

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA CALLING FOR THE HOLDING OF A VOTE-BY-MAIL GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY ON TUESDAY, NOVEMBER 3, 2015, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE CHARTER AND THAT CERTAIN SETTLEMENT AGREEMENT DATED MARCH 10, 2015 IN *BANALES, ET AL. V. CITY OF SANTA BARBARA* AND FOR THE SUBMISSION OF A PROPOSITION MEASURE FOR THE ENACTMENT OF A CITY ORDINANCE ENACTING A TRANSACTIONS AND USE TAX ORDINANCE TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

WHEREAS, under the provisions of the Charter of the City of Santa Barbara and that certain Settlement Agreement dated March 10, 2015 in *Banales, et al. v. City of Santa Barbara*, a General Municipal Election shall be held on November 3, 2015, for the election of three municipal officers by electoral district; and

WHEREAS, the City Council has determined that Districts 1, 2 and 3 as depicted on the attached electoral district map and legal description shall be up for election; and

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City Council to levy a transactions and use tax for general purposes, if the ordinance proposing the tax is approved by a two-thirds vote of all members of the City Council and the tax is approved by a majority vote of the qualified voters of the city voting in an election on the issue; and

WHEREAS, the City Council, by a two-thirds vote, has approved the submission to the voters of a proposed ½ cent transactions and use tax measure in the form of the Santa Barbara Transactions and Use Tax Ordinance of 2015.

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

SECTION 1. That pursuant to the requirements of the Charter of the City of Santa Barbara and that certain Settlement Agreement dated March 10, 2015 in *Banales, et al. v. City of Santa Barbara*, there is called and ordered to be held in the City of Santa Barbara on Tuesday, November 3, 2015 (“Election Day”), a General Municipal Election for the purpose of electing three Councilmembers for terms expiring in accordance with Section 500 of the City Charter.

SECTION 2. That Districts 1, 2 and 3 as depicted on the attached electoral district map and legal description shall be up for election; and

SECTION 3. That the City Council, pursuant to the authority of Revenue and Taxation Code section 7285.9 and Elections Code section 9222, does order submitted to the voters at the General Municipal Election the following ballot question:

<p>MEASURE 2015 To protect services and improve City of Santa Barbara infrastructure, including:</p> <ul style="list-style-type: none"> • Repairing streets, sidewalks, and potholes; • Protecting fire prevention/911 dispatch; • Protecting neighborhood police patrols/crime prevention; • Protecting parks, playfields, children/teen programs; • Repairing libraries, recreation centers, and senior facilities; • Replacing the outdated police operations center with an earthquake safe building; and • Providing other general city services; <p>shall Santa Barbara enact a one-half cent sales tax for 20 years, with citizens' oversight, and all funds staying local?</p>	<p>YES</p>
	<p>NO</p>

SECTION 4. That the complete text of the adopted and proposed Santa Barbara Transactions and Use Tax Ordinance of 2015 submitted to the voters is attached as Exhibit A. The City Council hereby directs the City Clerk to transmit a copy of the Santa Barbara Transactions and Use Tax Ordinance of 2015 to the City Attorney. The City Attorney shall prepare an impartial analysis of the Ordinance, not to exceed 500 words in length, showing the effect of the Ordinance on existing law and the operation of the Ordinance, and transmit the impartial analysis to the City Clerk within ten days of adoption of this Resolution.

SECTION 5. That the City Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 6. That pursuant to section 1306 of the Santa Barbara City Charter and Elections Code section 4108, the election shall be conducted as a vote-by-mail ballot, and shall be conducted pursuant to the applicable requirements of Chapter 2 of Division 4 (commencing with section 4100) of the California Elections Code only insofar as required by law. Ballots cast in this election shall be returned to the office of the City Clerk in the timeframe specified in Elections Code section 4103 (as amended by Stats. 2014, c. 618 [S.B. 29]).

SECTION 7. That the drop-off center located at City Hall, 735 Anacapa Street, for the election shall be open at 8:00 o'clock a.m. on the Saturday preceding Election Day (October 31, 2015), and shall remain open continuously from that time until 5 o'clock p.m. of the same day when the center shall be closed pursuant to Elections Code section 10242. Further, that all drop-off centers for the election shall be open at 7 a.m. on Election

Day, and shall remain open continuously from that time until 8:00 o'clock p.m. of the same day when the centers shall be closed pursuant to Elections Code section 10242, except as provided in Elections Code section 14401.

SECTION 8. That pursuant to Elections Code section 12310, a stipend for services for the persons named as election board members is fixed at the sum of \$160 for each Inspector and \$120 for each Clerk for the election. In addition, the sum of \$20 will be paid to each Inspector and the sum of \$10 for each Clerk to attend a training class; the sum of \$10 will be given to each Inspector to pick up the precinct supplies; and the sum of \$10 will be paid to each bilingual election board member.

SECTION 9. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by state law for holding vote-by-mail elections.

SECTION 10. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election in the time, form, and manner as required by law.

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ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA ENACTING A ONE-HALF PERCENT TRANSACTIONS AND USE TAX FOR A PERIOD OF TWENTY YEARS TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION, SUBJECT TO ADOPTION BY THE ELECTORATE

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 4.14 [Transactions and Use Tax] of Title 4 [Revenue, Finance and Purchasing] of the Santa Barbara Municipal Code is added to read as follows:

4.14.010 Short Title. This ordinance shall be known as the City of Santa Barbara Transactions and Use Tax Ordinance of 2015. The City of Santa Barbara hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

4.14.020 Operative Date. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after November 3, 2015.

4.14.030 Purposes. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

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

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

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost

of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

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

4.14.050 Transactions Tax Rate. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 0.50% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

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

4.14.070 Use Tax Rate. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 0.50% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

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

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

A. Wherever the State 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:

1. 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;

2. 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 State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

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

a. Provide an exemption from 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;

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

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

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

4.14.100 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 ordinance.

4.14.110 Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State 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.

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

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.14.120 Amendments to State Law. All amendments subsequent to the effective date of this ordinance 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 ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

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

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

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

4.14.160 Independent Citizens' Oversight Committee. The City Council shall appoint a _____ member Independent Citizens' Oversight Committee which shall meet at least annually for the purpose of reviewing the revenues generated by the tax imposed by this Ordinance, reviewing the independent annual audit, and making recommendations to the City Council regarding expenditure of such revenues. The membership of the Independent Citizens' Oversight Committee shall include: _____.

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

4.14.180 Termination and Repeal. The authority to levy the taxes imposed by this ordinance shall until March 31, 2036, unless this ordinance is earlier repealed. This ordinance may be repealed by ordinance of the City Council.

4.14.190 Declaration. The proceeds of the taxes imposed by this ordinance may be used for any lawful purpose of the City, as authorized by ordinance, resolution or action of the City Council or by Ordinance adopted by the electorate of the City. These taxes do not meet the criteria established by Section 1(d) of Article XIIC of the California Constitution for special taxes, and are general taxes imposed for general government purposes

4.14.200 Additional Findings. The City Council finds as follows:

- A. The City provides vital municipal services, such as police, fire, parks and recreation, libraries, youth and senior programs and other general fund services.
- B. The City's existing revenues are insufficient to fully provide municipal services at the level that is necessary or desirable.
- C. The funding made available by this Ordinance will enable to City to restore and improve its municipal services.

SECTION 2. CEQA. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA

Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment, and Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

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