

<p><b>MEASURE ___: SANTA ANA NEIGHBORHOOD SAFETY, HOMELESS PREVENTION AND ESSENTIAL CITY SERVICES ENHANCEMENT MEASURE</b></p> <p>To maintain effective 9-1-1 response; retaining firefighters and police officers; addressing homelessness; fixing streets; maintaining parks, youth and senior services, and unrestricted general revenue purposes; shall the sales tax be increased one and one half (1.5) cents until 2029 providing approximately \$60 million dollars annually, then reduced to one (1) cent providing approximately \$40 million dollars annually, until 2039, requiring annual audits, citizens oversight and for Santa Ana use only?</p>	<p>Yes</p> <p>No</p>
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**-- TEXT OF MEASURE --  
PROPOSED ORDINANCE**

ORDINANCE NO. NS-2952

AN ORDINANCE OF THE CITY OF SANTA ANA ADDING ARTICLE VII TO CHAPTER 35 OF THE SANTA ANA MUNICIPAL CODE RELATED TO A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

The City Council of the City of Santa Ana does ordain as follows:

Section 1. Authority. The City Council and the Voters of the City of Santa Ana enact this ordinance in accordance with the authority granted to cities by Article XI, Section 7 of the California Constitution and Section 7285.9 of the California Revenue and Taxation Code.

Section 2. Addition of article. Article VII is hereby added to Chapter 35 of the Santa Ana Municipal Code to read as follows:

CHAPTER 35- TAXATION

ARTICLE VII. - TRANSACTIONS AND USE TAX.

Sec. 35-200. - Short title.

This article shall be known as the "Transactions and Use Tax" and shall be applicable in the incorporated territory of the City of Santa Ana ("city").

Sec. 35-201. - Definitions.

For the purpose of this article the following words terms shall have the meaning given in this section:

“In the city” means and includes all territory within the city limits.

“Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the later of the adoption of this chapter and the approval by the voters of the city of a measure approving the imposition of an increased transactions and use tax; provided that, if the city shall not have entered into a contract with the California Department of Tax and Fee Administration as required by section 35-203. prior to such date, the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Sec. 35-202. - Purpose.

This article of the Santa Ana Municipal Code has been adopted for the following purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

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

(2) To adopt a retail transactions and use tax 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.

(3) To adopt a retail transactions and use tax that imposes a tax and provides a measure therefor that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

(4) To adopt a retail transactions and use tax that can be administered in a manner that will, to the greatest degree possible, be consistent with the provisions of Parts 1.6 of Division 2 of the said Revenue and Taxation Code, and thereby minimize the cost of collecting city transactions and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

Sec. 35-203. - Contract with state.

Prior to the operative date, the city shall contract with the California Department of Tax and Fee Administration to perform all functions incidental to the administration and operation of this transactions and use tax ordinance. If the city has not contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. The city council may make any technical amendments to this chapter required by the California Department of Tax and Fee Administration, except for any changes affecting the tax rate, tax methodology, or its manner of collection.

Sec. 35-204. - Imposition of transactions and use tax – Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of one and one half cents (1.5) of any gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of this article until March 31, 2029 and then at the rate of one cent (1) until March 31, 2039.

Sec. 35-205. - Place of sale.

For the purposes of this article, 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 California Department of Tax and Fee Administration.

Sec. 35-206.- Imposition of use tax – 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 or after the operative date of this article, at the rate of one and one-half cents (1.5) of the sales price of the property subject to the tax until March 31, 2029 and then at the rate of one cent (1) of the sales price

of the property subject to the tax until March 31, 2039. 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.

Sec. 35-207. - Adoption of provisions of state law – Generally.

Except as otherwise provided in the article 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 § 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this article as though fully set forth herein.

Sec. 35-208. - Adoption of provisions of state law – Limitations; Limitations on collection of use taxes.

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

(1) Wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. However, the substitution shall not be made when:

(A) The word “State” is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(B) The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this article.

(C) 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:

(i) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this 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;

(ii) 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 said provision of that code.

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

(2) 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.

Sec. 35-209. - 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 article.

Sec. 35-210. - Exemptions and exclusions.

(1) Measure of Tax. There shall be excluded from the measure of the transactions and use tax the amount of any sales tax or use tax imposed by the State of California 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.

(2) Transactions Tax Exemptions. There are exempted from the computation of the amount of transactions tax the gross receipts from:

(A) 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.

(B) 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:

(i) 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

(ii) 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.

(C) 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.

(D) 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.

For the purposes of subsections (2)(C) and (2)(D) 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.

(3) Use Tax Exemptions. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:

(A) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(B) 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.

(C) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date.

(D) 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.

For the purposes of subsections (3)(C) and (3)(D) 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.

(4) Exemption from Collection of Use Tax. Except as provided in subsection (5), 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.

(5) Retailer Not Exempt from Collection of Use Tax. "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.

(6) Credit Against Use Tax for Transactions Tax Paid Elsewhere. 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.

Sec. 35-211. - Adoption of amendments to state law.

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

Sec. 35-212. - Enjoining collection prohibited.

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 hereunder, or Parts 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Sec. 35-213. – Termination.

The authority set forth in this Article VII to impose a retail transactions and use tax shall continue until March 31, 2039.

Sec. 35-214. - Oversight committee.

The City Council shall, by resolution establish as citizen oversight committee to act in an advisory role to the City Council in reviewing the annual revenue and expenditures of funds from the tax authorized by this article. The resolution shall establish the committee members' terms, qualifications and duties, and the committee's scope of authority.

Sec. 35-215. - Annual Audit.

An annual audit of the revenue generated by the sales and use tax and the expenditures made will be conducted by an independent certified public accountant.

Sec. 35-216. - Annual Expenditures Disclosure.

The City of Santa Ana will publically disclose on an annual basis a list of expenditures made with sales and use tax monies for the preceding fiscal year.

Sec. 35-217. – Sunset Provision.

On March 31, 2029, the rate of one and one half cents (1.5) will be reduced to one cent (1) until March 31, 2039 for a total of twenty (20) years.

SECTION 3. Effective Date. Pursuant to the California Constitution Article XIIC(2)(b) and California Elections Code 9217, if the requisite number of qualified voters voting in the election on Measure “\_\_\_” vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The People of the City of Santa Ana hereby declare that they would have adopted this Ordinance irrespective of the invalidity of any



particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 5. Certification/Summary. Following the City Clerk's certification that the citizens of Santa Ana have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.

PASSED, APPROVED, and ADOPTED by the People of the City of Santa Ana this 6<sup>th</sup> day of November, 2018.

# REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

JULY 17, 2018

TITLE:

**DIRECT STAFF TO PLACE A PROPOSED BALLOT MEASURE FOR A SALES AND USE TAX MEASURE FOR GENERAL MUNICIPAL SERVICES AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION; APPROVE RESOLUTIONS CALLING AND CONSOLIDATING THE ELECTION; AND AUTHORIZE COUNCILMEMBERS TO FILE ARGUMENT; DIRECT CITY ATTORNEY TO FILE IMPARTIAL ANALYSIS; AND OTHER RELATED ACTIONS (STRATEGIC PLAN NO. 5, 1)**

CITY MANAGER

CLERK OF COUNCIL USE ONLY:

APPROVED

- As Recommended
- As Amended
- Ordinance on 1<sup>st</sup> Reading
- Ordinance on 2<sup>nd</sup> Reading
- Implementing Resolution
- Set Public Hearing For \_\_\_\_\_

CONTINUED TO \_\_\_\_\_

FILE NUMBER \_\_\_\_\_

## RECOMMENDED ACTION

1. Options for Consideration for the Santa Ana Neighborhood Safety and Essential City Services Protection Measure. Staff recommends the City Council approve options 1a and 2 through 6.
    - a. Modify position taken at the July 3, 2018, City Council meeting to place a 1.5% rather than a 1.0% add on sales and use tax measure to be referred to as the Santa Ana Neighborhood Safety and Essential City Services Protection Measure, on the November 6, 2018 General Municipal Election ballot, and decide whether the 1.5% add on sales and use tax should be imposed through 2030 and reduced to 1.0% in 2031.
  - OR
  - b. Ratify the position taken at the July 3, 2018, City Council meeting to place a 1.0% add on sales and use tax measure, referred to as the Santa Ana Neighborhood Safety and Essential City Services Protection Measure, on the November 6, 2018 General Municipal Election ballot.
2. Adopt Resolution of the City Council of the City of Santa Ana calling for the placement on the Ballot of a Measure for the November 6, 2018 General Municipal Election for the Submission to the Qualified Voters of a Proposed Ordinance Regarding a General Sales Tax Measure and Providing for the Filing of Argument and Rebuttal Statements.
  3. Request that the Board of Supervisors of Orange County Consolidate the City's General Municipal Election with the Statewide General Election.

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4. Authorize the filing of Arguments and Rebuttals
  - a. Designate up to five (5) Councilmembers to author an Argument and Rebuttal statement.
  - b. Deadline to file Arguments will be set for July 31, 2018 at 5 p.m.
5. Direct the City Attorney to prepare Impartial Analysis.
6. Direct Clerk of the Council to publish legal notices as required by law.

## **DISCUSSION**

At the July 3, 2018, City Council meeting, the Mayor and Council discussed the sales tax measure staff report (55C). The City Council, by a vote of 4-1-1 (Solorio dissented, Benavides abstained and Martinez absent) supported Recommended Action 1c, which is the option to have the voters of Santa Ana consider a 1% add on sales and use tax. During the discussion, the City Council expressed consideration and further discussion on recommended items 1a and 1b at the July 17, 2018 City Council meeting. Recommended item 1a is the 1.5% add on sales and use tax and recommended item 1b is the 1.5% add on sales and use tax with a sunset on the 0.5% portion of the tax through 2030, thus reducing 1.0% in 2031.

Additionally, City Council requested that staff provide options for a Shop Local program. Staff will be presenting options for a Shop Local program for Council consideration at the August 21, 2018 City Council meeting.

## **Background**

At the February 5, 2018, Special City Council Meeting, Staff identified a structural deficit in the City's proposed 2018-19 General Fund budget and five-year forecast. The City's financial forecast has identified a budget deficit moving into the foreseeable future. This is a result of expenditures outpacing revenue growth. To address these deficits, Staff identified a plan that includes expenditure reductions, transformational program delivery changes and potential revenue enhancements in order to continue to provide programs and services to the community. Given this precarious financial position, and the cuts that were made in staffing following the Great Recession, any changes would almost certainly require significant level of service reductions and or eliminations. This represents a less than desired outcome. In the City's ongoing effort to evaluate costs and revenue, the following actions have taken place:

- Contracted out the City's fire department
- Contracted out maintenance functions where feasible
- Modernized the Utility User Tax
- Evaluated and adjusted the City's miscellaneous fee schedule
- Reduced all non-essential personnel
- Invested in technology enhancements to reduce ongoing costs

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On March 20, 2018, the Mayor and City Council authorized staff to enter into agreements to evaluate revenue generating opportunities to meet the City's needs in addressing the projected deficit for the current fiscal year and for future fiscal years. As such, the City entered into a consulting agreement with MuniServices on May 1, 2018, to evaluate two revenue measures: 1) sales and use tax and 2) adult-use and commercial cannabis tax. The scope of work also included strategy consulting services from GrassrootsLabs and polling services from FM3. Consideration of the adult-use and commercial cannabis tax is provided as a separate ballot measure and directly tied to the ordinances approved by the City Council in November 2017 and early 2018.

At the June 19, 2018 Council Meeting, the City Council voted to direct the City Manager and Staff to prepare add on sales tax options, the required resolutions, documents and guidelines necessary to proceed with a ballot measure. At that meeting, the City Council requested that staff brief members of the City Council to provide information on different sales tax increments, sunset alternatives, other revenue options, methods to ensure fiscal transparency, economic development opportunities, and information on how new revenue would be allocated to programs and services for the community.

Staff met with members of the City Council to provide additional information on the proposed Neighborhood Safety and Essential City Services Protection Measure. This included information regarding the need for additional new on-going revenues, projected revenues based on a variety of add on sales and use tax increments, community needs and priorities, and the results of the poll conducted by FM3. The briefings provided an opportunity to present Staff's recommendation for the Santa Ana Neighborhood Safety and Essential City Services Protection Measure to be placed on the November 2018 ballot, which would generate the requisite funds to maintain and enhance programs and services to the community.

### **What is Sales and Use Tax?**

*Sales tax* is imposed on retail transactions for tangible personal property. The *Use tax* is imposed on consumers of tangible personal property that is used, consumed, or stored. Sales tax is not applicable to several general categories including:

- 1) Necessities of life (food products, unless heated, health related, housing),
- 2) General public benefit (alternate energy, museums, public art exhibits),
- 3) Industry benefit (transportation related such as motor vehicle fuel, entertainment industry);
- 4) Exclusions by definition (admission charges, sales price/gross receipts); and
- 5) Other exemptions, exclusions or credits (full list of exemptions is available at <https://www.cdtfa.ca.gov/formspubs/pub61.pdf>).

A general-purpose tax measure requires approval from the majority of the voters (50% plus 1) to implement such a tax. The sales and use tax is a common method used by various cities to generate additional revenue for city programs and services.

**Orange County Cities with an Add On Sales and Use Tax**

In 2016, voters in five other Orange County cities approved or reaffirmed six add on sales and use tax measures. The following cities currently have an add on sales and use tax in Orange County:

City	Increment	Sales & Use Tax Rate
Fountain Valley	1.0%	8.75%
Westminster	1.0%	8.75%
Stanton	1.0%	8.75%
La Palma	1.0%	8.75%
La Habra	0.5%	8.25%

Additionally, there are several other cities in Orange County that are currently evaluating sales and use tax ballot measures for this upcoming November 2018 election cycle.

**Consumer Response to Add On Sales and Use Tax**

Consumers spending patterns are generally not impacted by local sales tax rates. Staff conducted a survey of the Orange County cities that have a local add on sales and use tax and validated that passage of add on sales tax measures has not led to a decline in sales tax revenue. Additionally, when the tax revenue addresses city needs such as homelessness, public safety, quality of life and infrastructure, consumers do not compare-shop for sales tax rates.

If the Santa Ana Neighborhood Safety and Essential City Services Protection Measure is approved, staff anticipates launching an enhanced Shop Local campaign with an emphasis on the benefits of local purchases on the economy and the services consumers will receive as a result of keeping their spending within the City of Santa Ana.

**Revenue Estimates**

The City Council, at the June 19, 2018, Council meeting, requested estimates on the anticipated revenue that may be generated at various add on sales and use tax increments. The chart below outlines general estimates, which represent a full year of revenue, for consideration:

Increment	Annual Est.
1 ½ cent	\$60 million
1 cent	\$40 million
¾ cent	\$30 million
½ cent	\$20 million

State law establishes regulations on add on sales and use tax measures and the increments that are allowed to be considered, in this case, the City Council may consider a ballot measure in increments of one quarter cent. The maximum sales tax rate allowed is 10.25% in the state.

Staff recommends a penny and a half add on sales and use tax measure which provides the greatest opportunity to address community needs while addressing the City's long-term financial stability. The proposed measure, if approved, would be a full percent below the ceiling established by the State. Based on the majority approval of the add on sales and use tax measure by the Santa Ana voters in November of 2018, it is anticipated that the additional new revenue would commence in the spring of 2019.

### **Programs and Services the New Revenue will Fund**

If the Santa Ana Neighborhood Safety and Essential City Services Protection Measure is approved by the voters, new revenues generated will go to providing public safety, addressing homelessness, providing deferred maintenance at parks and other City facilities, equipment replacement, capital improvements, youth programming, library services, code enforcement and general municipal services.

Additionally, the new add on sales tax revenue will support city needs and priorities as identified in the May 1, 2018, City Council Meeting 2018-19 Trial Budget Presentation. This included funding for the Quality of Life Team (QOLT) to address homelessness, leveraging economic development, advancing police officer recruitments, furthering Enterprise Fund compliance, addressing service delivery challenges, and augmenting investments in technology to streamline local government.

### **Transparency and Accountability**

There are additional considerations that the Mayor and City Council may add to the ballot measure to enhance transparency and accountability. These include annual independent audits, an oversight review committee, an online open checkbook, mid-year fiscal review, and delineating and tracking the new add on sales tax revenue and corresponding allocation to be evaluated as part of the annual budget.

Annual independent audits are currently performed in accordance with the Governmental Account Standards Board guidelines and are available on the City's website for the public's review. If a requirement for an independent audit is added to the ballot measure, a separate audit would be performed specific to the add on sales tax to ensure that new revenues are properly collected and that expenditures are reviewed and consistent with governmental accounting practices.

An oversight review committee typically reviews on an annual basis the revenue receipts and expenditures of local add on sales tax, status and performance of the programs and services that are funded from the proceeds of the new revenues, and prepare reports for City Council consideration.

The City has had an open checkbook on its' City website since 2015. This provides a mechanism for any interested party to review the City's expenditures at any time through a convenient online system at no cost. As an enhancement, staff could place a specific portion of the open checkbook system to be made available for the new sales tax revenue and expenditures.

Staff is recommending that the above referenced transparency and accountability elements be included for consideration by the voters. It is the goal of the City to promote transparency and accountability in all efforts and will continue to enact best practices to ensure fiscal stability moving forward.

### **Sunset Options**

A sunset clause is a provision that can be added to a ballot measure to end the effect of a tax. Typically, sunset options are exercised in cases where the revenue is utilized to help address temporary or term specific needs, or finance capital investments. When revenue from a ballot measure, such as the initiative being proposed, funds operating costs, a sunset provision can have unintended consequences. This is most evident when providing enhanced services that must later be eliminated or drastically cut.

However, often times sunset clauses can help increase public support for a tax by limiting the duration of the proposed increase. In Orange County, three cities have a sunset clause in their add on sales tax. The cities of Fountain Valley and La Habra both have a 20-year sunset, while the city of Westminster has a 5 year sunset. Staff is recommending an option with a provision to sunset 0.5% from the 1.5% proposed increase after about eleven years, for the City Council's consideration.

Staff anticipates that the new revenue will be utilized to meet current and future public safety needs, addressing homelessness, youth programing, infrastructure needs, such as improving parks, streets, and sidewalks along with other essential city services.

### **Other Revenue Considerations and Mitigating Development Costs**

In addition to the revenue measure, the City is looking for opportunities to spur economic growth and enhance its future revenue base. The City's Economic Development Division is focusing on an array of initiatives that promote investment opportunities, business retention and attraction, revenue generating projects, and workforce services. This includes developing a community branding strategy, scheduled to be completed by the end of summer 2018 that promotes and markets Santa Ana as an ideal place to do business, live and play. The Economic Development Divisions' efforts of business attraction and retention are designed to ensure that new and existing businesses continue to thrive in Santa Ana. With the adoption of the City ordinance to allow new cannabis related businesses, Staff has identified several industrial buildings for inquiring cannabis companies looking to grow their footprint. Support for these new cannabis related businesses will help increase revenues related to the Cannabis industry for the City.

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In order to provide the City with additional Economic Development options, Staff is in the process of finalizing a property disposition policy that will allow the sale of City owned property for revenue enhancement opportunities from the proceeds of the sale, development, and community benefits.

In an effort to demonstrate the positive impacts of new development, the Planning & Building Agency has begun including a section titled Economic Development Benefits on the Planning Commission staff reports. The objective is to identify the economic benefits for each new proposed development. The economic benefits of each development project will vary depending on the type of use, but generally the reports will capture estimates of: new jobs, projected sales tax revenue, and the increases in property evaluations, infrastructure impacts, and core service impacts. This is an evolving process and other information may be collected for informational analysis and to contribute towards the formation of future public policy.

The Public Works Agency is the lead department on a study that is currently underway to evaluate the City's Development Impact Fees (DIF). The primary objective of a DIF program is to ensure that new development pays the capital costs associated with growth. Currently, there are DIFs to mitigate general impacts to infrastructure such as parks, library, transportation, sewer, and storm drainage systems.

### **Other 2018 Initiatives and Impacts to Santa Ana Rate Payers**

In addition to the proposed ballot measure, there are other City of Santa Ana related initiatives on the November 6, 2018 ballot. This includes potential ballot measures for charter modernization, conversion to district elections, and an adult use & commercial cannabis tax. The Santa Ana Unified School District is also considering a school bond measure in November 2018.

Additionally, there are other potential considerations such as the Poseidon Desalination Plant that would impact water rates locally, possible gas tax repeal on the November 2018 ballot, potential rate increases for utility service, and the reduction of local sanitation rates.

### **Staff Recommendation**

Staff recommends that the City Council provide direction to staff and adopt the resolutions necessary to place the Santa Ana Neighborhood Safety and Essential City Services Protection Measure before the voters of Santa Ana. By placing the measure on the ballot the City Council is not endorsing or taking a position, but rather asking the voters of Santa Ana to lend their voice to the future of the City and the type of service levels they would like to receive moving forward.

If adopted, the City would have an add on sales and use tax of one and half percent, of which 100% of the revenue generated would remain locally for Santa Ana to provide programs and services for the community. In order to provide for transparency and accountability to the Santa Ana community, staff is recommending that the ballot measure include annual independent audits, an oversight review committee, an online open checkbook, and to include revenues into the annual budget.



If approved by the voters, the City would be in a position to continue to provide much needed programs and services and look to enhance the quality of life and wellbeing of the current and future community of Santa Ana.


**STRATEGIC PLAN ALIGNMENT**

Approval of this item supports the City's efforts to meet Goal #5 Community Health, Livability, Engagement & Sustainability, Objective #1 (Establish a comprehensive community engagement initiative to expand access to information and create opportunities for stakeholders to play an active role in discussing public policy and setting priorities).

**FISCAL IMPACT**

The County Registrar of Voters office has estimated that the additional cost of adding a ballot measure to the City's consolidated general municipal election would be approximately \$16,500. Funds for these administrative costs are available in the Clerk of the Council, Contractual Services account no. 01107031 62300, FY 2018-2019.

APPROVED AS TO FUNDS AND ACCOUNTS:



Francisco Gutierrez  
Executive Director  
Finance and Management Services Agency

- Exhibits:
1. Resolution of the City Council for the City of Santa Ana Calling for the Placement on the Ballot of a Measure for the November 6, 2018 General Municipal Election for the Submission to the Qualified Voters of a Proposed Ordinance Regarding a General Sales Tax Measure; and Providing for the Filing of Argument and Rebuttal Statements. (1% percent)
  2. Resolution of the City Council for the City of Santa Ana Calling for the Placement on the Ballot of a Measure for the November 6, 2018 General Municipal Election for the Submission to the Qualified Voters of a Proposed Ordinance Regarding a General Sales Tax Measure; and Providing for the Filing of Argument and Rebuttal Statements. (1.5% until 2030 and then reduced to 1.0%)
  3. Resolution of the City Council for the City of Santa Ana Calling for the Placement on the Ballot of a Measure for the November 6, 2018 General Municipal Election for the Submission to the Qualified Voters of a Proposed Ordinance Regarding a General Sales Tax Measure; and Providing for the Filing of Argument and Rebuttal Statements. (1.5%)

RESOLUTION NO. 2018-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA CALLING FOR THE PLACEMENT ON THE BALLOT OF A MEASURE FOR THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE REGARDING A GENERAL SALES TAX MEASURE; AND PROVIDING FOR THE FILING OF ARGUMENT AND REBUTTAL STATEMENTS

WHEREAS, pursuant to California Elections Code section 9222, the City Council has authority to place measures on the ballot to be considered at a General Municipal Election; and

WHEREAS, pursuant to the law of the State of California, the City Council has called and ordered to be held in the City of Santa Ana, California, on Tuesday, November 6, 2018, a General Municipal Election; and

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City of Santa Ana ("City"), subject to approval by a majority vote of the qualified voters of the City voting in an election on the issue, to levy a transactions and use tax pursuant to the Transactions and Use Tax Law at a rate of 0.125% or any multiple thereof for general purposes and projects; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218 effective November, 1996, requires that the measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, pursuant to California Constitution Article XIII C, section 2 and Elections Code section 10201, the City has determined to submit a proposition to enact an ordinance establishing a transactions and use tax to the voters at the City's next regular election;

NOW, THEREFORE the City Council of the City of Santa Ana does hereby resolve as follows:

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Under the provisions of the California Elections Code, the following proposed amendment to the Santa Ana Municipal Code shall be submitted to the voters at the General Municipal Election to be held on November 6, 2018:

Exhibit 1

<p><b><u>MEASURE # : SANTA ANA NEIGHBORHOOD SAFETY AND ESSENTIAL CITY SERVICES PROTECTION MEASURE</u></b></p>	<p>Yes</p>
<p>To maintain effective 9-1-1 emergency response services by retaining firefighters, police officers, and paramedics; addressing homelessness/housing concerns and services; fixing potholes/streets; maintaining parks, after school programs, senior services, graffiti removal and unrestricted general revenue purposes; shall the measure be adopted approving an ordinance establishing a one (1.0%) percent sale tax providing approximately \$40 million dollars annually until ended by voters, requiring annual audits, citizens oversight, all funds only for Santa Ana?</p>	<p>No</p>

Section 3. Should said measure be approved by the requisite vote, the ordinance attached hereto as Exhibit A and incorporated by this reference shall be enacted.

Section 4. That the text of the Ordinance to be submitted to the voters is attached to this Resolution as Exhibit "A" and incorporated herein by this reference ("Ordinance").

Section 5. That pursuant to Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the Ordinance to the City Attorney to prepare an impartial analysis of the Ordinance which shall not exceed 500 words in length.

Section 6. That pursuant to Elections Code Section 9282, the City Council may file a written argument in favor of the Ordinance in accordance with Article 4, Chapter 3, Division 9 of the Elections Code and may change the argument as allowed by law.

Section 7. That pursuant to Elections Code Section 9287, if more than one argument for or more than one argument against the Ordinance is submitted to the City Clerk within the time prescribed by law, he or she shall select one of the arguments in favor and one of the arguments against the Ordinance for printing and distribution to the voters, giving preference in such selection in the following order:

1. The City Council, or a member or members of the City Council authorized by the City Council.
2. Bona fide associations of citizens.
3. Individual voters who are eligible to vote on the Ordinance.

Section 8. That pursuant to Elections Code Sections 9220 and 9285, when the City Clerk has selected the arguments for and against the Ordinance which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the Ordinance to the author or authors of the argument against, and copies of the argument against the Ordinance to the author or authors of the argument in favor. The author or authors may submit a rebuttal argument to the direct argument not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments and shall immediately follow the direct argument which it seeks to rebut. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed, and this Section shall only apply to the election on the Ordinance to be held on November 6, 2018.

Section 9. In accordance with Section 10002 of the Elections Code, the Board of Supervisors Orange County is hereby requested to consent to the Registrar of Voters rendering election services to the City as may be requested by the City Clerk of said City, the County of Orange to be reimbursed in full for such services as are performed. The Board of Supervisors of Orange County is also requested to consent and agree to the consolidation of the General Election with any other election occurring on November 6, 2018, and the City hereby consents to any such consolidation.

Section 10. The election services which the City requests of the Registrar of Voters, or such other official as may be appropriate to perform, and which such officer is hereby authorized and directed to perform if the said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards, the establishment or appointment of precincts, polling places, and election officers, opening and closing of polling places, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places, the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk, and the performance of such other election services as may be requested by said City Clerk.

Section 11. 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 California Elections Code Section 10242 and Section 14212, except as provided in California Elections Code Section 14401 or any other provision of law.

Section 12. All persons qualified to vote at municipal elections in the City on the day of the election herein provided for shall be qualified to vote on the Ordinance hereby submitted at the General Municipal Election.

Section 13. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding general municipal elections in the City.

Section 14. Notice of the time and place of holding the General Municipal Election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner as required by law.

Section 15. The City Clerk shall receive the canvass as it pertains to the General Municipal Election, and shall certify the results to this City Council, as required by law.

Section 16. If any section, subsection, sentence, clause, phrase or provision of this Resolution or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other provision or applications, and to this end the provisions of this Resolution are declared to be severable. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, phrase or provision thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions thereof be declared invalid or unconstitutional.

Section 17. Pursuant to California Elections Code section 9295, this Resolution and the attached Ordinance will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election.

Section 18. This Resolution shall take effect immediately upon its adoption by a majority of the City Council.

Section 19. The City Clerk of the City of Santa Ana is hereby directed to certify to the passage and adoption of this Resolution and to file a certified copy of this Resolution with the Board of Supervisors of Orange County and the Registrar of Voters of Orange County at least eighty-eight (88) days before the date of the election.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Santa Ana, California, at its regular meeting held on the \_\_\_ day of July, 2018, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

---

Mayor

ATTEST:

---

Maria D. Huizar  
City Clerk

APPROVED AS TO FORM:

*Laura A. Pessini*

*for*  
Sonia R. Carvalho  
City Attorney

EXHIBIT A

ORDINANCE NO. NS \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SANTA ANA ADDING ARTICLE VII TO CHAPTER 35 OF THE SANTA ANA MUNICIPAL CODE RELATED TO A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

The City Council of the City of Santa Ana does ordain as follows:

Section 1. Authority. The City Council and the Voters of the City of Santa Ana enact this Ordinance in accordance with the authority granted to cities by Article XI, Section 7 of the California Constitution and Section 7285.9 of the California Revenue and Taxation Code.

Section 2. Addition of article. Article VII is hereby added to Chapter 35 of the Santa Ana Municipal Code to read as follows:

ARTICLE VII.- TRANSACTIONS AND USE TAX

Sec. 35-200. - Short title.

This chapter shall be known as the "Transactions and Use Tax" and shall be applicable in the incorporated territory of the City of Santa Ana ("city").

Sec. 35-201. - Definitions.

For the purpose of this article the following words terms shall have the meaning given in this section:

"In the city" means and includes all territory within the city limits.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the later of the adoption of this article and the approval by the voters of the city of a measure approving the imposition of an increased transactions and use tax; provided that, if the city shall not have entered into a contract with the California Department of Tax and Fee Administration as required by section 35-203. prior to such date, the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Sec. 35-202 - Purpose.

This article of the Santa Ana Municipal Code has been adopted for the following purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

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

(2) To adopt a retail transactions and use tax 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.

(3) To adopt a retail transactions and use tax that imposes a tax and provides a measure therefor 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 California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

(4) To adopt a retail transactions and use tax that can be administered in a manner that will, to the greatest degree possible, be consistent with the provisions of Parts 1.6 of Division 2 of the said Revenue and Taxation Code, and thereby minimize the cost of collecting city transactions and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

#### Sec. 35-203. - Contract with state.

Prior to the operative date, the city shall contract with the California Department of Tax and Fee Administration to perform all functions incidental to the administration and operation of this transactions and use tax ordinance. If the city has not contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. The city council may make any technical amendments to this article required by the California Department of Tax and Fee Administration, except for any changes affecting the tax rate, tax methodology, or its manner of collection.

#### Sec. 35-204. - Imposition of transactions and use tax – Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city



at the rate of one percent (1.0%) of any gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of this chapter.

**Sec. 35-205. - Place of sale.**

For the purposes of this article, 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 California Department of Tax and Fee Administration.

**Sec. 35-206. - Imposition of use tax – 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 or after the operative date of this chapter, at the rate of one percent (1.0%) of the sales price of the property subject to the tax. 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.

**Sec. 35-207. - Adoption of provisions of state law – Generally.**

Except as otherwise provided in the article 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 § 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this article as though fully set forth herein.

**Sec. 35-208. - Adoption of provisions of state law – Limitations; Limitations on collection of use taxes.**

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

(1) Wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. However, the substitution shall not be made when:

(A) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(B) The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this article.

(C) 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:

(i) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this 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;

(ii) 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 said provision of that code.

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

(2) 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.

Sec. 35-209 - 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 article.

Sec. 35-210. - Exemptions and exclusions.

(1) Measure of Tax. There shall be excluded from the measure of the transactions and use tax the amount of any sales tax or use tax imposed by the State of California 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.

(2) Transactions Tax Exemptions. There are exempted from the computation of the amount of transactions tax the gross receipts from:

(A) 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.

(B) 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:

(i) 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

(ii) 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.

(C) 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.

(D) 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.

For the purposes of subsections (2)(C) and (2)(D) 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.

(3) Use Tax Exemptions. There are exempted from the use tax imposed by this article, the storage, use or other consumption in this city of tangible personal property:

(A) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(B) 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.

(C) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date.

(D) 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.

For the purposes of subsections (3)(C) and (3)(D) 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.

(4) Exemption from Collection of Use Tax. Except as provided in subsection (5), 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.

(5) Retailer Not Exempt from Collection of Use Tax. "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.

(6) Credit Against Use Tax for Transactions Tax Paid Elsewhere. Any person subject to use tax under this article 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.

Sec. 35-211. - Adoption of amendments to state law.

All amendments subsequent to the effective date of this article 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 a part of this article, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this article.

Sec. 35-212.- Enjoining collection prohibited.

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 hereunder, or Parts 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Sec. 35-213. – Termination.

The authority set forth in this article to impose a retail transactions and use tax shall continue until such authority is terminated by the voters of the City in the manner provided by law.

Sec. 35-214. - Oversight committee.

The City Council shall, by resolution establish as citizen oversight committee to act in an advisory role to the City Council in reviewing the annual revenue and expenditures of funds from the tax authorized by this article. The resolution shall establish the committee members' terms, qualifications and duties, and the committee's scope of authority.

Sec. 35-215. - Annual Audit.

An annual audit of the revenue generated by the sales and use tax and the expenditures made will be conducted by an independent certified public accountant.

Sec. 35-216. - Annual Expenditures Disclosure.

The City of Santa Ana will publically disclose on an annual basis a list of expenditures made with sales and use tax monies for the preceding fiscal year.

SECTION 2. Effective Date. Pursuant to the California Constitution Article XIIC(2)(b) and California Elections Code 9217, if the requisite number of qualified voters voting in the election on Measure "\_\_\_" vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 3. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The People of the City of Santa Ana hereby declare that they would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 4. Certification/Summary. Following the City Clerk's certification that the citizens of Santa Ana have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.

PASSED, APPROVED, and ADOPTED by the People of the City of Santa Ana this 6<sup>th</sup> day of November, 2018.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

*for* Laura A. Rossini

Sonia R. Carvalho  
City Attorney



RESOLUTION NO. 2018-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA CALLING FOR THE PLACEMENT ON THE BALLOT OF A MEASURE FOR THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE REGARDING A GENERAL SALES TAX MEASURE AND PROVIDING FOR THE FILING OF ARGUMENT AND REBUTTAL STATEMENTS

WHEREAS, pursuant to California Elections Code section 9222, the City Council has authority to place measures on the ballot to be considered at a General Municipal Election; and

WHEREAS, pursuant to the law of the State of California, the City Council has called and ordered to be held in the City of Santa Ana, California, on Tuesday, November 6, 2018, a General Municipal Election; and

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City of Santa Ana ("City"), subject to approval by a majority vote of the qualified voters of the City voting in an election on the issue, to levy a transactions and use tax pursuant to the Transactions and Use Tax Law at a rate of 0.125% or any multiple thereof for general purposes and projects; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218 effective November, 1996, requires that the measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, pursuant to California Constitution Article XIII C, section 2 and Elections Code section 10201, the City has determined to submit a proposition to enact an ordinance establishing a transactions and use tax to the voters at the City's next regular election;

NOW, THEREFORE the City Council of the City of Santa Ana does hereby resolve as follows:

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Under the provisions of the California Elections Code, the following proposed amendment to the Santa Ana Municipal Code shall be submitted to the voters at the General Municipal Election to be held on November 6, 2018:

Exhibit 2



<p><b><u>MEASURE # : SANTA ANA NEIGHBORHOOD SAFETY AND ESSENTIAL CITY SERVICES PROTECTION MEASURE</u></b></p>	<p>Yes</p>
<p>To maintain effective 9-1-1 response; retaining firefighters and police officers; addressing homelessness; fixing streets; maintaining parks, youth and senior services, and unrestricted general revenue purposes; shall the sales tax be increased one and one half (1.5%) percent until 2030 providing approximately \$60 million dollars annually, then reduced in 2031 to one (1%) percent providing approximately \$40 million dollars annually, until ended by voters, requiring annual audits, citizens oversight and for Santa Ana use only?</p>	<p>No</p>

Section 3. Should said measure be approved by the requisite vote, the ordinance attached hereto as Exhibit A and incorporated by this reference shall be enacted.

Section 4. That the text of the Ordinance to be submitted to the voters is attached to this Resolution as Exhibit "A" and incorporated herein by this reference ("Ordinance").

Section 5. That pursuant to Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the Ordinance to the City Attorney to prepare an impartial analysis of the Ordinance which shall not exceed 500 words in length.

Section 6. That pursuant to Elections Code Section 9282, the City Council may file a written argument in favor of the Ordinance in accordance with Article 4, Chapter 3, Division 9 of the Elections Code and may change the argument as allowed by law.

Section 7. That pursuant to Elections Code Section 9287, if more than one argument for or more than one argument against the Ordinance is submitted to the City Clerk within the time prescribed by law, he or she shall select one of the arguments in favor and one of the arguments against the Ordinance for printing and distribution to the voters, giving preference in such selection in the following order:

1. The City Council, or a member or members of the City Council authorized by the City Council.
2. Bona fide associations of citizens.
3. Individual voters who are eligible to vote on the Ordinance.

Section 8. That pursuant to Elections Code Sections 9220 and 9285, when the City Clerk has selected the arguments for and against the Ordinance which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the Ordinance to the author or authors of the argument against, and copies of the argument against the Ordinance to the author or authors of the argument in favor. The author or authors may submit a rebuttal argument to the direct argument not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments and shall immediately follow the direct argument which it seeks to rebut. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed, and this Section shall only apply to the election on the Ordinance to be held on November 6, 2018.

Section 9. In accordance with Section 10002 of the Elections Code, the Board of Supervisors Orange County is hereby requested to consent to the Registrar of Voters rendering election services to the City as may be requested by the City Clerk of said City, the County of Orange to be reimbursed in full for such services as are performed. The Board of Supervisors of Orange County is also requested to consent and agree to the consolidation of the General Election with any other election occurring on November 6, 2018, and the City hereby consents to any such consolidation.

Section 10. The election services which the City requests of the Registrar of Voters, or such other official as may be appropriate to perform, and which such officer is hereby authorized and directed to perform if the said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards, the establishment or appointment of precincts, polling places, and election officers, opening and closing of polling places, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places, the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk, and the performance of such other election services as may be requested by said City Clerk.

Section 11. 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 California Elections Code Section 10242 and Section 14212, except as provided in California Elections Code Section 14401 or any other provision of law.

Section 12. All persons qualified to vote at municipal elections in the City on the day of the election herein provided for shall be qualified to vote on the Ordinance hereby submitted at the General Municipal Election.

Section 13. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding general municipal elections in the City.

Section 14. Notice of the time and place of holding the General Municipal Election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner as required by law.

Section 15. The City Clerk shall receive the canvass as it pertains to the General Municipal Election, and shall certify the results to this City Council, as required by law.

Section 16. If any section, subsection, sentence, clause, phrase or provision of this Resolution or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other provision or applications, and to this end the provisions of this Resolution are declared to be severable. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, phrase or provision thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions thereof be declared invalid or unconstitutional.

Section 17. Pursuant to California Elections Code section 9295, this Resolution and the attached Ordinance will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election.

Section 18. This Resolution shall take effect immediately upon its adoption by a majority of the City Council.

Section 19. The City Clerk of the City of Santa Ana is hereby directed to certify to the passage and adoption of this Resolution and to file a certified copy of this Resolution with the Board of Supervisors of Orange County and the Registrar of Voters of Orange County at least eighty-eight (88) days before the date of the election.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Santa Ana, California, at its regular meeting held on the \_\_\_\_ day of July, 2018, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor

ATTEST:

---

Maria D. Huizar  
City Clerk

APPROVED AS TO FORM:

*for* Laura A. Rossini  
Sonia R. Carvalho  
City Attorney

EXHIBIT A

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SANTA ANA ADDING ARTICLE VII TO CHAPTER 35 OF THE SANTA ANA MUNICIPAL CODE RELATED TO A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

The City Council of the City of Santa Ana does ordain as follows:

Section 1. Authority. The City Council and the Voters of the City of Santa Ana enact this ordinance in accordance with the authority granted to cities by Article XI, Section 7 of the California Constitution and Section 7285.9 of the California Revenue and Taxation Code.

Section 2. Addition of article. Article VII is hereby added to Chapter 35 of the Santa Ana Municipal Code to read as follows:

CHAPTER 35- TAXATION

ARTICLE VII. - TRANSACTIONS AND USE TAX.

Sec. 35-200. - Short title.

This article shall be known as the "Transactions and Use Tax" and shall be applicable in the incorporated territory of the City of Santa Ana ("city").

Sec. 35-201. - Definitions.

For the purpose of this article the following words terms shall have the meaning given in this section:

"In the city" means and includes all territory within the city limits.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the later of the adoption of this chapter and the approval by the voters of the city of a measure approving the imposition of an increased transactions and use tax; provided that, if the city shall not have entered into a contract with the California Department of Tax and Fee Administration as required by section 35-203. prior to such date, the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Sec. 35-202. - Purpose.

This article of the Santa Ana Municipal Code has been adopted for the following purposes, and directs that the provisions hereof be interpreted

in order to accomplish those purposes:

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

(2) To adopt a retail transactions and use tax 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.

(3) To adopt a retail transactions and use tax that imposes a tax and provides a measure therefor that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

(4) To adopt a retail transactions and use tax that can be administered in a manner that will, to the greatest degree possible, be consistent with the provisions of Parts 1.6 of Division 2 of the said Revenue and Taxation Code, and thereby minimize the cost of collecting city transactions and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

Sec. 35-203. - Contract with state.

Prior to the operative date, the city shall contract with the California Department of Tax and Fee Administration to perform all functions incidental to the administration and operation of this transactions and use tax ordinance. If the city has not contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. The city council may make any technical amendments to this chapter required by the California Department of Tax and Fee Administration, except for any changes affecting the tax rate, tax methodology, or its manner of collection.

**Sec. 35-204. - Imposition of transactions and use tax – Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of one and one half percent (1.5%) of any gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of this article until December 31, 2030 and then at the rate of one percent (1%) until ended by the voters.

**Sec. 35-205. - Place of sale.**

For the purposes of this article, 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 California Department of Tax and Fee Administration.

**Sec. 35-206.- Imposition of use tax – 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 or after the operative date of this article, at the rate of one and one-half of one percent (1.5%) of the sales price of the property subject to the tax until December 31, 2030 and then at the rate of one percent (1%) of the sales price of the property subject to the tax. 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.

**Sec. 35-207. - Adoption of provisions of state law – Generally.**

Except as otherwise provided in the article 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 § 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this article as though fully set forth herein.

**Sec. 35-208. - Adoption of provisions of state law – Limitations; Limitations on collection of use taxes.**

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

(1) Wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. However, the substitution shall not be made when:

(A) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(B) The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this article.

(C) 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:

(i) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this 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;

(ii) 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 said provision of that code.

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

(2) 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.

Sec. 35-209. - 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 article.

Sec. 35-210. - Exemptions and exclusions.

(1) Measure of Tax. There shall be excluded from the measure of the transactions and use tax the amount of any sales tax or use tax



imposed by the State of California 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.

(2) Transactions Tax Exemptions. There are exempted from the computation of the amount of transactions tax the gross receipts from:

(A) 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.

(B) 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:

(i) 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

(ii) 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.

(C) 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.

(D) 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.

For the purposes of subsections (2)(C) and (2)(D) 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.

(3) Use Tax Exemptions. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:

(A) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(B) 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.

(C) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date.

(D) 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.

For the purposes of subsections (3)(C) and (3)(D) 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.

(4) Exemption from Collection of Use Tax. Except as provided in subsection (5), 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.

(5) Retailer Not Exempt from Collection of Use Tax. "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.

(6) Credit Against Use Tax for Transactions Tax Paid Elsewhere. 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.

**Sec. 35-211. - Adoption of amendments to state law.**

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

**Sec. 35-212. - Enjoining collection prohibited.**

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 hereunder, or Parts 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

**Sec. 35-213. - Termination.**

The authority set forth in this Article VII to impose a retail transactions and use tax shall continue until such authority is terminated by the voters of the City in the manner provided by law.

**Sec. 35-214. - Oversight committee.**

The City Council shall, by resolution establish as citizen oversight committee to act in an advisory role to the City Council in reviewing the annual revenue and expenditures of funds from the tax authorized by this article. The

resolution shall establish the committee members' terms, qualifications and duties, and the committee's scope of authority.

**Sec. 35-215. - Annual Audit.**

An annual audit of the revenue generated by the sales and use tax and the expenditures made will be conducted by an independent certified public accountant.

**Sec. 35-216. - Annual Expenditures Disclosure.**

The City of Santa Ana will publically disclose on an annual basis a list of expenditures made with sales and use tax monies for the preceding fiscal year.

**Sec. 35-217. – Sunset Provision.**

On December 31, 2030, the rate of one and one half percent (1.5%) will be reduced to one percent (1%) until ended by the voters.

**SECTION 2. Effective Date.** Pursuant to the California Constitution Article XIII(2)(b) and California Elections Code 9217, if the requisite number of qualified voters voting in the election on Measure “\_\_\_” vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

**SECTION 3. Severability.** If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The People of the City of Santa Ana hereby declare that they would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

**SECTION 4. Certification/Summary.** Following the City Clerk's certification that the citizens of Santa Ana have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.

PASSED, APPROVED, and ADOPTED by the People of the City of Santa Ana this 6<sup>th</sup> day of November, 2018.

\_\_\_\_\_  
Mayor

ATTEST:

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Maria D. Huizar  
City Clerk

APPROVED AS TO FORM:

*Sonia R. Carvalho*

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Sonia R. Carvalho  
City Attorney

*for*

RESOLUTION NO. 2018-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA CALLING FOR THE PLACEMENT ON THE BALLOT OF A MEASURE FOR THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE REGARDING A GENERAL SALES TAX MEASURE AND PROVIDING FOR THE FILING OF ARGUMENT AND REBUTTAL STATEMENTS

WHEREAS, pursuant to California Elections Code section 9222, the City Council has authority to place measures on the ballot to be considered at a General Municipal Election; and

WHEREAS, pursuant to the law of the State of California, the City Council has called and ordered to be held in the City of Santa Ana, California, on Tuesday, November 6, 2018, a General Municipal Election; and

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City of Santa Ana ("City"), subject to approval by a majority vote of the qualified voters of the City voting in an election on the issue, to levy a transactions and use tax pursuant to the Transactions and Use Tax Law at a rate of 0.125% or any multiple thereof for general purposes and projects; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218 effective November, 1996, requires that the measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, pursuant to California Constitution Article XIII C, section 2 and Elections Code section 10201, the City has determined to submit a proposition to enact an ordinance establishing a transactions and use tax to the voters at the City's next regular election;

NOW, THEREFORE the City Council of the City of Santa Ana does hereby resolve as follows:

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Under the provisions of the California Elections Code, the following proposed amendment to the Santa Ana Municipal Code shall be submitted to the voters at the General Municipal Election to be held on November 6, 2018:

Exhibit 3

<p><b><u>MEASURE # : SANTA ANA NEIGHBORHOOD SAFETY AND ESSENTIAL CITY SERVICES PROTECTION MEASURE</u></b></p>	<p>Yes</p>
<p>To maintain effective 9-1-1 emergency response services by retaining firefighters, police officers, and paramedics; addressing homelessness/housing concerns and services; fixing potholes/streets; maintaining parks, after school programs, senior services, graffiti removal and unrestricted general revenue purposes; shall the measure be adopted approving an ordinance establishing a one and one half (1.5%) percent sales tax providing approximately \$60 million dollars annually until ended by the voters, requiring annual audits, citizen oversight, all funds only for Santa Ana?</p>	<p>No</p>

Section 3. Should said measure be approved by the requisite vote, the ordinance attached hereto as Exhibit A and incorporated by this reference shall be enacted.

Section 4. That the text of the Ordinance to be submitted to the voters is attached to this Resolution as Exhibit "A" and incorporated herein by this reference ("Ordinance").

Section 5. That pursuant to Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the Ordinance to the City Attorney to prepare an impartial analysis of the Ordinance which shall not exceed 500 words in length.

Section 6. That pursuant to Elections Code Section 9282, the City Council may file a written argument in favor of the Ordinance in accordance with Article 4, Chapter 3, Division 9 of the Elections Code and may change the argument as allowed by law.

Section 7. That pursuant to Elections Code Section 9287, if more than one argument for or more than one argument against the Ordinance is submitted to the City Clerk within the time prescribed by law, he or she shall select one of the arguments in favor and one of the arguments against the Ordinance for printing and distribution to the voters, giving preference in such selection in the following order:

1. The City Council, or a member or members of the City Council authorized by the City Council.
2. Bona fide associations of citizens.
3. Individual voters who are eligible to vote on the Ordinance.

Section 8. That pursuant to Elections Code Sections 9220 and 9285, when the City Clerk has selected the arguments for and against the Ordinance which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the Ordinance to the author or authors of the argument against, and copies of the argument against the Ordinance to the author or authors of the argument in favor. The author or authors may submit a rebuttal argument to the direct argument not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments and shall immediately follow the direct argument which it seeks to rebut. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed, and this Section shall only apply to the election on the Ordinance to be held on November 6, 2018.

Section 9. In accordance with Section 10002 of the Elections Code, the Board of Supervisors Orange County is hereby requested to consent to the Registrar of Voters rendering election services to the City as may be requested by the City Clerk of said City, the County of Orange to be reimbursed in full for such services as are performed. The Board of Supervisors of Orange County is also requested to consent and agree to the consolidation of the General Election with any other election occurring on November 6, 2018, and the City hereby consents to any such consolidation.

Section 10. The election services which the City requests of the Registrar of Voters, or such other official as may be appropriate to perform, and which such officer is hereby authorized and directed to perform if the said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards, the establishment or appointment of precincts, polling places, and election officers, opening and closing of polling places, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places, the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk, and the performance of such other election services as may be requested by said City Clerk.

Section 11. 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 California Elections Code Section 10242 and Section 14212, except as provided in California Elections Code Section 14401 or any other provision of law.

Section 12. All persons qualified to vote at municipal elections in the City on the day of the election herein provided for shall be qualified to vote on the Ordinance hereby submitted at the General Municipal Election.

Section 13. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding general municipal elections in the City.



Section 14. Notice of the time and place of holding the General Municipal Election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner as required by law.

Section 15. The City Clerk shall receive the canvass as it pertains to the General Municipal Election, and shall certify the results to this City Council, as required by law.

Section 16. If any section, subsection, sentence, clause, phrase or provision of this Resolution or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other provision or applications, and to this end the provisions of this Resolution are declared to be severable. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, phrase or provision thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions thereof be declared invalid or unconstitutional.

Section 17. Pursuant to California Elections Code section 9295, this Resolution and the attached Ordinance will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election.

Section 18. This Resolution shall take effect immediately upon its adoption by a majority of the City Council.

Section 19. The City Clerk of the City of Santa Ana is hereby directed to certify to the passage and adoption of this Resolution and to file a certified copy of this Resolution with the Board of Supervisors of Orange County and the Registrar of Voters of Orange County at least eighty-eight (88) days before the date of the election.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Santa Ana, California, at its regular meeting held on the \_\_\_ day of July, 2018, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Mayor

ATTEST:

---

Maria D. Huizar  
City Clerk

APPROVED AS TO FORM:

*Laura A. Rossini*

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*for* Sonia R. Carvalho  
City Attorney

EXHIBIT A

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SANTA ANA ADDING  
ARTICLE VII TO CHAPTER 35 OF THE SANTA ANA  
MUNICIPAL CODE RELATED TO A TRANSACTIONS AND  
USE TAX TO BE ADMINISTERED BY THE CALIFORNIA  
DEPARTMENT OF TAX AND FEE ADMINISTRATION

The City Council of the City of Santa Ana does ordain as follows:

Section 1. Authority. The City Council and the Voters of the City of Santa Ana enact this Ordinance in accordance with the authority granted to cities by Article XI, Section 7 of the California Constitution and Section 7285.9 of the California Revenue and Taxation Code.

Section 2. Addition of article. Article VII is hereby added to Chapter 35 of the Santa Ana Municipal Code to read as follows:

ARTICLE VII.- TRANSACTIONS AND USE TAX

Sec. 35-200. - Short title.

This article shall be known as the "Transactions and Use Tax" and shall be applicable in the incorporated territory of the City of Santa Ana ("city").

Sec. 35-201. - Definitions.

For the purpose of this article the following words terms shall have the meaning given in this section:

"In the city" means and includes all territory within the city limits.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the later of the adoption of this chapter and the approval by the voters of the city of a measure approving the imposition of an increased transactions and use tax; provided that, if the city shall not have entered into a contract with the California Department of Tax and Fee Administration as required by section 35-203. prior to such date, the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Sec. 35-202 - Purpose.

This article of the Santa Ana Municipal Code has been adopted for the following purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

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

(2) To adopt a retail transactions and use tax 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.

(3) To adopt a retail transactions and use tax that imposes a tax and provides a measure therefor that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

(4) To adopt a retail transactions and use tax that can be administered in a manner that will, to the greatest degree possible, be consistent with the provisions of Parts 1.6 of Division 2 of the said Revenue and Taxation Code, and thereby minimize the cost of collecting city transactions and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

**Sec. 35-203. - Contract with state.**

Prior to the operative date, the city shall contract with the California Department of Tax and Fee Administration to perform all functions incidental to the administration and operation of this transactions and use tax ordinance. If the city has not contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. The city council may make any technical amendments to this article required by the California Department of Tax and Fee Administration, except for any changes affecting the tax rate, tax methodology, or its manner of collection.

**Sec. 35-204. - Imposition of transactions and use tax – Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city

at the rate of one and a half percent (1.5%) of any gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of this chapter.

**Sec. 35-205. - Place of sale.**

For the purposes of this article, 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 California Department of Tax and Fee Administration.

**Sec. 35-206. - Imposition of use tax – 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 or after the operative date of this article, at the rate of one and a half percent (1.5%) of the sales price of the property subject to the tax. 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.

**Sec. 35-207. - Adoption of provisions of state law – Generally.**

Except as otherwise provided in the article 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 § 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this article as though fully set forth herein.

**Sec. 35-208. - Adoption of provisions of state law – Limitations; Limitations on collection of use taxes.**

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

(1) Wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. However, the substitution shall not be made when:

(A) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(A) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(B) The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this article.

(C) 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:

(i) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this 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;

(ii) 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 said provision of that code.

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

(2) 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.

Sec. 35-209 - 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 article.

Sec. 35-210. - Exemptions and exclusions.

(1) Measure of Tax. There shall be excluded from the measure of the transactions and use tax the amount of any sales tax or use tax imposed by the State of California 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.

(2) Transactions Tax Exemptions. There are exempted from the computation of the amount of transactions tax the gross receipts from:

(A) 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.

(B) 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:

(i) 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

(ii) 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.

(C) 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.

(D) 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.

For the purposes of subsections (2)(C) and (2)(D) 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.

(3) Use Tax Exemptions. There are exempted from the use tax imposed by this article, the storage, use or other consumption in this city of tangible personal property:

(A) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(B) 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.

(C) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date.

(D) 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.

For the purposes of subsections (3)(C) and (3)(D) 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.

(4) Exemption from Collection of Use Tax. Except as provided in subsection (5), 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.

(5) Retailer Not Exempt from Collection of Use Tax. "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.

(6) Credit Against Use Tax for Transactions Tax Paid Elsewhere. Any person subject to use tax under this article 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.

Sec. 35-211. - Adoption of amendments to state law.

All amendments subsequent to the effective date of this article 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 a part of this article, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this article.

Sec. 35-212.- Enjoining collection prohibited.

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 hereunder, or Parts 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Sec. 35-213. – Termination.

The authority set forth in this article to impose a retail transactions and use tax shall continue until such authority is terminated by the voters of the City in the manner provided by law.

Sec. 35-214. - Oversight committee.

The City Council shall, by resolution establish as citizen oversight committee to act in an advisory role to the City Council in reviewing the annual revenue and expenditures of funds from the tax authorized by this article. The resolution shall establish the committee members' terms, qualifications and duties, and the committee's scope of authority.

Sec. 35-215. - Annual Audit.

An annual audit of the revenue generated by the sales and use tax and the expenditures made will be conducted by an independent certified public accountant.

Sec. 35-216. - Annual Expenditures Disclosure.

The City of Santa Ana will publically disclose on an annual basis a list of expenditures made with sales and use tax monies for the preceding fiscal year.

SECTION 2. Effective Date. Pursuant to the California Constitution Article XIIC(2)(b) and California Elections Code 9217, if the requisite number of qualified voters voting in the election on Measure "\_\_\_\_" vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 3. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The People of the City of Santa Ana hereby declare that they would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 4. Certification/Summary. Following the City Clerk's certification that the citizens of Santa Ana have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.

PASSED, APPROVED, and ADOPTED by the People of the City of Santa Ana this 6<sup>th</sup> day of November, 2018.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Maria D. Huizar  
City Clerk

APPROVED AS TO FORM:

*Sawira A. Ressler*

*for*

Sonia R. Carvalho  
City Attorney