



APPROVED BY
CITY MANAGER

TO: MAYOR SAAB AND MEMBERS OF THE CITY COUNCIL

FROM: OFFICE OF THE CITY MANAGER
BY: Gilbert A. Livas, City Manager

OFFICE OF CITY CLERK
BY: Adria M. Jimenez, MMC, City Clerk

DATE: June 28, 2016

SUBJECT: RESOLUTIONS PERTAINING TO THE SUBMISSION TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION ON NOVEMBER 8, 2016 OF A PROPOSED MEASURE WHICH WOULD INCREASE THE SALES TAX IN THE CITY OF DOWNEY BY ONE-HALF OF ONE PERCENT FOR A TWENTY (20) YEAR PERIOD WITH OVERSIGHT BY AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE

RECOMMENDATION

To adopt the following five (5) Resolutions regarding the submission to the voters of a proposed measure which would increase the sales tax in the City of Downey by one-half of one percent (0.5%) for a 20 year period with oversight by an Independent Citizens' Oversight Committee at the upcoming November 8, 2016 general municipal election:

1. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016 TO PRESENT TO VOTERS A MEASURE TO LEVY A TRANSACTIONS AND USE TAX OF ONE-HALF OF ONE PERCENT FOR A PERIOD OF 20 YEARS WITH AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO REVIEW EXPENDITURE OF REVENUES AND MAKE APPROPRIATE RECOMMENDATIONS THEREFOR--Four affirmative votes of the City Council are required to adopt the Resolution placing the sales tax measure on the ballot.

2. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION FOR THE PLACEMENT OF A MEASURE TO LEVY A TRANSACTIONS AND USE TAX OF ONE-HALF OF ONE PERCENT FOR A PERIOD OF 20 YEARS WITH AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO REVIEW EXPENDITURE OF REVENUES AND MAKE APPROPRIATE RECOMMENDATIONS THEREFOR TO BE HELD ON NOVEMBER 8, 2016, WITH THE

STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE CALIFORNIA ELECTIONS CODE

3. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY RELATING TO ARGUMENTS FOR AND AGAINST THE MEASURE LEVYING A TRANSACTIONS AND USE TAX AND AUTHORIZING CERTAIN COUNCIL MEMBERS TO PREPARE THE PRIMARY WRITTEN ARGUMENT ON BEHALF OF THE CITY COUNCIL IN SUPPORT THEREOF; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

4. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY AUTHORIZING REBUTTAL ARGUMENTS FOR THE MEASURE LEVYING A TRANSACTIONS AND USE TAX

5. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY CREATING AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE

DISCUSSION

A. Proposed Transactions and Use Tax Ballot Measure

The City currently imposes a 1% sales and use tax pursuant to the Bradley-Burns Uniform Local Sales Tax and Use Law. This tax, which applies in municipal jurisdictions throughout the state, is codified in Part 1.5, Division 2 of the Downey Municipal Code. The California Revenue and Taxation Code permits adoption of additional local sales and use taxes, which are known as transactions and use taxes. The proposed 0.5% transactions and use tax would not modify or replace the 1% Bradley-Burns tax, but would instead apply on top of that tax.

The proposed transactions and use tax ordinance would levy a 0.5% "sales tax" on the sales price of tangible personal property sold at retail in the City. The tax would be collected by retailers and the Board of Equalization and remitted to the City. Under State law, certain items are exempt from the sales tax as discussed below.

The ordinance would add Chapter 1E to Article VI of the Downey Municipal Code, entitled "The City of Downey Transactions and Use Tax Ordinance." By adopting the Resolution, the City Council would be approving the transactions and use tax ordinance attached to the Resolution as "Exhibit A" and submitting the ordinance as a ballot measure for voter approval at the November 8, 2016 election — as required by Revenue and Taxation Code section 7285.9. The transactions and use tax is a general tax requiring approval by a majority of voters voting on the ballot measure. If approved by the voters, the transactions and use tax would take effect on April 1, 2017 and is estimated to generate \$9 million annually for the City's general fund budget.

Currently, 138 municipalities and 31 counties in California levy a transactions and use tax in addition to the traditional "sales tax" with rates ranging from 0.125% to 0.75%.

B. Independent Citizens' Oversight Committee

The Ordinance creates an "Independent Citizens' Oversight Committee" to annually review the City's revenues and expenditures of the transactions and use tax. The committee is comprised of five members appointed by the City Council. The committee will hold public meetings at least quarterly, review annual audit reports related to the tax, and make at least one written annual report to the City Council at a public meeting summarizing the committee's findings and making any appropriate recommendations. A Resolution taking formal action to create the Committee should the proposed measure be adopted by the voters is also presented to the Council for adoption. (See Resolution 5).

C. Sunset Date

If approved by the voters, the transactions and use tax would automatically expire or "sunset" on April 1, 2037 — 20 years after its operative date — without further action of the City Council or voters.

D. Ballot Measure Language

As currently drafted, the ballot question for the transactions and use tax reads as follows:

<p><u>TRANSACTIONS AND USE TAX.</u> To maintain and improve city services including city-run police and fire departments, paramedic/9-1-1 emergency response, anti-gang/drug/crime programs, school safety, after-school and seniors programs; ensure fire engines and emergency vehicles have updated equipment; and repair streets/potholes; shall the ordinance to increase the sales tax by one-half of one percent, providing \$9,000,000 annually, to expire after 20 years, requiring audits, public disclosure of funds, and all funds only for Downey be adopted?</p>	YES NO
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E. Exemptions to the Transactions and Use Tax

As required by State law, certain items are exempted from the proposed transactions and use tax ordinance:

1. A person subject to the transactions and use tax is entitled to a credit against the tax for a transactions tax paid under any state-administered transactions and use tax ordinance;
2. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used and consumed principally outside Los Angeles County;
3. Sales of property to be used outside the City and shipped to a point outside the City by the retailer or his or her agent;
4. Sales of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to April 1, 2017;
5. A lease of tangible personal property which is a continuing sale, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to April 1, 2017; and
6. Other exemptions and exclusions required by state law (i.e., food, medicine).

SURVEY

In late May 2016, a total of 27,125 surveys were mailed to all registered voter households in the City of Downey to gather input about city services and priorities. As of Tuesday, June 21, 2016, a total of 571 surveys were received by mail, and 43 were submitted online, making the grand total of surveys submitted **614**.

Based on the responses from the surveys, the average rating for the four priorities listed on the survey are as follows:

1 = Low Priority	2 = Medium Priority	3 = High Priority
Priority		Average Rating
Maintain a City-run Police Department and Fire Department to ensure quick emergency response times		2.87
Enhance police services and put more officers on the street		2.67
Protect parks, youth and senior programs		2.52
Repair streets and sidewalks		2.55

The majority of comments mentioned in the surveys focused on enhancing public safety services, as well as repairing City streets. Out of the 614 surveys submitted, 195 expressed the need for enhancing public safety services (especially the need for increased patrol), and 104 requested the City focus on street repairs. A total of 49 survey respondents specifically expressed their opposition for a tax increase. The rest of the comments were related to various other topics such as senior programs, parks, economic development, and programming, among others.

FISCAL IMPACT

Based on present sales tax revenue and future projections, the City estimates that \$9 million annually will be generated from the proposed transactions and use tax of 0.5% terminating on April 1, 2037. There are also costs associated with placing the measure on the November 8, 2016 ballot. The City is required to reimburse Los Angeles County for the actual costs incurred in administering the election on behalf of the City. Staff estimates the additional cost to include this measure on the November 2016 ballot to be \$10,000-\$15,000.

RESOLUTION 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016 TO PRESENT TO VOTERS A MEASURE TO LEVY A TRANSACTIONS AND USE TAX OF ONE-HALF OF ONE PERCENT FOR A PERIOD OF 20 YEARS WITH AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO REVIEW EXPENDITURE OF REVENUES AND MAKE APPROPRIATE RECOMMENDATIONS THEREFOR

WHEREAS, City of Downey City Charter Section 1302 provides that all municipal elections shall be governed by state law except as otherwise provided in the City Charter or ordinance enacted by the City Council and not inconsistent with the City Charter; and

WHEREAS, California Revenue and Taxation Code Section 7285.9 authorizes the City of Downey (the "City") to levy a one-half of one percent transactions and use tax by ordinance following approval by two-thirds of the City Council and a majority vote of the qualified electors of the City voting in an election on the issue; and

WHEREAS, the transactions and use tax is a general tax with all revenues deposited in the general fund for general governmental purposes and spent to preserve and protect the public health, safety, and welfare; and

WHEREAS, the ordinance creates an Independent Citizens' Oversight Committee to review on at least a quarterly basis the City's expenditure of revenues generated by the transactions and use tax, if approved by the voters, review annual audit reports related to the tax; make written reports to the City Council summarizing the committee's findings and including appropriate recommendations; and the ordinance shall expire twenty (20) years from the operative date of the ordinance (the "Measure"); and

WHEREAS, the transactions and use tax would be levied in addition to the current sales tax and would be collected at the same time and in the same manner as the existing sales tax; and

WHEREAS, the levying of the transactions and use tax of one-half of one percent would not cause the overall transactions and use tax in the City to exceed two percent in accordance with California Revenue and Taxation Code section 7251.1; and

WHEREAS, California Constitution Article XIII C, Section 2(b), requires that any general tax imposed, extended, or increased by the City Council be submitted to the electorate and approved by a majority vote before becoming effective; and

WHEREAS, California Government Code Section 53724 requires this Resolution be adopted by a two-thirds vote of the City Council and consolidated with a statewide primary election, a statewide general election or a regularly scheduled local election; and

WHEREAS, California Elections Code section 9222 authorizes the City Council to submit to the voters a proposition for the enactment of any ordinance at an election held not less than 88 days after the date of the order of election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. MEASURE TO BE VOTED ON AT GENERAL MUNICIPAL ELECTION

a. Ballot Language.

That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

<p><u>TRANSACTIONS AND USE TAX.</u> To maintain and improve city services including city-run police and fire departments, paramedic/9-1-1 emergency response, anti-gang/drug/crime programs, school safety, after-school and seniors programs; ensure fire engines and emergency vehicles have updated equipment; and repair streets/potholes; shall the ordinance to increase the sales tax by one-half of one percent, providing \$9,000,000 annually, to expire after 20 years, requiring audits, public disclosure of funds, and all funds only for Downey be adopted?</p>	YES NO
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The measure shall be designated on the ballot by a letter, as provided in California Elections Code Section 13116.

b. Proposed Ordinance.

The full text of the ordinance authorizing the transactions and use tax to be approved by the voters, entitled the "The City of Downey Transactions and Use Tax Ordinance," is attached as Exhibit "A" to this Resolution. The full text of the ordinance shall be printed in the Voter Information Pamphlet.

c. Form of the Measure.

The exact form of the measure is as specified in Section 1(a) of this Resolution.

d. Passage of the Measure.

The transactions and use tax is a general tax requiring the approval of a majority of the votes cast by qualified electors of the City voting in the election on the issue.

e. Publication of Measure.

The City Clerk is hereby directed to cause notice of the measure to be published in accordance with California Elections Code Section 12111 in the form attached as Exhibit "A" to this Resolution.

f. Letter Designation.

This measure shall be designated by letter by the Los Angeles County Registrar-Recorder and/or the City Clerk as may be required.

SECTION 2. IMPLEMENTATION

The City Clerk is authorized and directed to perform all acts necessary or required by law to implement this Resolution and related to the election.

a. That the ballots to be used at the election shall be in form and content as required by law.

b. That the City Clerk is authorized, instructed and directed to coordinate with the County of Los Angeles Registrar-Recorder/County Clerk to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

c. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Election Code Section 10242, except as provided in Section 14401 of the Elections Code of the State of California.

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

e. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.

SECTION 3. ELECTION EXPENSES

The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 4. CEQA

The adoption of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq. ("CEQA") and 14 Cal. Code Reg. §§ 15000 et seq. ("CEQA Guidelines"). The calling and noticing of a General Municipal Election for the submission of a ballot measure to voters is not a project within the meaning of CEQA Guidelines Section 15378. The transactions and use tax submitted to the voters is a general tax that can be used for any governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

SECTION 5. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The City Council of the City of Downey hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion

thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 6. EFFECTIVE DATE

This Resolution shall take effect immediately upon its adoption.

SECTION 7. CERTIFICATION

The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED AND ADOPTED this 28th day of June, 2016.

ALEX SAAB, Mayor

ATTEST:

ADRIA M. JIMENEZ, MMC
City Clerk

I HEREBY CERTIFY that the foregoing Resolution was adopted by the City Council of the City of Downey as a regular meeting thereof held on the 28th day of June, 2016, by the following vote, to wit:

AYES:	Council Members:
NOES:	Council Members:
ABSTAIN:	Council Members:
ABSENT:	Council Members

ADRIA M. JIMENEZ, MMC
City Clerk

**AN ORDINANCE OF THE CITY OF DOWNEY
ENACTING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
STATE BOARD OF EQUALIZATION, UPON ADOPTION BY THE VOTERS**

The People of the City of Downey do hereby ordain as follows:

Section 1. Chapter 1E is hereby added to Article VI of the Downey Municipal Code with the following provisions:

“Section 6199.60. Title. This chapter shall be known as the City of Downey Transactions and Use Tax Ordinance. The City of Downey will hereinafter be called City. This chapter shall be applicable in the incorporated territory of the City.

Section 6199.61. Definitions. The following words and phrases shall be defined as set forth in this chapter, except that any term or phrase not defined in this shall have the same meaning as that term or phrase is defined in the California Revenue and Taxation Code, Division 2, Parts 1.6 and 1.7:

- A. “City” means the City of Downey.
- B. “Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter by vote of the electorate on November 8, 2016.
- C. “Chapter” means Chapter 1E of Article VI of the Downey Municipal Code.
- D. “State” means the State of California.

Section 6199.62. Purpose. This chapter is adopted to achieve the following, among other purposes, and it shall be interpreted liberally in order to accomplish all of its lawful purposes:

- A. To impose a retail transactions and use tax to be applied throughout the entire territory of the City to the fullest extent permitted by law and 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 Ordinance 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 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 chapter 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 chapter.
- E. To provide transactions and use tax revenue to the City to be used for general purposes.

Section 6199.63. Contract with the 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 chapter; 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.

Section 6199.64. Transactions Tax Rate. For the privilege of selling tangible personal property at retail, a general transactions tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 0.5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail within the territory of the City on and after the Operative Date of this chapter.

Section 6199.65. Place of Sale. For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 6199.66. Use Tax Rate. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this chapter for storage, use or other consumption in the territory of the City at the rate of 0.5% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made.

Section 6199.67. Adoption of Provisions of State Law. Except as otherwise provided in this chapter, and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted, incorporated, and made a part of this chapter as though fully set forth herein.

Section 6199.68. Limitations on Adoption of State Law and Collection of Use Taxes. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

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

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, Victim Compensation and Government Claims Board, State Board of Equalization, State Treasury, or the Constitution of the State of California;
2. The result of the substitution would require action to be taken by or against the City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.
3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from the tax in this chapter with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from the tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the same provision of that code.
4. In sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in section 6203 and in the definition of that phrase in section 6203.

Section 6199.69. Permit Not Required. If a seller's permit has been issued to a retailer under section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

Section 6199.70. Exemptions and Exclusions.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
 1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government;

2. Sales of property to be used outside the City, which is shipped to a point outside the City pursuant to the contract of sale by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial 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, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this chapter.
 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 chapter, 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 chapter;

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 chapter.
 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 chapter 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.

Section 6199.71. Amendments. All amendments subsequent to the Effective Date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become adopted and part of this chapter; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. The City Council or the City's voters may amend this chapter to comply with applicable law or as may be otherwise necessary to further the chapter's stated purposes. However, as required by Article XIII C of the California Constitution, no amendment to this chapter may increase the rates of the taxes authorized by this chapter unless such amendment is submitted to and approved by the voters.

Section 6199.72. Prohibition on Enjoining Collection. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the

Revenue and Taxation Code, of any tax or any amount of tax required to be collected under this chapter.

Section 6199.73. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter or the application of such provision to other persons or circumstances shall not be affected thereby.

Section 6199.74. Effective Date. This chapter relates to the levying and collecting of City transactions and use taxes and shall take effect immediately. However, no tax imposed by this chapter shall be effective unless that tax has been approved by the voters of the City as required by section 2(b) of Article XIII C of the California Constitution and applicable law.

Section 6199.75. Precedence over Other Provisions in the Municipal Code. Any provision of the Downey Municipal Code or appendices thereto inconsistent with the provisions of this chapter, to the extent of such inconsistency and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this chapter.

Section 6199.76. Independent Citizen Oversight. A five-member Independent Citizens' Advisory Committee will be created by the City Council and shall meet annually to review the expenditure of revenues generated by the tax imposed by this chapter and to make recommendations to the City Council regarding those expenditures. The Independent Citizens' Advisory Committee shall meet publicly on at least a quarterly basis to review all revenues and expenditures of the transactions and use tax imposed by this chapter, review annual audit reports related to the tax, and make at least one written annual report to the City Council at a public meeting summarizing the Independent Citizens' Advisory Committee's findings and including any appropriate recommendations. The minutes of the meetings of Independent Citizens' Advisory Committee shall be provided to the City Council and placed on the next available regular City Council meeting agenda for informational purposes.

Section 6199.77. Audit and Review. The proceeds of the tax imposed by this chapter, as well as the expenditure thereof, shall be audited annually by an independent accounting firm. The City Council shall discuss the results of such audit at a meeting of the City Council that is open to the public. The report of such audit shall be posted on the City's website.

Section 6199.78. Sunset of Tax. The taxes imposed by this chapter shall remain effective until the soonest to occur of (i) the voters repeal this Ordinance; or (ii) twenty (20) years from the date the taxes imposed by this chapter are first collected. The taxes imposed by this chapter may be renewed prior to the sunset period by a majority of the electors voting in an election."

Section 2. Execution. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance upon certification by the City Council of the results of the election approving this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Downey, on

_____, by the following vote:

AYES:

NOES:

ABSENT:

Alex Saab, Mayor

Attest:

Adria M. Jimenez, MMC, City Clerk

I hereby certify that this Ordinance was APPROVED by the voters of the City of Downey, State of California, at a general election held on November 8, 2016 and by the City Council of the City of Downey at a regular meeting of the Council held on November ____, 2016.

Alex Saab, Mayor

Attest:

Adria M. Jimenez, MMC, City Clerk

RESOLUTION 2

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION FOR THE PLACEMENT OF A MEASURE TO LEVY A TRANSACTIONS AND USE TAX OF ONE-HALF OF ONE PERCENT FOR A PERIOD OF 20 YEARS WITH AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO REVIEW EXPENDITURE OF REVENUES AND MAKE APPROPRIATE RECOMMENDATIONS THEREFOR TO BE HELD ON NOVEMBER 8, 2016 WITH THE STATEWIDE GENERAL ELECTIONS TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE CALIFORNIA ELECTIONS CODE

WHEREAS, the City Council is submitting to the voters the question relating to the levy of a one-half of one percent transactions and use tax as set forth in this Resolution; and,

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places and election officers of the two elections be the same, and that the county election department of the County of Los Angeles canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of Section 10403 of the California Elections Code, the Board of Supervisors of the County of Los Angeles is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2016, for the purpose of placing before the voters a measure to levy a transactions and use tax of one-half of one percent.

SECTION 2. That a measure is to appear on the ballot as follows:

<p><u>TRANSACTIONS AND USE TAX.</u> To maintain and improve city services including city-run police and fire departments, paramedic/9-1-1 emergency response, anti-gang/drug/crime programs, school safety, after-school and seniors programs; ensure fire engines and emergency vehicles have updated equipment; and repair streets/potholes; shall the ordinance to increase the sales tax by one-half of one percent, providing \$9,000,000 annually, to expire after 20 years, requiring audits, public disclosure of funds, and all funds only for Downey be adopted?</p>	YES NO
---	---------------

SECTION 3. That the proposed full text of the ordinance authorizing the transactions and use tax to be approved by the voters, entitled the "City of Downey Transactions and Use Tax Ordinance," is attached as Exhibit "A" to this Resolution. The full text of the ordinance shall be printed in the Voter Information Pamphlet.

SECTION 4. That the proposed transactions and use tax is a general tax requiring the

RESOLUTION NO.

PAGE 2

approval of a majority of votes cast by qualified electors of the City voting in the election on the issue.

SECTION 5. That the Registrar of Voters of the County of Los Angeles is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with California Elections Code Section 10418 and the provisions of law regulating the Statewide Election.

SECTION 6. That the Board of Supervisors is requested to issue instructions to the Registrar of Voters of the County of Los Angeles to take any and all steps necessary for the holding of the consolidated election.

SECTION 7. That the City of Downey recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 8. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and Registrar of Voters of the County of Los Angeles.

SECTION 9. That the City Clerk shall certify to the passage and adoption of this resolution.

APPROVED AND ADOPTED this 28th day of June, 2016.

ALEX SAAB, Mayor

ATTEST:

ADRIA M. JIMENEZ, MMC
City Clerk

I **HEREBY CERTIFY** that the foregoing Resolution was adopted by the City Council of the City of Downey at a Regular Meeting thereof held on the 28th day of June, 2016, by the following vote, to wit:

AYES: Council Members:
NOES: Council Members:
ABSTAIN: Council Members:
ABSENT: Council Members:

ADRIA M. JIMENEZ, MMC
City Clerk

EXHIBIT A

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF DOWNEY
ENACTING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
STATE BOARD OF EQUALIZATION, UPON ADOPTION BY THE VOTERS**

The People of the City of Downey do hereby ordain as follows:

Section 1. Chapter 1E is hereby added to Article VI of the Downey Municipal Code with the following provisions:

“Section 6199.60. Title. This chapter shall be known as the City of Downey Transactions and Use Tax Ordinance. The City of Downey will hereinafter be called City. This chapter shall be applicable in the incorporated territory of the City.

Section 6199.61. Definitions. The following words and phrases shall be defined as set forth in this chapter, except that any term or phrase not defined in this shall have the same meaning as that term or phrase is defined in the California Revenue and Taxation Code, Division 2, Parts 1.6 and 1.7:

- A. “City” means the City of Downey.
- B. “Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter by vote of the electorate on November 8, 2016.
- C. “Chapter” means Chapter 1E of Article VI of the Downey Municipal Code.
- D. “State” means the State of California.

Section 6199.62. Purpose. This chapter is adopted to achieve the following, among other purposes, and it shall be interpreted liberally in order to accomplish all of its lawful purposes:

- A. To impose a retail transactions and use tax to be applied throughout the entire territory of the City to the fullest extent permitted by law and 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 Ordinance 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 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 chapter 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 chapter.
- E. To provide transactions and use tax revenue to the City to be used for general purposes.

Section 6199.63. Contract with the 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 chapter; 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.

Section 6199.64. Transactions Tax Rate. For the privilege of selling tangible personal property at retail, a general transactions tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 0.5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail within the territory of the City on and after the Operative Date of this chapter.

Section 6199.65. Place of Sale. For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 6199.66. Use Tax Rate. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this chapter for storage, use or other consumption in the territory of the City at the rate of 0.5% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made.

Section 6199.67. Adoption of Provisions of State Law. Except as otherwise provided in this chapter, and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted, incorporated, and made a part of this chapter as though fully set forth herein.

Section 6199.68. Limitations on Adoption of State Law and Collection of Use Taxes. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

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

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, Victim Compensation and Government Claims Board, State Board of Equalization, State Treasury, or the Constitution of the State of California;
 2. The result of the substitution would require action to be taken by or against the City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.
 3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from the tax in this chapter with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from the tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the same provision of that code.
 4. In sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in section 6203 and in the definition of that phrase in section 6203.

Section 6199.69. Permit Not Required. If a seller's permit has been issued to a retailer under section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

Section 6199.70. Exemptions and Exclusions.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
 1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government;

2. Sales of property to be used outside the City, which is shipped to a point outside the City pursuant to the contract of sale by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial 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, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this chapter.
 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 chapter, 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 chapter;

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 chapter.
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 chapter 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.

Section 6199.71. Amendments. All amendments subsequent to the Effective Date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become adopted and part of this chapter; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. The City Council or the City's voters may amend this chapter to comply with applicable law or as may be otherwise necessary to further the chapter's stated purposes. However, as required by Article XIII C of the California Constitution, no amendment to this chapter may increase the rates of the taxes authorized by this chapter unless such amendment is submitted to and approved by the voters.

Section 6199.72. Prohibition on Enjoining Collection. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the

Revenue and Taxation Code, of any tax or any amount of tax required to be collected under this chapter.

Section 6199.73. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter or the application of such provision to other persons or circumstances shall not be affected thereby.

Section 6199.74. Effective Date. This chapter relates to the levying and collecting of City transactions and use taxes and shall take effect immediately. However, no tax imposed by this chapter shall be effective unless that tax has been approved by the voters of the City as required by section 2(b) of Article XIII C of the California Constitution and applicable law.

Section 6199.75. Precedence over Other Provisions in the Municipal Code. Any provision of the Downey Municipal Code or appendices thereto inconsistent with the provisions of this chapter, to the extent of such inconsistency and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this chapter.

Section 6199.76. Independent Citizen Oversight. A five-member Independent Citizens' Advisory Committee will be created by the City Council and shall meet annually to review the expenditure of revenues generated by the tax imposed by this chapter and to make recommendations to the City Council regarding those expenditures. The Independent Citizens' Advisory Committee shall meet publicly on at least a quarterly basis to review all revenues and expenditures of the transactions and use tax imposed by this chapter, review annual audit reports related to the tax, and make at least one written annual report to the City Council at a public meeting summarizing the Independent Citizens' Advisory Committee's findings and including any appropriate recommendations. The minutes of the meetings of Independent Citizens' Advisory Committee shall be provided to the City Council and placed on the next available regular City Council meeting agenda for informational purposes.

Section 6199.77. Audit and Review. The proceeds of the tax imposed by this chapter, as well as the expenditure thereof, shall be audited annually by an independent accounting firm. The City Council shall discuss the results of such audit at a meeting of the City Council that is open to the public. The report of such audit shall be posted on the City's website.

Section 6199.78. Sunset of Tax. The taxes imposed by this chapter shall remain effective until the soonest to occur of (i) the voters repeal this Ordinance; or (ii) twenty (20) years from the date the taxes imposed by this chapter are first collected. The taxes imposed by this chapter may be renewed prior to the sunset period by a majority of the electors voting in an election."

Section 2. Execution. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance upon certification by the City Council of the results of the election approving this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Downey, on

_____, by the following vote:

AYES:

NOES:

ABSENT:

Alex Saab, Mayor

Attest:

Adria M. Jimenez, MMC, City Clerk

I hereby certify that this Ordinance was APPROVED by the voters of the City of Downey, State of California, at a general election held on November 8, 2016 and by the City Council of the City of Downey at a regular meeting of the Council held on November ____, 2016.

Alex Saab, Mayor

Attest:

Adria M. Jimenez, MMC, City Clerk

RESOLUTION 3

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY RELATING TO ARGUMENTS FOR AND AGAINST THE MEASURE LEVYING A TRANSACTIONS AND USE TAX AND AUTHORIZING CERTAIN COUNCILMEMBERS TO PREPARE THE PRIMARY WRITTEN ARGUMENT ON BEHALF OF THE CITY COUNCIL IN SUPPORT THEREOF; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, City of Downey City Charter Section 1302 provides that all municipal elections shall be governed by state law except as otherwise provided in the City Charter or ordinance enacted by the City Council and not inconsistent with the City Charter; and

WHEREAS, on June 28, 2016, the City Council adopted a Resolution for the holding of a General Municipal Election for the purposes of submitting to the voters the question relating to the levy of a one-half of one percent transactions and use tax (the "Measure") to be held on the same date and at the same time as the Statewide General Election to be held on November 8, 2016 and a Resolution requesting the election be consolidated with Los Angeles County; and

WHEREAS, the City Council is submitting to the voters the question relating to the levy of a one-half of one percent transactions and use tax; and

WHEREAS, Article 4 of Chapter 3 of Division 9 of the California Elections Code (commencing with Section 9280) authorizing the City Council by majority vote to adopt requirements regarding the filing of written arguments for a city measure submitted at municipal elections; and

WHEREAS, Section 9282 of the California Elections Code provides for written arguments to be filed in favor or against city measures not to exceed 300 words in length; and

WHEREAS, Section 9280 of the California Elections Code provides that the City Council may direct the City's elections official to transmit a copy of the Measure to the city attorney for the preparation of an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the Measure.

WHEREAS, the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

<p><u>TRANSACTIONS AND USE TAX.</u> To maintain and improve city services including city-run police and fire departments, paramedic/9-1-1 emergency response, anti-gang/drug/crime programs, school safety, after-school and seniors programs; ensure fire engines and emergency vehicles have updated equipment; and repair streets/potholes; shall the ordinance to increase the sales tax by one-half of one percent, providing \$9,000,000 annually, to expire after 20 years, requiring audits,</p>	<p>YES</p> <p>NO</p>
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public disclosure of funds, and all funds only for Downey be adopted?	
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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. ARGUMENTS FOR THE MEASURE

Pursuant to California Elections Code Section 9282, subdivision (b), the City Council hereby authorizes the following Council Members to prepare and file the primary written argument on behalf of the City Council in support of the Measure:

1. _____
2. _____
3. _____
4. _____
5. _____

The argument shall not exceed 300 words, shall be accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the California Elections Code. The argument may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for the Measure may be submitted to the City Clerk.

The Council Members identified above shall file the argument to the City Clerk no later than **July 12, 2016**, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name accompanied by the Los Angeles County Registrar-Recorder/County Clerk Declaration By Author(s) of Arguments or Rebuttals form.

The City Council hereby further authorizes the Council Members identified above to determine the signatures of up to five (5) authors of the argument that shall appear therewith in accordance with California Elections Code Section 9283.

SECTION 2. ARGUMENTS AGAINST THE MEASURE

Pursuant to California Elections Code Section 9282, subdivision (b), any argument against the Measure shall not exceed 300 words be accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the California Elections Code. The argument shall contain the signatures of no more than five (5) authors in accordance with California Elections Code Section 9283. The argument may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments against the Measure may be submitted to the City Clerk. An argument against the Measure shall be filed with the City Clerk no later than **July 12, 2016**, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name

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PAGE 3**

of the organization, and the printed name accompanied by the Los Angeles County Registrar-Recorder/County Clerk Declaration By Author(s) of Arguments or Rebuttals form. If more than one argument against the Measure is received, the City Clerk shall select the argument for printing and distribution to the voters giving preference and priority in accordance with California Elections Code Section 9287.

SECTION 3. IMPARTIAL ANALYSIS

That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected.

- a. The City Attorney shall prepare an impartial analysis of the Measure not exceeding 500 words showing the effect of the Measure on the existing law and the operation of the Measure. If the Measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis.
- b. The impartial analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the City.
- c. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following:

"The above statement is an impartial analysis of Measure _____. If you desire the measure, please call the election's official's office at (562) 904-7280 and a copy will be mailed at no cost to you."
- d. The impartial analysis shall be filed by **July 12, 2016**, the date set by the City Clerk for the filing of primary arguments.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The City Council of the City of Downey hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 5. EFFECTIVE DATE

This Resolution shall take effect immediately upon its adoption.

SECTION 6. CERTIFICATION

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PAGE 4**

The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED AND ADOPTED this 28th day of June, 2016.

ALEX SAAB, Mayor

ATTEST:

**ADRIA M. JIMENEZ, MMC
City Clerk**

I **HEREBY CERTIFY** that the foregoing Resolution was adopted by the City Council of the City of Downey at a regular meeting thereof held on the 28th day of June, 2016, by the following vote, to wit:

AYES:	Council Members:
NOES:	Council Members:
ABSTAIN:	Council Members:
ABSENT:	Council Members:

**ADRIA M. JIMENEZ, MMC
City Clerk**

RESOLUTION 4

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY AUTHORIZING
REBUTTAL ARGUMENTS FOR THE
MEASURE LEVYING A TRANSACTIONS AND USE TAX**

WHEREAS, City of Downey City Charter Section 1302 provides that all municipal elections shall be governed by state law except as otherwise provided in the City Charter or ordinance enacted by the City Council and not inconsistent with the City Charter; and

WHEREAS, on June 28, 2016, the City Council adopted a Resolution calling for the holding of a General Municipal Election for the purposes of submitting to the voters the question relating to the levy of one-half of one percent transactions and use tax to be held on the same date and at the same time as the Statewide General Election to be held on November 8, 2016 and a Resolution requesting the election be consolidated with Los Angeles County; and

WHEREAS, the General Municipal Election was called for the election of three (3) Council Member seats and to present to voters a measure to levy a transactions and use tax of one-half of one percent with an Independent Citizens' Oversight Committee to review expenditure of revenues and make appropriate recommendations therefor and the ordinance shall expire twenty (20) years from the operative date of the Measure (the "Measure"); and

WHEREAS, Article 4 of Chapter 3 of Division 9 of the California Elections Code (commencing with Section 9280) authorizing the City Council by majority vote to adopt requirements regarding the filing of rebuttal arguments for a city measure submitted at a municipal election.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES
HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. REBUTTAL ARGUMENTS FOR THE MEASURE

Pursuant to California Elections Code Section 9285, when the City Clerk has received and selected the arguments for and against the Measure which will be printed and distributed to the voters, the City Clerk shall send a copy of an argument in favor of the Measure to the authors of any argument against the Measure, and a copy of an argument against the Measure to the authors of any argument in favor of the Measure, immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to the Measure may prepare and submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal argument shall not exceed 250 words and shall not be signed by more than five (5) persons that shall appear therewith.

The rebuttal argument shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than ten (10) days after the final date for filing direct arguments. The rebuttal arguments shall be accompanied by the Los Angeles County Registrar-Recorder/County Clerk Declaration by Author(s) of Arguments or Rebuttals form.

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PAGE 2**

Rebuttal Arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 2. ADOPTION OF CALIFORNIA ELECTIONS CODE SECTION 9285

Pursuant to California Elections Code Section 9285, subdivision (b), the City Council hereby adopts the provisions of California Elections Code Section 9285, subdivision (a), relating to rebuttal arguments for the Measure only for the November 8, 2016 election and thereafter repeals this Section.

SECTION 3. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The City Council of the City of Downey hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 4. EFFECTIVE DATE

This Resolution shall take effect immediately upon its adoption.

SECTION 5. REPEAL OF PREVIOUS RESOLUTIONS.

All previous resolutions providing for the filing of rebuttal arguments for city measures are hereby repealed.

SECTION 6. CERTIFICATION

The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED AND ADOPTED this 28th day of June, 2016.

ALEX SAAB, Mayor

ATTEST:

ADRIA M. JIMENEZ, MMC
City Clerk

**RESOLUTION NO.
PAGE 3**

I HEREBY CERTIFY that the foregoing Resolution was adopted by the City Council of the City of Downey at a regular meeting thereof held on the 28th day of June, 2016, by the following vote, to wit:

**AYES: Council Members:
NOES: Council Members:
ABSTAIN: Council Members:
ABSENT: Council Members**

**ADRIA M. JIMENEZ, MMC
City Clerk**

RESOLUTION 5

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY CREATING AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE

WHEREAS, on June 28, 2016, the City Council adopted a Resolution for the holding of a General Municipal election relating to the levy of a one-half of one percent transactions and use tax to be held on November 8, 2016 regular municipal ("Measure");

WHEREAS, in keeping with the intent expressed in the proposed Measure that will be considered by voters on November 8, 2016, the City Council wishes to create a five-member Independent Citizens' Oversight Committee to review on at least a quarterly basis the City's expenditure of revenues generated by the Measure; and

WHEREAS, if the Measure is approved by the voters, the Independent Citizens' Oversight Committee will, among other things, review annual audit reports related to the tax, and make written reports to the City Council summarizing the committee's findings and including appropriate recommendations.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY RESOLVES AS FOLLOWS:

SECTION 1. Creation. There is hereby created an advisory committee to be known as the "Independent Citizens' Oversight Committee" ("Committee"), for the purpose of reviewing on at least a quarterly basis the City's expenditure of revenues generated by the Measure, if approved by the voters.

SECTION 2. Members. The Committee shall be composed of five (5) members appointed by the City Council.

SECTION 3. Duties. The purpose of the Independent Committee shall be to review annual audit reports related to the Measure, and make at least one written annual report to the City Council at a public meeting summarizing the Independent Committee's findings and including any appropriate recommendations.

SECTION 4. The City Manager, or the City Manager designated department(s), shall provide the Committee with technical and administrative assistance in furtherance of its purpose.

SECTION 5. All committee proceedings shall be open to the public and shall comply with the Ralph M. Brown Act. Minutes of the proceedings of the Committee and all documents received and reports issued shall be a matter of public record and be made available on the City's official website. The minutes of the meetings of the Committee shall be provided to the City Council and placed on the next available regular City Council meeting agenda for informational purposes.

SECTION 6. If the Measure is not approved by the voters at the November 8, 2016 general election, this resolution shall be of no force or effect.

SECTION 7. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify to the adoption and passage of this resolution as required by law.

**RESOLUTIO NO.
PAGE 2**

APPROVED AND ADOPTED this 28th day of June, 2016.

ALEX SAAB, Mayor

ATTEST:

ADRIA M. JIMENEZ, MMC
City Clerk

I HEREBY CERTIFY that the foregoing Resolution was adopted by the City Council of the City of Downey at a regular meeting held on the 28th day of June, 2016, by the following vote:

AYES: Council Members:
NOES: Council Member:
ABSENT: Council Member:
ABSTAIN: Council Member:

ADRIA M. JIMENEZ, MMC
City Clerk