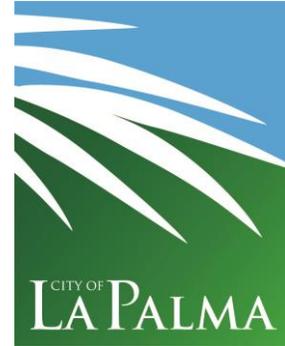


City of La Palma

Agenda Item No. 7



MEETING DATE: July 5, 2016
TO: CITY COUNCIL
FROM: CITY MANAGER
SUBMITTED BY: Laurie A. Murray, City Manager

AGENDA TITLE: Resolution Proposing and Submitting to the Voters at the General Municipal Election to be Held on November 8, 2016, a Proposal to Adopt an Initiative Ordinance Establishing a One Percent Transactions (Sales) and Use Tax, Directing the City Attorney to Prepare an Impartial Analysis, and Authorizing and Setting Deadlines for the Filing of Arguments For or Against the Ballot Measure

RECOMMENDED ACTION:

Recommendation that the City Council adopt a Resolution proposing and submitting to the voters at the General Municipal Election to be held on November 8, 2016, a proposal to adopt an Initiative Ordinance establishing a one percent Transactions (Sales) and Use Tax, directing the City Attorney to prepare an impartial analysis, and authorizing and setting deadlines for the filing of arguments for or against the ballot measure.

EXECUTIVE SUMMARY

- Over the past several years, La Palma has experienced a 24% decrease in revenues which equates to a loss of \$2.9 million dollars. Cuts, which add up to \$1.77 Million in ongoing costs are not nearly enough for the City to achieve and sustain long term fiscal health.
- Currently in La Palma, an 8% tax on retail sales, referred to as a “sales tax,” but legally described as either a sales and use or transactions and use tax, is levied.
- The City receives 1% sales and use tax of the 8%, with the remaining going to the State (6.25%) and Orange County Transportation/Orange County Transportation Measure M (0.75%).
- In July 2015, the City Council appointed 11 resident volunteers to the Citizen Committee on La Palma’s Sustainability and Future to review the City’s operations and finances and recommend to the City Council, a plan to achieve long-term financial sustainability.

- In February 2016, the Committee submitted its Final Report and recommended, among other items a City-based sales tax increase, subject to voter approval.
- A City-based sales tax is protected under the State Constitution from reallocation by the State to back-fill funding for State agencies or programs.
- The sales tax would be a “general tax” used to fund core City services, including police patrols and crime prevention, 9-1-1 emergency response, maintenance of parks and recreation facilities, and street, storm drain, and sidewalk maintenance.

BACKGROUND/ANALYSIS:

Over the past several years, the City has experienced a 24% decrease in revenues which equates to a loss of \$2.9 million dollars. This loss of revenue was due to a number of reasons—all out of the City’s control—including a drop in sales tax revenue due to the loss of a major business, another business changing its business model, declining oil prices, a drop in property tax due to the move of a major property owner to non-profit status, and the loss of redevelopment, which requires the City to allocate more of its general fund dollars towards street maintenance and other major capital projects. In addition to revenue challenges, the City faces two significant long term expenditure threats; increasing retirement costs largely associated with prior unfunded liabilities and increasing insurance costs due to escalating cost trends into the foreseeable future.

In response to decreasing revenues, the City has done much over the past several budget cycles to address its financial situation. Through the revision of the General Plan, revenue opportunities were created, including digital billboards along the freeway corridor which will generate \$204,000 in annual revenues once completed. In addition to creating new revenue opportunities, the City has made several reductions, including:

- 20% reduction in full time staff from 65 to 52 employees - the smallest workforce since 1985
- Restructuring throughout the organization, including reducing upper management while maintaining as many line positions as possible
- Significant changes in both the 2011 and 2015 labor agreements, which reduced costs and unfunded pension liabilities, including increased employee contributions towards retirement, lower retirement tiers, and most recently a 5% reduction in take home pay for all employees.
- Cuts to programs and expenditures

These cuts, which add up to \$1.77 Million in ongoing costs are not nearly enough for the City to achieve and sustain long term fiscal health. As noted, the City has been addressing these forecasts with cuts throughout the organization; however without a change in revenues, it appears that future budgets could not be balanced without drastic reductions to services and, if nothing is done, the City will spend through its reserves in the next ten years. The City’s financial situation is not in response to inaction, but in spite of significant actions already taken.

Citizen Committee on La Palma's Sustainability and Future

In response to these challenges, the City Council created a Citizen Committee on La Palma's Sustainability and Future ("Committee") and appointed eleven members on July 21, 2015. The Committee was charged with the responsibility of reviewing the City's operations and finances and recommending to the City Council, a plan to achieve long-term financial sustainability.

The Committee met a total of six times between August 11, 2015, and January 12, 2016, with each meeting lasting between two and three hours. They received reports on the City's financial situation, including the revenues the City receives and the various cuts and adjustments the City Council has made over the recent past; departmental presentations on department budgets, staffing, responsibilities, and previous steps taken to reduce costs; information on citywide costs and infrastructure projects; and a presentation on what revenue options are available to the City.

On February 2, 2016, the Committee presented a report to the City Council, which included the following recommendations:

- Recreation Programs - continued consolidation of programs with neighboring cities; explore outside opportunities from the private and public sectors; not eliminating the Department
- Police Department – explore the option of shared or combined police services or restructuring of the Department as a preference to contracting out the services
- Revenue Measures – increase Transient Occupancy Tax; maximize the Utility Users Tax by expanding the definition of utilities; and institute a City Sales Tax

The Committee also suggested that the City Council use outside assistance on any potential revenue ballot initiatives and expend necessary funds to insure a successful outcome.

Public Engagement

In March, the City approved an agreement with The Lew Edwards Group (LEG) to assist the City in its communications and outreach efforts regarding City resident priorities. That agreement included conducting a survey to ascertain public perceptions of the City, priorities for City services, and constituent views towards a potential locally enacted and controlled revenue measure. The survey was conducted in early May and a wide range of information was assessed to ensure a comprehensive, balanced, and unbiased study. The results of the study were presented at a June 15 Special Meeting by Dr. Timothy McLarney from True North Research.

While there are a number of revenue measure options available to the City and all of those options were presented for consideration to the City Council at a June 21 study session regarding revenue options; the survey tested ballot language for one of the options – a one-percent local sales tax.

The results indicate that La Palma voters appear willing to support a sales tax in order to provide adequate funding for, among other things, core City services. In particular, La Palma residents were interested in maintaining the City's low 9-1-1 response times and the local La Palma Police Department, especially the Police Department's ability to provide crime prevention and investigation services. Residents were also highly supportive of efforts to preserve La Palma's

quality of life through maintaining parks, public infrastructure including roads, sidewalks, and storm drains, and repairing potholes. Finally, residents highly rated La Palma's quality of life, and strongly supported efforts to protect and maintain existing services.

State Tax Laws and the "Sales and Use" and "Transactions and Use" Distinction

State law prescribes the limits and authority for the State and its political subdivisions, including cities, to collect and impose sales taxes. While commonly known as the "sales tax," State law distinguishes between a "sales and use tax" and "transactions and use tax" due to differences in tax base, with a transactions and use tax allowing for taxation on retail sales without being based on the location (or *situs*) of a sale.

Under State law, a city may impose or increase a transactions and use tax for general purposes if an ordinance is approved by two-thirds majority vote of a city council and a simple majority vote of the city's qualified electors. Although a transactions and use tax may be set at fractional rates, such as $\frac{1}{4}$ or $\frac{1}{2}$ of a percent, a city is subject to a combined 2% rate cap that applies to all local governments otherwise having authority to levy a transactions and use tax within a territorial boundary. Note, however, La Palma's current 1% sales and use tax does not count towards this combined 2% rate cap for transactions and use taxes.

Despite the different provisions of State law that apply to "sales and use taxes" and "transactions and use taxes," they both are commonly referred to as the "sales tax" and, as a practical matter, are administered similarly by the State and local governments. As such, local ordinances and ballot measures that technically seek authority to collect a "transactions and use tax" are simply referred to as a "sales tax."

Revenue from a sales tax may be used for general or specific purposes, but that designation is significant under State law. A "general tax" requires a simple majority vote of the electorate for approval, while a "special tax" requires a two-thirds majority of the electorate. Courts have determined a tax is general when its revenues are available for expenditure for any and all governmental purposes.

In 2004 and 2010, two statewide ballot initiatives (Propositions 1A and 22) were approved by California voters, both of which increased protection against State reallocation of local sales tax revenues to fund the State's agencies or programs. Article XIII, Section 24(b) of the State Constitution, enacted by Proposition 22, provides, "The Legislature may not reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purposes." A recent appellate court case confirmed the broad language and protection afforded cities by this provision. **Therefore, revenues from a city-approved sales tax, used for the city's purposes, are constitutionally protected from State-mandated revenue shifts away from the city pursuant to a State statute**, including a shift that is part of a "budget trailer bill" enacted as part of the annual State Budget Act.

FISCAL IMPACT:

The City's sales tax consultant estimates that a one-percent increase in sales tax would generate \$1.5 million, which would address the City's immediate and long-term problems. The estimated cost of placing a measure on the ballot is \$25,000; \$15,000 for election related costs and \$12,000 for legal costs. \$30,000 in election related costs was included in the FY 2016-17 City Clerk Other

Contract Services Budget (001-150-6190.00000), which includes funding for the General Municipal Elections as well. \$6,000 has been included in the FY 2015-16 and FY 2016-17 Legal Services Budget, respectively (001-130-6010.00000).

If the Initiative is approved, the operative date will be April 1, 2017, the first day of the first calendar quarter commencing more than 110 days after the adoption of the Ordinance, which is the day the City Council declares the vote. Therefore, the City would receive one Quarter of income in FY 2016-17, helping to offset approximately 49% of the FY 2016-17 projected deficit of \$771,800.

APPROVED:



Administrative Services
Director



City Manager

Attachment: 1. Proposed Resolution

RESOLUTION NO. 2016-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CITY OF LA PALMA, CALIFORNIA, PROPOSING AND SUBMITTING TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, A PROPOSAL TO ADOPT AN INITIATIVE ORDINANCE ESTABLISHING A ONE PERCENT TRANSACTIONS AND USE TAX; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AND AUTHORIZING AND SETTING DEADLINES FOR THE FILING OF ARGUMENTS FOR OR AGAINST THE BALLOT MEASURE

WHEREAS, over the past several years, the City of La Palma has made deep cuts to staff and services, including reducing the full-time workforce by 20%, cutting employee salaries and pensions, postponing maintenance projects, and cutting back on basic city services, and

WHEREAS, even with these cuts, the City of La Palma still has a structural deficit that is projected to be over 1 million dollars annually within the next five years, and

WHEREAS, eliminating the structural deficit will require additional deep cuts in all service areas, including police, 9-1-1 emergency response times, street, park, and public facilities maintenance, and

WHEREAS, the City of La Palma is one of the few small Orange County cities with its own police department and has one of the lowest police and emergency response times in Orange County, and additional cuts will degrade the City's ability to respond quickly to an emergency, and

WHEREAS, in light of the structural deficit, additional revenues are needed in order to preserve essential city services and the high quality of life in the City of La Palma; and

WHEREAS, additional revenues are needed to preserve the La Palma Police Department and ensure that officers are available when needed and not diverted to other cities, and

WHEREAS, additional revenues will allow the La Palma Police Department to continue to provide police services, including crime, drug-related crime, and gang activity prevention; and

WHEREAS, additional revenues will be subject to a clear system of accountability, including public audits and disclosures of all funds spent to ensure that all funds are spent properly, and

WHEREAS, all additional revenues raised by this measure will be used to fund essential city services in La Palma, and cannot be taken away by the state or used for other purposes, and

WHEREAS, the City Council proposed and desires to submit to the voters the approval of an Ordinance establishing a one percent transactions and use tax on the sale of all tangible personal property sold at retail in the City, whose revenues may be used for any and all governmental purposes of the City, which may include any general fund services such as police patrols and crime prevention, 9-1-1 emergency response and street maintenance and pothole repair; and

WHEREAS, Article 13C of the California Constitution and section 53724 of the California Government Code provide that no local government may impose, extend or increase any general tax unless and until that tax is proposed by a two-thirds vote of the governing body and submitted to the electorate and approved by a majority vote at an election consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

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

SECTION 1. The City Council hereby calls for an election for, proposes and submits the following ballot measure to the registered voters of the City of La Palma for their adoption or rejection in a General Municipal Election to be held in the City of La Palma on Tuesday, November 8, 2016:

Measure ____: City of La Palma One-Cent Sales Tax

"Shall Ordinance No. 2016-1, establishing a one percent sales tax, to remain in effect until ended or modified by the voters, and raising an estimated \$1,500,000 annually for any and all governmental purposes of the City, which may include any general fund services such as police patrols and crime prevention; 9-1-1 emergency response; and street maintenance/pothole repair; with the requirement for public audits and disclosures of all funds spent, be adopted?"	YES	NO
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SECTION 2. The text of the proposed Ordinance for the ballot measure submitted to the City's voters is set forth in full in Exhibit A attached hereto and incorporated by this reference.

SECTION 3. The City Council hereby orders and directs the City Clerk to cause the proposed Ordinance and notice of the General Municipal Election to be published in the time, form, and manner as required by law. The suggested form of notice of the

election is as follows:

CITY OF LA PALMA
GENERAL ELECTION NOTICE

NOTICE IS HEREBY GIVEN to the qualified electors of the City of La Palma, that in accordance with the law, at the General Municipal Election to be held on Tuesday, November 8, 2016, in the City, there will be submitted to the voters a proposed Ordinance that, if adopted, would establish a one-percent transactions (sales) and use tax on the sale of all tangible personal property sold at retail in the City, whose revenues may be used for any and all governmental purposes of the City, which may include any general fund services such as police patrols and crime prevention, 9-1-1 emergency response and street maintenance and pothole repair.

Any person wishing to submit a direct argument for or against the ballot measure shall file such argument with the City Clerk, 7822 Walker Street, La Palma, California on or before July 18, 2016, which argument shall not exceed 300 words in length. Any rebuttal arguments for or against the ballot measure shall be filed with the City Clerk on or before July 28, 2016, and shall not exceed 250 words in length. Arguments that are selected for printing and distribution to the voters shall be selected in accordance with section 9287 of the Elections Code.

SECTION 4. In all particulars not expressly recited in this Resolution, the election shall be held and conducted as provided by law for holding general municipal elections.

SECTION 5. The City Council hereby authorizes, instructs, and directs the City Attorney to prepare an impartial analysis of the ballot measure, in accordance with the provisions of the Elections Code section 9280, showing the effect of the measure on existing law and the operation of the measure. The impartial analysis, not exceeding 500 words in length, shall be filed with the City Clerk on or before July 18, 2016.

SECTION 6. Pursuant to Elections Code section 9282, the City Council, or any member or members of the City Council, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against the measure. Pursuant to Elections Code section 9283, any argument filed by the City Council, or any member or members of the City Council, shall be accompanied by the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization,

the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument. The argument may not be signed by more than five persons, otherwise the signatures of the first five shall be printed on the sample ballot. Any direct argument shall be accompanied by a signed Form of Statement and in accordance with guidelines for filing of arguments which are available in the Office of the City Clerk. Direct arguments shall be subject to a 10-calendar-day public examination period in accordance with the provisions of Elections Code section 9295.

SECTION 7. Pursuant to Elections Code sections 9282 and 9285, when the City Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the City Clerk shall send a copy of the argument in favor of the measure to the authors of the argument against, and a copy of the argument against the measure to the authors of the argument in favor. The author or a majority of the authors of an argument may prepare and submit a rebuttal argument or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument shall be filed with the City Clerk with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers. A rebuttal argument may not be signed by more than five persons and shall be printed in the same manner as a direct argument and shall immediately follow the direct argument which it seeks to rebut. Rebuttal arguments for or against the measure, not exceeding 250 words in length, shall be filed with the City Clerk on or before July 28. Any rebuttal argument shall be accompanied by a signed Form of Statement and in accordance with guidelines for the filing of arguments which are available in the Office of the City Clerk. Rebuttal arguments shall be subject to a 10-calendar-day public examination period in accordance with the provisions of Elections Code section 9295.

SECTION 8. If more than one argument for or more than one argument against the ballot measure is submitted, the City Clerk shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument, the City Clerk shall give preference and priority to the submitted arguments in accordance with the provisions of Elections Code section 9287.

SECTION 9. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

SECTION 10. This Resolution shall take effect upon adoption. The City Clerk is hereby directed to deliver forthwith certified copies of this Resolution to the Registrar of Voters of the County of Orange and to the Clerk of the Board of Supervisors of the County of Orange.

PASSED, APPROVED AND ADOPTED by the City Council of the City of La Palma at a regular meeting on the 21st day of June 2016.

Gerard Goedhart
Mayor

ATTEST:

Kimberly Kenney
Deputy City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS.
CITY OF LA PALMA)

I, KIMBERLY KENNEY, Deputy City Clerk of the City of La Palma, California, DO HEREBY CERTIFY that the foregoing Resolution was adopted by the City Council of said City at a regular meeting of said City Council held on the 21st day of June 2016, and that it was so adopted by called vote as follows:

AYES:

NOES:

Kimberly Kenney
Deputy City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF LA PALMA, CALIFORNIA, ADDING ARTICLE IX TO CHAPTER 14 OF THE LA PALMA CITY CODE, IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

THE PEOPLE OF THE CITY OF LA PALMA, CALIFORNIA, HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Article IX is hereby added to Chapter of the La Palma City Code to read:

TRANSACTIONS AND USE TAX

Sections:

14-241	Title and Applicable Territory
14-242	Operative Date
14-243	Purpose
14-244	Contract with State
14-245	Transactions Tax Rate
14-246	Place of Sale
14-247	Use Tax Rate
14-248	Adoption of Provisions of State Law
14-249	Limitations on Adoption of State Law and Collection of Use Taxes
14-250	Permit Not Required
14-251	Exemptions and Exclusions
14-252	Amendments
14-253	Enjoining Collection Forbidden

Sec. 14-241. - Title and Applicable Territory.

This Ordinance shall be known as the La Palma Transactions and Use Tax Ordinance. The City of La Palma hereinafter shall be called "City." This Ordinance shall be applicable in the incorporated territory of the City.

Sec. 14-242. - Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance, the date of such adoption being as set forth below.

Sec. 14-243. - Purpose.

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

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 of the Revenue and Taxation Code, 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 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 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.

Sec. 14-244. - 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.

Sec. 14-245. - Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a transactions and use tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of One Percent (1%) 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.

Sec. 14-246. - 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.

Sec. 14-247. - 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 One Percent (1%) 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.

Sec. 14-248. - 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.

Sec. 14-249. - 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 transactions and use tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this transactions and use tax while such sales,

storage, use or other consumption remain subject to sales and use tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this transactions and use tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to sales and use 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.

Sec. 14-250. - 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.

Sec. 14-251. - Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions and use tax the amount of any sales 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/her 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/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.

Sec. 14-252. - Amendments.

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, duration or receipt of revenues by the City for the transactions and use tax imposed by this Ordinance.

Sec. 14-253. - 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.

SECTION 2. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective only upon adoption by a majority of the people voting on the measure to adopt this Ordinance at the

general municipal election on November 8, 2016. This Ordinance shall be considered as adopted upon the date that the vote on this Ordinance is declared by the City Council for the City of La Palma, and shall go into effect 10 days after that date.

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LA PALMA)

I, KIMBERLY KENNEY, Deputy City Clerk of the City of La Palma, California, do hereby certify that Ordinance No. _____, is a full, true, and correct copy, and was adopted by a majority vote of the people of the City of La Palma, California, who voted on the measure for the adoption of said Ordinance, at the Regular Municipal Election held the 8th day of November, 2016, as appears by the official returns of said election, and the Statement of Votes Cast as declared by the City Council of the City of La Palma, Resolution No. 2016-_____, adopted on _____, 2016.

Attest: _____
Kimberley Kenney
Deputy City Clerk