORHOOD SERVICES MEASURE. To maintain 911 7 emergency response services; increase police, firefighter/paramedic 8 staffing; repair potholes/streets; improve water supplies; and maintain 9 general services; shall the City of Long Beach establish a one cent (1%) 10 transactions and use (sales) tax for six years, generating approximately \$48 11 million annually, declining to one-half cent for four years and then ending, 12 requiring a citizens’ advisory committee and independent audits, with all 13 funds remaining in Long Beach?”	Yes
	No

15 “CITY OF LONG BEACH BUDGET STABILIZATION (“RAINY DAY”) FUND. 16 To help maintain city services, such as police, firefighter, paramedic, park, 17 library, street repair and community programs, during economic recessions 18 that cause temporary budget shortfalls, shall the City of Long Beach 19 establish a budget stabilization (“rainy day”) fund as part of the General Fund 20 to provide short-term funding for such general services into which one 21 percent of any new general tax revenues shall be deposited and spent only 22 to balance the budget?”	Yes
	No

23
24 Section 3. Canvass of Returns. The County election department is
25 authorized to canvass the returns and perform all other proceedings incidental to and
26 connected with the General Municipal Election. The Election shall be held in all respects
27 as if there were only one election, and only one form of ballot shall be used. Pursuant to
28 California Elections Code Sections 10403 and 10418, the Election will be held and

1 conducted in accordance with the provisions of law regulating the Statewide Primary
2 Election.

3 Section 4. The purpose of this resolution is request consolidation of the
4 General Election only as it relates to the two local initiative measures. The City of Long
5 Beach will also be conducting an independent election for City Council candidates on
6 June 7, 2016 which will not be consolidated with the Statewide Primary Election.

7 Section 5. Necessary Steps. The Board of Supervisors is requested to
8 issue instructions to the County election department to take any and all steps necessary
9 for the holding of the consolidated election.

10 Section 6. Costs. The City of Long Beach recognizes that additional
11 costs will be incurred by the County by reason of this consolidation and agrees to
12 reimburse the County for any costs.

13 Section 7. Filing of Resolution. The City Clerk is hereby directed to file a
14 certified copy of this resolution with the Board of Supervisors and the election department
15 of the County of Los Angeles.

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

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

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