

RESOLUTION NO. 10561

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL MONTE (I) CALLING AND GIVING NOTICE OF THE SUBMISSION TO EL MONTE VOTERS OF A BALLOT MEASURE TO INCREASE THE CITY'S CURRENT HALF-PERCENT (1/2%) TRANSACTIONS AND USE TAX TO THREE-QUARTERS OF A PERCENT (3/4%) AND TO ELIMINATE THE SUNSET DATE FOR THE SAME; (II) ACKNOWLEDGING CITY COUNCIL APPROVAL OF AN ORDINANCE EFFECTUATING THE FOREGOING AMENDMENTS; (III) ORDERING THAT THE BALLOT MEASURE SUBMITTED AS PART OF THE CITY'S NOVEMBER 5, 2024 GENERAL MUNICIPAL ELECTION; (IV) REQUESTING THAT THE LOS ANGELES COUNTY BOARD OF SUPERVISORS INCLUDE THE BALLOT MEASURE AS PART OF CITY'S PRIOR ELECTION CONSOLIDATION REQUEST; (V) REQUESTING THAT THE REGISTRAR-RECORDER/COUNTY CLERK PROVIDE SPECIFIC ELECTION ADMINISTRATION SERVICES, INCLUSIVE OF THE BALLOT MEASURE; AND (VI) SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS AND REBUTTALS REGARDING THE BALLOT MEASURE AND DIRECTING PREPARATION AN IMPARTIAL ANALYSIS

WHEREAS, pursuant to Revenue and Taxation Code Section 7285.9 et seq., the City of El Monte ("City") has the authority to collect a local transaction and use tax and to increase that transactions and use tax; and

WHEREAS, pursuant to Elections Code Section 9222, the El Monte City Council ("City Council") has the authority to submit measures to be considered by El Monte voters at a municipal election; and

WHEREAS, pursuant to Chapter 3.14 (Temporary Transactions and Use Tax) of Title 3 (Revenue and Finance) of the El Monte Municipal Code, the City currently levies a voter-approved half-cent (\$0.005) or half-percent (1/2%) transactions and use tax, the proceeds of which are deposited into the general fund to be used for any general municipal purpose, including but not limited to providing services, such as police and fire service; and street, sidewalk, parks and recreation program, infrastructure maintenance etc.; and

WHEREAS, the City's half-percent (1/2%) transactions and use tax sunsets (ends) on March 31, 2029 unless extended by El Monte voters; and

WHEREAS, the City Council now desires to submit to the voters an ordinance extending the life of the City's existing transactions and use tax indefinitely until ended by the voters and increasing the tax rate, currently set at a half-percent (1/2%), by an additional one-quarter of a percent (1/4%) such that the new tax rate will be a full one percent (3/4%); and

WHEREAS, pursuant to Government Code Sections 53723 and 53724(b), Revenue and Taxation Code Section 7285.9, and Section 2(b) of Article XIII C of the California Constitution, any proposed increase or extension of the City's general purpose transactions and use tax must be approved by ordinance approved by two-thirds of all the members of the City Council (i.e., by at least 5 "yes" votes), subject also to approval by El Monte voters by a simple majority of votes cast (50% plus 1) at a City election that is consolidated with a regularly-scheduled General Municipal Election for members of the City Council; and

WHEREAS, concurrent with the approval of this Resolution, the City Council by 2/3 vote of its membership has approved, subject also to El Monte voter approval, Ordinance No. 3038 to increase the City's existing transactions and use tax to three-quarters of a percent (3/4%) and to extend its life indefinitely until repealed by El Monte voters (hereinafter "the Ordinance")(A true and correct copy of the Ordinance is attached to this Resolution as Exhibit "A"); and

WHEREAS, the City Council requests that the Los Angeles County Registrar-Recorder/County Clerk (hereinafter, "the County") provide full election services to the City in order to conduct an election to be held November 5, 2024 for the ballot measure seeking voter approval of the Ordinance as part of the City's regular General Municipal Election consolidated with the County-administered General Election of the same date; and

WHEREAS, the City Council also desires to establish deadlines and rules for the submission of written arguments and rebuttals for and against the Ordinance in accordance with applicable Elections Code procedures; and

WHEREAS, the election contest for the ballot measure contemplated under this Resolution shall be in addition to the election contests referenced by the City Council in prior Resolution No. 10557 approved July 2, 2024 which called the November 5, 2024 General Municipal Election for the election of various members to the City Council and for said election to be consolidated with the County-administered General Election of the same date; and

WHEREAS, the City shall compensate the County for all necessary expenses incurred by the County in performing election services for the City, including any such additional costs arising out of the placement of the above-described ballot measure on the City's November 5, 2024, General Municipal Election ballot.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA, DOES HEREBY RESOLVE, FIND, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct, are incorporated herein and by this reference made an operative part thereof.

SECTION 2. Submission of Ballot Measure. Having satisfied the approval requirements of Government Code Sections 53723 and 53724(b), Revenue and Taxation Code Section 7285.9 and Article XIIC, Section 2(b) of the California Constitution, the City Council, pursuant to Elections Code Section 9222 hereby orders that a ballot measure seeking voter approval of the Ordinance be submitted to the qualified voters of the City at the General Municipal Election to be held on Tuesday, November 5, 2024, which is to be consolidated with the County-administered General Election of the same date. The Ordinance shall be in the form attached hereto as Exhibit "A" to this Resolution. The transactions and use that is the subject of the ballot is and remains a general tax within the meaning of Proposition 218 whose proceeds may be used for any general municipal purpose. Accordingly, the vote requirement for passage of the proposed ballot measure is a majority of the votes cast (50% plus 1) at the November 5, 2024 General Municipal Code.

SECTION 3. Ballot Measure. The City Council does hereby order that the ballot measure seeking voter approval of the Ordinance shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth herein. On the ballot to be submitted to the qualified voters at the City's November 5, 2024 General Municipal Election, which is to be consolidated with the County-administered General Election of the same date, there shall be printed substantially the following ballot question in compliance with Election Code Sections 9051, 13119(b) and 13247:

Keep El Monte Sales Tax Revenues Local Measure To preserve funding for various City services and goals like fire protection; graffiti removal; street and sidewalk repair; park maintenance and enhancements; youth and senior programs; building "rainy day" reserves and any other general governmental purpose, shall the City's 1/2% transactions and use tax be increased to 3/4% and extended indefinitely until ended by voters to raise an additional \$3,500,000 annually?	YES
	NO

The City Council further requests that the City be granted the letter designation “EM” such that the Measure may be identified on the ballot as “Measure EM”. If the letter designation “EM” is unavailable, it is requested that the following alternative letter designations be given in order of preference: “GG” and “E”.

SECTION 4. Election Procedures.

- A. The ballots to be used at the election shall be in form and content as required by law.
- B. Pursuant to the requirements of Elections Code Sections 10002 and 10403, the City respectfully requests that the County’s governing Board of Supervisors consent and agree to the following:
 - 1. That the City-initiated ballot measure seeking approval of the Ordinance be included as part of the City’s November 5, 2024 General Municipal Election which is to be consolidated with the County-administered General Election of the same date as originally requested by the City Council’s prior approval of Resolution No. 10557 approved July 2, 2024 which called the City’s November 5, 2024 General Municipal Election for the election of various members to the City Council and for said election to be consolidated with the County-administered General Election of the same date; and
 - 2. That the County’s governing Board of Supervisors consent to having the County render full election services to the City as may be requested by the El Monte City Clerk (hereinafter, the “City Clerk”) with the understanding and agreement that the County will be reimbursed in full for all services provided; and
 - 3. That the requested election services include: the preparation, printing and mailing of sample ballots and polling place cards; the establishment or appointment of precincts, polling places, and election officers, the preparation, printing, mailing and furnishing of vote-by-mail ballots, making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places; the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk of the City of El Monte; and the performance of such other election services as may be requested by the City Clerk.
- C. The City Clerk is authorized, instructed and directed to coordinate with the County of Los Angeles Registrar of Voters to procure and furnish any and all ballots, notices, printed matter and supplies, services, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.
- D. The polls for the election shall be open at 7:00 a.m. of the day of the election and shall remain open continuously from that time until 8:00 p.m. of the same day when the polls shall be closed, pursuant to Elections Code Section 10242, except as provided in Elections Code Section 14401.
- E. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for the holding of municipal elections in the City.
- F. Notice of the time, place, and holding of the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.
- G. All ballots shall be tallied at a central counting place and not at the precincts. Said central counting place shall be at a ballot counting center designated by the County.

- H. The County is authorized to canvass the returns of the City's General Municipal Election.
- I. The City Clerk shall receive the canvass from the County as it pertains to the election on the measure, and shall certify the results to the City Council, as required by law.
- J. The City's General Municipal Election will be held and conducted in accordance with the provisions of law regulating such elections, including without limitation, Elections Code Section 10418.

SECTION 5. Arguments; Rebuttals and Impartial Analysis.

A. Direct Arguments For and Against the Measure.

1. The City Council acknowledge Elections Code Section 9282(b) and 9287 which provide as follows:
 - (a) When a measure is placed on the ballot by a legislative body, the legislative body, or a member or members of the legislative body authorized by that body, or an individual voter who is eligible to vote on the measure, or *bona fide* association of citizens, or a combination of voters and associations, may file a 300 word or less written argument in favor of the measure; and
 - (b) If more than one argument in favor of a measure is submitted, the City Clerk shall give preference and priority, in the order named, to the arguments submitted by the following person(s) and entities: (A) the legislative body, or member or members of the legislative body authorized by that body; (B) an individual voter, or *bona fide* association of citizens, or combination of a voter(s) and associations, who are the *bona fide* sponsors or proponents of the measure; (C) a *bona fide* associations of citizens; and (D) individual voters who are eligible to vote on the measure.

Provided such argument is submitted by or before the deadline for submitting ballot arguments, the City Council, by motion, reserves the right to designate and delegate one or more of its members to author an argument in favor of the City's measure and recognition of Elections Code Section 9283 which limits the number of signatories to the argument to five, prescribe a process or criteria for determining who should be selected to sign.
2. Arguments against the proposed ballot measure, if any, shall also be subject to the provisions of Elections Code 9282 and 9287.
3. The deadline date and time for submitting arguments for or against the measure to the City Clerk is **August 16, 2024 by 5:00 p.m.**, after which time no arguments for or against the measure will be accepted. Arguments for or against the measure **may not exceed 300 words** in length. Each argument shall be filed with the City Clerk, signed, and include 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.
4. The City Clerk shall comply with all provisions of law establishing priority of arguments for printing and distribution to the voters, and shall take all necessary actions to cause the selected arguments to be printed and distributed to the voters.

B. Rebuttal Arguments.

1. Pursuant to Elections Code Sections 9285 and 9287, when the City Clerk selects the arguments for and against the City-initiated measure to be printed and distributed to the voters, the City Clerk will send a copy of the argument in

favor of the measure to the authors of the argument against the measure, and a copy of the argument against to the authors of the argument in favor of the measure.

2. The authors of the respective arguments for and against the measure or persons designated by them may then prepare and submit rebuttal arguments not exceeding 250 words in length. The deadline for submitting rebuttal arguments to the City Clerk is **August 26, 2024 by 5:00 p.m.** after which time no rebuttal arguments will be accepted. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

C. City Attorney's Impartial Analysis. Pursuant to Elections Code Section 9280, the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney so that the City Attorney may prepare an impartial analysis of the measure, not to exceed 500 words in length. The impartial analysis should explain what the measure will do if approved and enacted and how that impacts/changes existing law. The City Attorney shall transmit its impartial analysis to the City Clerk, who shall cause the analysis to be published in the voter information guide along with the ballot measure as provided by law. The Impartial Analysis shall be filed no later than **August 16, 2024**. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: "The above statement is an impartial analysis of Ordinance or Measure. If you desire a copy of the ordinance or measure, please call the election official's office at [insert phone number] and a copy will be mailed at no cost to you."

D. Delivery of Materials. Any materials that must be submitted to the City Clerk must be delivered in person to the Office of the City Clerk located at 11333 Valley Boulevard, El Monte, California 91731. Except as otherwise provided in this paragraph, materials delivered to the City Clerk must be delivered during regular business hours, which are Monday through Thursday from 7:00 A.M. to 5:30 P.M. For the submission of rebuttal arguments only, the City Clerk's Office will be open on Friday, August 26, 2024 from 7:00 A.M. to 5:00 P.M.

SECTION 7. Placement on the Ballot. The full text of the Ordinance shall not be printed in the voter information guide, and a statement shall be printed in the ballot pursuant to Elections Code Section 9223 advising voters that they may obtain a copy of this ordinance/measure at no cost, upon request made to the City Clerk.

SECTION 8. Delivery of Resolution to County. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions. The City Council directs the City Clerk to deliver copies of this Resolution, including the Ordinance to the Clerk of the County's governing Board of Supervisors and to the Registrar-Recorder/County Clerk for the County of Los Angeles.

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


SECTION 10. CEQA. The City Council hereby finds and determines that the ballot measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, section 15378(b)(5).

SECTION 11. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable.

The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 12. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption. The City Clerk shall certify to the adoption of this Resolution which shall be effective upon its adoption. The City Clerk is hereby directed to file a certified copy of this Resolution with the County's governing Board of Supervisors and the Registrar-Recorder/County Clerk for the County of Los Angeles.

PASSED, APPROVED AND ADOPTED by the City Council of the City of El Monte at its special meeting on this 16th day of July 2024.



Jessica Ancona, Mayor
City of El Monte

ATTEST:



Gabriel Ramirez, City Clerk
City of El Monte

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF EL MONTE)

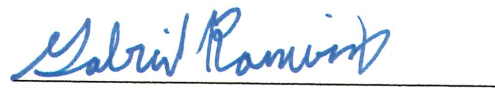
I, Gabriel Ramirez, City Clerk of the City of El Monte, do hereby certify that the above and foregoing Resolution No. 10561 was passed, approved, and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a meeting of said City Council of the City of El Monte held on this 16th day of July 2024, and that said Resolution was adopted by the following votes to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:



Gabriel Ramirez, City Clerk
City of El Monte

ORDINANCE NO. 3038

AN ORDINANCE OF THE PEOPLE OF THE CITY OF EL MONTE, CALIFORNIA INCREASING TO THREE-QUARTERS OF A PERCENT (3/4%) THE CITY'S EXISTING GENERAL PURPOSE HALF-PERCENT (1/2%) TRANSACTIONS (SALES) AND USE TAX CODIFIED UNDER TITLE 3, CHAPTER 3.14 OF THE EL MONTE MUNICIPAL CODE AND EXTENDING THE SAME INDEFINATELY UNTIL ENDED BY THE VOTERS

WHEREAS, pursuant to Revenue and Taxation Code Section 7285.9 et seq., the City of El Monte ("City") has the authority to collect a local transaction and use tax and to increase that transactions and use tax; and

WHEREAS, pursuant to Elections Code Section 9222, the El Monte City Council ("City Council") has the authority to submit measures to be considered by El Monte voters at a municipal election; and

WHEREAS, pursuant to Chapter 3.14 (Temporary Transactions and Use Tax) of Title 3 (Revenue and Finance) of the El Monte Municipal Code, the City currently levies a voter-approved half-cent (\$0.005) or half-percent (1/2%) transactions and use tax, the proceeds of which are deposited into the general fund to be used for any general municipal purpose, including but not limited to providing services, such as police and fire service; and street, sidewalk, parks and recreation program, infrastructure maintenance etc.; and

WHEREAS, the City's half-percent (1/2%) transactions and use tax was set to sunset on March 31, 2029 unless extended by El Monte voters; and

WHEREAS, the City Council now desires to submit to the voters an ordinance extending the life of the City's existing transactions and use tax indefinitely until ended by the voters and increasing the tax rate, currently set at a half-percent (1/2%), by an additional one-quarter of a percent (1/4%) such that the new tax rate will be three-quarters (3/4%); and

WHEREAS, pursuant to Government Code Sections 53723 and 53724(b), Revenue and Taxation Code Section 7285.9, and Section 2(b) of Article XIIC of the California Constitution, any proposed increase or extension of the City's general purpose transactions and use tax must be approved by ordinance approved by two-thirds of all the members of the City Council (i.e., by at least 5 "yes" votes), subject also to approval by El Monte voters by a simple majority of votes cast (50% plus 1) at a City election that is consolidated with a regularly-scheduled General Municipal Election for members of the City Council; and

WHEREAS, at its Regular Meeting of July 16, 2024, the City Council, in compliance with Government Code Sections 53723 and 53724(b), Revenue and Taxation Code Section 7285.9, and Section 2(b) of Article XIIC of the California Constitution, approved this Ordinance, subject to voter approval its regularly-scheduled November 5, 2024 General Municipal Election which was consolidated with the statewide general election of the same date administered by the Registrar-Recorder/County Clerk for the County of Los Angeles (hereinafter, "the County"); and

WHEREAS, at the same July 16, 2024 Regular Meeting, the City Council approved City Resolution 10561 which (i) called and gave notice of the submission to El Monte voters of a ballot measure to increase the City's 1/2% transactions and use tax to 3/4% and to extend the tax indefinitely; (ii) acknowledged approval of this Ordinance by the City Council; (iii) ordered that the ballot measure be submitted as part of the City's November 5, 2024 General Municipal Election which was consolidated with the County-administered General Election of the same date; (iv) requested inclusion of the ballot measure with the City's prior consolidate request; (v) requested the County provide administrative services and support for its General Municipal Election, inclusive of the ballot measure; and (vi) setting priorities for the submission of arguments and rebuttals and ordering the preparation of the City Attorney's Impartial Analysis; and

WHEREAS, the ballot measure seeking approval of this Ordinance was given the letter designation Measure “ _____ ” which presented the following question to El Monte voters:

<p>Keep El Monte Sales Tax Revenues Local Measure To preserve funding for various City services and goals like fire protection; graffiti removal; street and sidewalk repair; park maintenance and enhancements; youth and senior programs; building “rainy day” reserves and any other general governmental purpose, shall the City’s 1/2% transactions and use tax be increased to 3/4% and extended indefinitely until ended by voters to raise an additional \$3,500,000 annually?</p>	YES
	NO

WHEREAS, as required by Government Code Sections 53723 and 53724(b), Revenue and Taxation Code Section 7285.9, and Section 2(b) of Article XIIC of the California Constitution, the ballot measure seeking approval of this Ordinance was approved by a majority of votes cast at the City’s General Municipal Election of November 5, 2024 by a margin of _____% “Yes” and _____% “No”.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, ACTING WITH THE CONSENT OF THE VOTERS FOLLOWING A NOVEMBER 7, 2017 SPECIAL MUNICIPAL ELECTION, HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The title of Chapter 3.14 (Temporary Transactions and Use Tax) of Title 3 (Revenue and Finance) of the El Monte Municipal Code is hereby renamed as follows:

Chapter 3.14 TRANSACTIONS AND USE TAX

SECTION 2. Section 3.14.010 (Title) through Section 3.14.130 of Chapter 3.14 (Transactions and Use Tax) of Title 3 (Revenue and Finance) of the El Monte Municipal Code are hereby amended in their entirety to now state the following:

3.14.010 Title.

This chapter shall be known as the "El Monte Transactions and Use Tax Ordinance." The City of El Monte hereinafter shall be referred to as "City." This Chapter shall be applicable in the incorporated territory of the City.

3.14.020 Operative Date and Indefinite Duration of Tax.

- A. *The transactions and use tax codified under this Chapter was first approved by El Monte voters at its General Municipal Election of November 4, 2008 and pursuant to Revenue and Taxation Code Section 7265 became operative on the first day of the calendar quarter commencing 110 days after its adoption, April 1, 2009 (hereinafter, the “operative date”).*
- B. *At the City’s General Municipal Election of November 5, 2024, El Monte voters approved ballot Measure _____, which approved Ordinance No. 3038 which increases the City’s transactions and use tax rate from a half percent (½%) to three-quarters of a percent (¾%) and which also repeals the taxes March 31, 2029 sunset date such that the tax has become indefinite and will only end (expire) when repealed by El Monte voters. Paragraph A of this section notwithstanding, the operative date of the increased three-quarters percent (¾%) transactions and use tax rate shall, pursuant to Revenue and Taxations Code Section 7265, be the first day of the calendar quarter commencing 110 days after the adoption of Ordinance No. 3038.*

3.14.030 Purpose.

This Chapter 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 transaction 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 California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.*

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.*

3.14.040 Contract with State

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

3.14.050 Transactions and Use Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the incorporated territory of the City at the rate of three-quarters of a percent (3/4%) 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 the ordinance codified in this chapter.

3.14.060 Place of sale.

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

determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.14.070 Use of 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 three quarters of a percent (3/4%) 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.

3.14.080 Adoption of provisions of state law.

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

3.14.090 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 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 California Department of Tax and Fee Administration, 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.

1. *“A retailer engaged in business in the District” shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.*

3.14.100 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 chapter.

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

3.14.120 Amendments.

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become 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.

3.14.130 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 chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION 3. 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.

SECTION 4. DATE; CONFLICTING MEASURES.

- A. If the ballot measure seeking approval of this Ordinance is approved by El Monte voters, the transactions and use tax rate set forth under Chapter 3.14 of the El Monte Municipal Code will increase to three-quarters of a percent (3/4%) and the March 31, 2029 sunset (expiration) date will be repealed such that the tax at the new increased rate will be for an indefinite duration (term) and will continue until repealed by El Monte voters. The tax rate increase will take effect according to the timing prescribed by Revenue and Taxation Code Section 7265. If the measure seeking approval of this Ordinance is not approved by El Monte voters, this Ordinance shall be rendered inoperative and void, however, the defeat of the measure shall not operate to extinguish or amend the existing transaction and use tax as presently constituted and last approved by El Monte voters at the City's Special Municipal Election held November 7, 2017.
- B. Consistent with Elections Code Section 9221, if the ballot measure seeking approval of this Ordinance receives a higher number of affirmative votes than any other ordinance containing provisions that conflict with this Ordinance, the ballot measure seeking approval of this Ordinance shall be adopted in lieu of the other ballot measure(s).

SECTION 1. CEQA. This Ordinance and the contemplated levy of the transactions and use tax referenced herein is not a "project" within the meaning of the California Environmental Quality Act codified as 21000 et seq. of the California Public Resources Code ("CEQA") because it will not result in a direct or reasonably foreseeable indirect physical change in the environment nor does it involve any commitment to any

specific project which may result in a potentially significant physical impact on the environment.

SECTION 2. The City Clerk shall certify the adoption of this Ordinance and shall cause the same to be published pursuant to California Government Code Section 36933 following approval by El Monte voters at the City's General Municipal Election of November 5, 2024.

PASSED, APPROVED AND ADOPTED by the City Council of the City of El Monte at the regular meeting of this 16 day of July, 2024.

Jessica Ancona, Mayor
City of El Monte

ATTEST:

Gabriel Ramirez, City Clerk
City of El Monte

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF EL MONTE)

I, Gabriel Ramirez, City Clerk of the City of El Monte, hereby certify that the foregoing Ordinance No. 3038 was introduced for a first reading on the 16th day of July, 2024 and approved for a second reading and adopted by said Council at its regular meeting held on the _____ day of _____, 2024 by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Gabriel Ramirez, City Clerk
City of El Monte