

RESOLUTION NO. RES-19-0107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH, CALIFORNIA CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE BALLOT FOR THE MARCH 3, 2020 SPECIAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF AN AMENDED ORDINANCE TO EXTEND AND ADJUST THE RATE OF A TRANSACTIONS AND USE TAX, AND MAKING FINDINGS OF FISCAL EMERGENCY PURSUANT TO CALIFORNIA PROPOSITION 218

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

WHEREAS, on June 7, 2016, Long Beach voters approved Measure "A", a Transactions and Use Tax ("TUT") enacted for a period of ten (10) years on the sale and/or use of all tangible personal property sold at retail in the City, initially at a rate of one cent (1%) for the first six operative years of the tax (January 1, 2017 – December 31, 2022), and declining to one-half percent (0.50%) for the remaining four operative years of the tax (January 1, 2023 – December 31, 2026), with the tax scheduled to sunset on January 1, 2027; and

WHEREAS, on March 7, 2017 Los Angeles County voters approved Measure "H", a Countywide special TUT enacted to fund programs to address homelessness for a period of ten (10) years, at a rate of one-quarter cent (¼%) until it sunsets on October 1, 2027; and

1 WHEREAS, because Long Beach Measure "A" was enacted prior to County
2 Measure "H", Measure "A's" existing 1% tax rate from January 1, 2017 through
3 December 31, 2022 is unaffected by Measure "H", however from January 1, 2023 until
4 Measure "H's" sunset date on October 1, 2027, Long Beach is legally limited to enacting
5 a maximum three-quarters percent (¾%) TUT due to operation of the 2% statutory "cap"
6 under California Revenue and Taxation Code section 7251.1; and

7 WHEREAS, pursuant to City Charter and California Elections Code §9222,
8 the City Council has authority to place local measures on the ballot to be considered at a
9 Municipal Election; and

10 WHEREAS, based upon the above, the City Council would like to submit to
11 the voters a measure extending the term of the Long Beach TUT beyond ten (10) years
12 until it is ended by voters and setting the TUT at the following rates: (i) from January 1,
13 2017 through December 31, 2022 – at 1% on the sale and/or use of all tangible personal
14 property sold at retail in the City, (ii) from January 1, 2023 through September 30, 2027,
15 at a rate of three-quarters percent (¾%), and after October 1, 2017, again at a rate of one
16 percent (1%); and

17 WHEREAS, the City Council intends to adopt an Ordinance amending
18 Chapter 3.62 of the City's Municipal Code, thereby amending the TUT as described
19 above, subject to voter approval; and

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

22 WHEREAS, on November 6, 1996, the voters of the State of California
23 approved Proposition 218, an amendment to the State Constitution which requires that all
24 general taxes which are imposed, extended or increased must be submitted to the
25 electorate and approved by a majority vote of the qualified electors voting in the election;
26 and

27 WHEREAS, pursuant to Proposition 218 (California Constitution Article
28 XIIC, §2(b)), an election for the approval of a new or increased general tax must

1 generally be consolidated with a regularly scheduled general election for members of the
2 governing body of the local government; and

3 WHEREAS, Proposition 218 permits the City Council to call a special
4 election for the voters to consider imposing, increasing or extending a general tax if the
5 City Council finds, by a unanimous vote, that there exists an emergency requiring a
6 special election to be conducted earlier than the next regularly scheduled general
7 election at which City Council members are to be elected; and

8 WHEREAS, the next regularly scheduled general election at which City
9 Council members are to be elected is not until November 3, 2020; and

10 WHEREAS, for the following reasons, the health, safety and general
11 welfare of the citizens of the City would be endangered if the City were unable to place
12 this Measure before its voters prior to November 3, 2020; and

13 WHEREAS, as more specifically set forth in the City Manager's Report
14 submitted to the Mayor and City Council on July 2, 2019, the revenue from Measure "A"
15 has funded 41 new public safety positions and has maintained 108 public safety positions
16 that would otherwise have been reduced as part of the budgeting process; and

17 WHEREAS, the revenue from Measure "A" has also funded the renovation
18 of 102 land miles of arterial streets and has also funded significant residential street
19 repair and slurry sealing; and

20 WHEREAS, the revenue from Measure "A" has also funded significant park
21 improvements as well as upgrades to public facilities, such as local health centers and
22 public libraries, to extend their useful life, increase energy efficiency and improve ADA
23 access; and

24 WHEREAS, due to seismic safety issues, Community Hospital of Long
25 Beach ceased operating on July 3, 2018, leaving the community without an important
26 medical facility to serve Long Beach and other area residents. To perform the required
27 seismic improvements in order to reopen the Hospital, it is estimated that the City's cost
28 share would be \$25,000,000 over the next 15 years. This cost share is currently

1 unfunded; and

2 WHEREAS, it is estimated that the City has a backlog of infrastructure
3 improvements totaling \$2,3 billion, including pavement, alley, sidewalk and facilities
4 investments. While Measure "A" has funded \$88,000,000 in improvements to date to
5 address this backlog, the City will require a longer-term funding source to fulfill these
6 requirements; and

7 WHEREAS, it is estimated that the City has a backlog of infrastructure
8 improvements totaling \$2,3 billion, including pavement, alley, sidewalk and facilities
9 investments. While Measure "A" has funded \$88,000,000 in improvements to date to
10 address this backlog, the City will require a longer-term funding source to fulfill these
11 requirements; and

12 WHEREAS, because operating costs continue to outpace City revenues,
13 even with Measure "A" funding at its current levels, the City projects operating budget
14 shortfalls starting in Fiscal Year 2020-2021; and

15 WHEREAS, the reduction or loss of Measure "A" funding will result in more
16 serious operating budget shortfalls, requiring reductions in public safety personnel, as
17 well as street, facilities and infrastructure improvements; and

18 WHEREAS, the potential reduction or loss of Measure "A" funding can be
19 addressed by proposing a new measure to Long Beach voters extending and adjusting
20 the rate of the transactions and use tax currently authorized by Measure "A"; and

21 WHEREAS, the City of Long Beach approves its annual budgets in
22 September of each year; and

23 WHEREAS, in order to properly develop and decide on a budget for Fiscal
24 Year 2020-2021, the City must know in advance whether or not Long Beach voters
25 support an extension and rate adjustment to Measure "A". A March, 2020 special
26 election will provide sufficient time for the City to incorporate the voters' decision into its
27 budgeting calculations; and

28 WHEREAS, if the City were to wait until the November, 2020 General

1 Municipal Election to place this question before Long Beach voters, the City would have
2 to develop and approve a Fiscal year 2020-2021 budget without knowing the voters'
3 wishes in this regard, compromising the City's ability to budget with full knowledge of all
4 of its available revenue sources going forward; and

5 WHEREAS, the circumstances described above create an emergency
6 situation warranting the placement of the Measure on a special election ballot to permit
7 the voters to decide on the Measure pursuant to Proposition 218; and

8 WHEREAS, the ordinance to be considered by the qualified voters and the
9 terms of approval, and collection and use of the general TUT are described and provided
10 for in the ballot measure attached hereto as Exhibit "A" (the "Measure") and by this
11 reference made an operative part hereof, in accordance with all applicable laws;

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

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

16 Section 2. Declaration of Emergency/Calling of Election. Pursuant to
17 California Constitution, Article XIII C, Section 2(b), the City Council, by a unanimous vote,
18 hereby declares the existence of an emergency in that there are imminent financial risks
19 and dangers, as described above, to the public welfare and the City's financial ability to
20 provide municipal services at current levels and without disruption, so that a special
21 election is necessary to address such risks and dangers. As such, the City Council, by a
22 unanimous vote, hereby calls and orders to be held in the City of Long Beach on
23 Tuesday, March 3, 2020, a Special Municipal Election for the purpose of submitting the
24 Measure attached hereto as Exhibit "A" and incorporated herein by this reference to the
25 qualified electors of the City.

26 Section 3. The City Council, pursuant to City Charter and California
27 Elections Code §9222, hereby orders that the following question be submitted to the
28 qualified electors of the City of Long Beach at the special election to be held on March 3,

1 2020:

2 “To maintain 911 emergency response services, police, fire, 3 parks, libraries, repair streets, and support general services, shall 4 an ordinance be adopted extending the City of Long Beach's 5 Transactions and Use Tax beyond 2027, generating 6 approximately \$60 million annually, at a 1% rate until December 7 31, 2022, at ¾% until September 30, 2027, and at 1% from 8 October 1, 2027 until ended by voters, requiring a citizens' 9 advisory committee and annual independent audits, with all funds 10 remaining in Long Beach?”	YES
	NO

7 Section 4. Conduct of Election. The City Clerk is authorized, instructed,
8 and directed to procure and furnish any and all official ballots, printed matter and all
9 supplies, equipment and paraphernalia that may be necessary in order to properly and
10 lawfully conduct the election. In all particulars not recited in this Resolution, the election
11 shall be held and conducted as provided by law for holding municipal elections.

12 Section 5. Pursuant to California Elections Code Section 9280, the City
13 Council hereby directs the City Clerk to transmit a copy of the TUT Measure to the City
14 Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to
15 exceed 500 words in length, showing the effect of the Measure on the existing law and
16 the operation of the Measure, and transmit such impartial analysis to the City Clerk not
17 later than the deadline for submittal of primary arguments for or against the Measure.

18 The impartial analysis shall include a statement indicating whether the
19 Measure was placed on the ballot by a petition signed by the requisite number of voters
20 or by the City Council. In the event the entire text of the Measure is not printed on the
21 ballot, nor in the voter information portion of the sample ballot, there shall be printed
22 immediately below the impartial analysis, in no less than 10-font bold type, the following:

23 “The above statement is an impartial analysis of Ordinance or Measure _____. If you
24 desire a copy of the ordinance or measure, please call the Office of the City Clerk at
25 [insert phone number] and a copy will be mailed at no cost to you.”

26 Section 6. Notice of the election is hereby given and the City Clerk is
27 authorized, instructed and directed to give further or additional notice of the election, in
28

1 time, form and manner as required by law.

2 Section 7. Placement on the Ballot. The full text of the Measure shall not
3 be printed in the voter information guide, and a statement shall be printed in the ballot
4 pursuant to Elections Code §9223 advising voters that they may obtain a copy of this
5 Resolution and the Measure, at no cost, upon request made to the City Clerk.

6 Section 8. Filing with County. The City Clerk shall, not later than the
7 88th day prior to the Special Municipal Election to be held on Tuesday, March 3, 2020,
8 file with the Board of Supervisors and the County Clerk – Registrar of Voters of the
9 County of Los Angeles, State of California, a certified copy of this Resolution.

10 Section 9. Public Examination. Pursuant to California Elections Code
11 §9295, this Measure will be available for public examination for no fewer than ten (10)
12 calendar days prior to being submitted for printing in the voter information guide. The
13 City Clerk shall post notice in the Clerk's office of the specific dates that the examination
14 period will run.

15 Section 10. The City Treasurer is hereby authorized and directed to
16 appropriate the necessary funds to pay for the City's cost of placing the Measure on the
17 election ballot.

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

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

28 Section 13. This resolution shall take effect immediately upon its adoption

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

1 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

2 I hereby certify that the foregoing resolution was adopted by the City
3 Council of the City of Long Beach at its meeting of July 16, 2019
4 by the following vote:

5
6 Ayes: Councilmembers: Pearce, Price, Supernaw, Mungo, Andrews,
7 Uranga, Austin, Richardson.

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9
10 Noes: Councilmembers: None.

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12 Absent: Councilmembers: None.

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16 M. De J. May
City Clerk

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EXHIBIT "A"

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ORDINANCE NO.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF LONG BEACH, CALIFORNIA, AMENDING CHAPTER 3.62 OF THE LONG BEACH MUNICIPAL CODE TO EXTEND AND ADJUST THE RATE OF A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

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

WHEREAS, on June 7, 2016, Long Beach voters approved Measure "A", a Transactions and Use Tax ("TUT") enacted for a period of ten (10) years on the sale and/or use of all tangible personal property sold at retail in the City, initially at a rate of one cent (1%) for the first six operative years of the tax (January 1, 2017 – December 31, 2022), and declining to one-half percent (½%) for the remaining four operative years of the tax (January 1, 2023 – December 31, 2026), with the tax scheduled to sunset on January 1, 2027; and

WHEREAS, the people of the City desire to extend the term of the Transactions and Use Tax beyond 2027 for general purposes to fund important City services, including public safety services, at the following rates: (i) from January 1, 2017 through December 31, 2022 – at 1% on the sale and/or use of all tangible personal property sold at retail in the City, (ii) from January 1, 2023 through September 30, 2027, at a rate of three-quarters percent (¾%), and after October 1, 2017, again at a rate of one percent (1%); and

WHEREAS, if approved by the City Council and Long Beach voters, the proposed amendments to the City's Transactions and Use Tax Ordinance will be

1 incorporated into the Long Beach Municipal Code at Chapter 3.62.

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

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

6 Section 2. Approval by the City Council. Pursuant to California Revenue
7 and Taxation Code, Section 7285.9, this Ordinance was duly introduced on _____,
8 2019 and approved upon second reading for placement on the ballot by a unanimous
9 vote of the City Council as well as by a minimum two-thirds (2/3) supermajority of all
10 members of the City Council on _____, 2019.

11 Section 3. Approval by the Voters. Pursuant to California Elections Code
12 Section 9217, this Ordinance shall be deemed adopted and take effect only if approved
13 by a majority of the eligible voters of the City of Long Beach voting at the Special
14 Municipal Election of March 3, 2020, and shall be deemed adopted and take effect ten
15 (10) days after the City Council has certified the results of that election by resolution.

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

20 Section 5. Severability. If any provision of this Ordinance or the
21 application thereof to any person or circumstance is held invalid, the remainder of the
22 Ordinance and the application of such provision to other persons or circumstances shall
23 not be affected thereby.

24 I hereby certify that the Long Beach Transactions and Use Tax Ordinance
25 was PASSED, APPROVED, AND ADOPTED by the people of the City of Long Beach on
26 the 3rd day of March, 2020.

1 Chapter 3.62- Transactions and Use Tax

2
3 Sections:

4 3.62.010 - Purpose.

5 3.62.020 - Contract With State.

6 3.62.030 - Transactions Tax Rate.

7 3.62.040 - Place of Sale.

8 3.62.050 - Use Tax Rate.

9 3.62.060 - Adoption of Provisions of State Law.

10 3.62.070 - Limitations on Adoption of State Law and Collection of Use Taxes.

11 3.62.080 - Permit Not Required.

12 3.62.090 - Exemptions and Exclusions.

13 3.62.100 - Amendments.

14 3.62.110 - Enjoining Collection Forbidden.

15 3.62.120 – Sunset of Tax

16 3.62.130 – Citizens' Advisory Committee

17
18 3.62.010 - Purpose.

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

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

27 B. To adopt a retail transactions and use tax ordinance that
28 incorporates provisions identical to those of the Sales and Use Tax Law of the State of

1 California insofar as those provisions are not inconsistent with the requirements and
2 limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

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

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

15 3.62.020 - Contract With State.

16 Prior to the operative date, the City shall contract with the California
17 Department of Tax and Fee Administration to perform all functions incident to the
18 administration and operation of this transactions and use tax ordinance; provided, that if
19 the City shall not have contracted with the California Department of Tax and Fee
20 Administration prior to the operative date, it shall nevertheless so contract and in such a
21 case the operative date shall be the first day of the first calendar quarter following the
22 execution of such a contract.

23

24 3.62.030 - Transactions Tax Rate.

25 For the privilege of selling tangible personal property at retail, a tax is
26 hereby imposed upon all retailers in the incorporated territory of the City at the following
27 rates:

28 A. One cent (1%) of the gross receipts of any retailer from the sale of

1 all tangible personal property sold at retail in said territory on and after the operative date
2 of Measure "A" (January 1, 2017) through December 31, 2022.

3 B. Three-quarters cent ($\frac{3}{4}\%$) of the gross receipts of any retailer from
4 the sale of all tangible personal property sold at retail in said territory on or after January
5 1, 2023 through September 30, 2027.

6 C. One cent (1%) of the gross receipts of any retailer from the sale of all
7 tangible personal property sold at retail in said territory on or after October 1, 2027 (the
8 sunset date for Los Angeles County Measure "H").

9 3.62.040 - Place of Sale.

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

20
21 3.62.050 - Use Tax Rate.

22 An excise tax is hereby imposed on the storage, use or other consumption
23 in the City of tangible personal property purchased from any retailer on and after the
24 operative date of Measure "A" for storage, use or other consumption in said territory at
25 the following rates:

26 A. One cent (1%) of the sales price of the property on and after the
27 operative date of Measure "A" (January 1, 2017) through December 31, 2022.

28 B. Three-quarters cent ($\frac{3}{4}\%$) of the sales price of the property on or

1 after January 1, 2023 through September 30, 2027.

2 C. One cent (1%) of the sales price of the property on or after October
3 1, 2027 (the sunset date for Los Angeles County Measure "H").

4 The sales price shall include delivery charges when such charges are
5 subject to state sales or use tax regardless of the place to which delivery is made.

6
7 3.62.060 - Adoption of Provisions of State Law.

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

13
14 3.62.070 - Limitations on Adoption of State Law and Collection of Use Taxes.

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

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

20 1. The word "State" is used as a part of the title of the State
21 Controller, State Treasurer, State Board of Control, California Department of Tax and Fee
22 Administration, State Treasury, or the Constitution of the State of California;

23 2. The result of that substitution would require action to be taken
24 by or against this City or any agency, officer, or employee thereof rather than by or
25 against the California Department of Tax and Fee Administration, in performing the
26 functions incident to the administration or operation of this Ordinance.

27 3. In those sections, including, but not necessarily limited to
28 sections referring to the exterior boundaries of the State of California, where the result of

1 the substitution would be to:

2 a. Provide an exemption from this tax with respect to
3 certain sales, storage, use or other consumption of tangible personal property which
4 would not otherwise be exempt from this tax while such sales, storage, use or other
5 consumption remain subject to tax by the State under the provisions of Part 1 of Division
6 2 of the Revenue and Taxation Code, or;

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

10 4. In Sections 6701, 6702 (except in the last sentence thereof),
11 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

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

15
16 3.62.080 - Permit not Required.

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

20
21 3.62.090 - Exemptions and Exclusions.

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

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

28 1. Sales of tangible personal property, other than fuel or

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

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

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

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

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

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

26 5. For the purposes of subparagraphs (3) and (4) of this
27 subsection, the sale or lease of tangible personal property shall be deemed not to be
28 obligated pursuant to a contract or lease for any period of time for which any party to the

1 contract or lease has the unconditional right to terminate the contract or lease upon
2 notice, whether or not such right is exercised.

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

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

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

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

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

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

27 6. Except as provided in subparagraph (7), a retailer engaged in
28 business in the City shall not be required to collect use tax from the purchaser of tangible

1 personal property, unless the retailer ships or delivers the property into the City or
2 participates within the City in making the sale of the property, including, but not limited to,
3 soliciting or receiving the order, either directly or indirectly, at a place of business of the
4 retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary,
5 or person in the City under the authority of the retailer.

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

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

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19 3.62.100 - Amendments.

20 All amendments subsequent to the effective date of this ordinance to Part 1
21 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and
22 which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and
23 Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue
24 and Taxation Code, shall automatically become a part of this ordinance, provided
25 however, that no such amendment shall operate so as to affect the rate of tax imposed
26 by this ordinance.

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

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3.62.110 - 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.

3.62.120 – Duration of Tax.

The tax imposed by this article shall continue until this ordinance is repealed.

3.62.130 – Citizens' Advisory Committee.

There is hereby established a five-member citizens' advisory committee, whose members shall be appointed by and serve at the pleasure of the City Council. The committee shall periodically review the City's use of revenues generated by this Tax and shall make recommendations to the City Council with regard to the Tax.

3.62.140 – Effect of Los Angeles County Measure "H" and of Future County Transactions and Use Tax Measures on this Ordinance.

When contracting with the California Department of Tax and Fee Administration pursuant to section 3.62.020 to administer the tax imposed by this ordinance, it shall be the City's intent, and any agreement shall ensure, that the combined rate limit specified in Revenue and Taxation Code section 7251.1 is not exceeded in the City of Long Beach. As such, the following terms shall apply:

A. Because Long Beach voters approved Measure "A" prior to Los Angeles County Measure "H", it is the intent of this ordinance to give full effect to the one cent (1%) tax already enacted under Measure "A" until January 1, 2023, when the one

1 cent (1%) tax would reduce in rate under Measure "A's" terms. Measure "H" shall not
2 have any effect on the City's ability to levy and collect the 1% rate until January 1, 2023
3 and Los Angeles County shall not levy nor collect any Measure "H" taxes within the
4 territory of Long Beach until January 1, 2023.

5 B. From January 1, 2023 until October 1, 2027, the City of Long Beach
6 shall levy and collect a three-quarter cent (¾%) Transactions and Use Tax and Los
7 Angeles County may levy and collect the quarter-cent (¼%) Measure "H" tax within the
8 territory of Long Beach until Measure "H" sunsets on October 1, 2027.

9 C. When Measure "H" sunsets on October 1, 2027, the City of Long
10 Beach shall again be authorized to levy and collect the Transactions and Use Tax at the
11 rate of one cent (1%).

12 D. In the event that Los Angeles County voters approve a future
13 measure after the effective date of this ordinance that either extends Measure "H" or
14 otherwise enacts a new Transactions and Use Tax that, when aggregated with Long
15 Beach's transactions and use taxes under this ordinance, causes the combined rate limit
16 set forth in Revenue and Taxation Code section 7152.1 to be exceeded, such future
17 County measure shall not have any effect on the City's ability to levy and collect
18 Transactions and Use taxes at the rates set forth herein. Unless State law is amended to
19 increase the combined rate limit under Revenue and Taxation Code section 7251.1 or
20 this ordinance is later repealed or amended to reduce its tax rates, Los Angeles County
21 shall not levy nor collect any Transactions and Use Taxes within the territory of Long
22 Beach which were approved by Los Angeles County voters after the effective date of this
23 ordinance.

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