

RESOLUTION NO. 2019-35-3119

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRWINDALE, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON A MEASURE TO ADOPT A TRANSACTIONS AND USE TAX TO BE HELD ON TUESDAY, NOVEMBER 5, 2019, APPROVING A TRANSACTIONS AND USE TAX ORDINANCE, REQUESTING THE BOARD OF SUPERVISORS OF LOS ANGELES COUNTY CONDUCT THE SPECIAL ELECTION, AND AUTHORIZING THE FILING OF ARGUMENTS AND REBUTTALS AND CERTAIN RELATED MATTERS

WHEREAS, the City of Irwindale ("City") faces severe budget pressures due to increasing General Fund expenditures outpacing General Fund revenue, thereby creating growing budget deficits in future years which would result in the depletion of the City's General Fund Reserves if the current financial condition of the City is not addressed by new funding sources; and

WHEREAS, on May 22, 2019, the City Council of the City (the "City Council") held discussions to consider a transaction and use tax (sales tax) ballot measure which would create a new funding source to help address the City's budget pressures; and

WHEREAS, on July 15, 2019, by unanimous approval, the City Council adopted Resolution No. CC 2019-34-3118, declaring a fiscal emergency due to the severe future budget deficits projected in the City's Long Term Financial Plan, dated July 10, 2019, prepared by RSG, Inc.; and

WHEREAS, Irwindale residents strongly prioritize maintaining and protecting key city services that protect health, welfare and safety of residents and employees and improve the life of residents in the city; and

WHEREAS, to preserve vital City services, the City has identified a transaction and use tax as a reliable source of locally controlled funding and does herein approve of Ordinance No. 738 providing for enactment of a transactions and use tax in the City which is attached hereto as Exhibit A and by this reference incorporated herein (the "Ordinance"); and

WHEREAS, the City Council of the City now desires to submit to the voters of the City, at a Special Municipal Election to be held on November 5, 2019, a ballot measure to approve a .75% transaction and use tax as provided in the Ordinance; and

WHEREAS, under the provisions of the laws relating to the conduct of elections in the State of California, a Special Municipal Election shall be held on Tuesday, November 5, 2019, for the purpose of submitting a measure to the qualified voters of the City; and

WHEREAS, Article XIIC, Section 2 of the California Constitution authorizes the city to impose a general tax if approved by a majority vote of the qualified electors; and

WHEREAS, pursuant to Article XIIC, the general tax may be approved at a special election in cases of emergency with the unanimous approval of the governing body; and

WHEREAS, Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code, and Section 7285.9 of the California Revenue and Taxation Code, authorizes a city to approve a transactions and use (sales) tax ordinance by a two thirds vote, 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; and

WHEREAS, in the course of conduct of the election, the City desires to request the full services of the County to conduct the election; and

WHEREAS, various district, county, state and/or other political subdivision elections may be or have been called to be held on November 5, 2019;

WHEREAS, the City requests that the special municipal election be conducted with the local and municipal elections to be held on the same date by the County and that within the city the precincts, polling places and election officers of the elections be the same, as applicable, and that the county election department of the County of Los Angeles canvass the returns of the Special Municipal Election;

WHEREAS, the City Council also desires to hold the election on November 5, 2019 and requests placement of a measure on the November 5, 2019 ballot;

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

Section 1. Recitals. The recitals set forth above are incorporated herein by this reference.

Section 2. Special Municipal Election. That pursuant to the requirements of the laws of the State of California relating to the conduct of elections, there is called and ordered to be held in the City of Irwindale, California, on Tuesday, November 5, 2019, a Special Municipal Election for the purpose of proposing a transactions and use tax ordinance to the qualified voters of the City. As required by Elections Code Section 13247, the abbreviated form of the measure to appear on the ballot is specified below in Section 3 of this Resolution. The City Clerk is hereby authorized and directed to make any changes to the text of the proposition or this resolution as required to conform to any requirements of law. The full text of the proposed ordinance to be submitted to the voters is set forth in Exhibit A, attached hereto and incorporated herein by this reference as set forth in full. The Ordinance is hereby approved by the City Council.

Section 3. Ballot Question. That the City Council, pursuant to its right and authority, does order submitted to the voters at the Special Municipal Election the following question:

To maintain City of Irwindale service levels including local police protection, 911 emergency response, public safety, senior citizen/park/transportation/recreation programs; maintain library services, and programs that create jobs/attract local businesses; fix potholes/streets; and other general City services; shall the measure enacting a three-quarters percent transactions and use sales tax to be levied annually to generate an estimated \$1,180,000 until ended by voters be adopted requiring an ordinance, and funds only for Irwindale?	YES
	NO

Section 4. Vote Required. That the vote requirement for the measure to pass is a majority (50%+1) of the votes.

Section 5. Request for County Services. That pursuant to the requirements of § 10002 of the Elections Code and applicable law, the City Council hereby requests that the Board of Supervisors of the County of Los Angeles conduct the Special Municipal Election on behalf of the City and place the measure on the ballot for the election to be held on Tuesday, November 5, 2019. That the Board of Supervisors is requested to provide full election services to the City in connection with the Special Municipal Election and to issue instructions to the county election department to take any and all steps necessary for the holding of the election.

Section 6. Authorization to Canvass Returns. The Elections Department of Los Angeles County is authorized to canvass the returns of the election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the local, municipal or special election. The Election Department of the County of Los Angeles shall conduct the election for the measure delineated in Section 3 to be voted on at the election on November 5, 2019.

Section 7. Request Not to Print. The Elections Departments of Los Angeles County is hereby requested not to print the attached full measure text of Exhibit A hereto in the Voter Guide, but send a copy to voters upon request at the cost of the City. The contact number to be printed in the Voter Guide is (626) 430-2202 (EC §§ 9160, 9312, 9280).

In addition, the full text will be available at the following web site address: <http://www.irwindaleca.gov>.

Section 8. City Payment of County Costs. That the City recognizes that additional costs will be incurred by the County by reason of the requested services and agrees to reimburse the County for the City's share of the costs.

Section 9. City Clerk Authorization. That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election in accordance with the Elections Code and the laws of the State of California.

Section 10. Polls. Pursuant to California Election Code § 10242, the polls for the Special Municipal Election shall open at seven o'clock a.m. on the day of the election, and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as otherwise provided in California Election Code § 14401.

Section 11. Filing with County. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and Election Department of the County of Los Angeles.

Section 12. Arguments. That the deadline for filing arguments on the ballot measure with the City Clerk of the City shall be 5 p.m. on Tuesday, August 13, 2019. That in accordance with the requirements of Division 9, Chapter 3, Article 4 of the California Elections Code, all written arguments for or against the foregoing measure: (1) shall not exceed three hundred (300) words in length; (2) shall be filed with the City's elections official; (3) shall be accompanied by the printed name(s) and signature(s) of the person(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 the principal officers who is the author of the argument; and (4) shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. All written arguments may be changed or withdrawn until and including the date fixed by the City's elections official, being 5 p.m. on Tuesday, August 13, 2019, after which time no arguments for or against the foregoing measure may be submitted to the elections official. The City Council authorizes Councilmember H. Manuel Ortiz, on behalf of the City Council to file a written argument in favor of the measure. The City Council authorizes such councilmember to file such argument alone and/or together with any voter(s) and/or and bona fide association(s).

That in the event that more than one argument for or against any of the foregoing measure is timely submitted, the City's elections official shall give preference and priority first, to arguments submitted by member(s) of the City Council, as authorized by this Resolution, and second, to individual voters, bona fide associations, or a combination thereof, in the order set forth at California Elections Code § 9287.

Section 13. Rebuttals. That the deadline for filing of rebuttal arguments on the ballot measure with the City Clerk shall be at 5 p.m., Friday, August 23, 2019. Rebuttals shall not exceed 250 words in length. The rebuttal arguments shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. 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. All previous resolutions providing for the filing of rebuttal arguments for city measures are repealed. The provisions of this Section 13 shall apply only to the Special Municipal Election to be held on November 5, 2019 and shall then be repealed.

Section 14. Impartial Analysis. That, pursuant to Elections Code Section 9280, the City Clerk is hereby directed to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk by 5 p.m. on Tuesday, August 13, 2019. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city. 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-point bold type, a legend substantially as follows: "The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office/city clerk at (626) 430-2202 and a copy will be mailed at no cost to you."

Section 15. CEQA. The adoption of this Resolution is exempt from the California Environmental Quality Act, Public Resources Code §§ 21000 et seq. ("CEQA") and 14 Cal. Code Reg. §§ 15000 et seq. ("CEQA Guidelines"). The calling and noticing of a Special Municipal Election for the submission of a ballot measure to voters is not a project within the meaning of CEQA Guidelines Section 15378. The transactions and use tax submitted to the voters is a general tax that can be used for any governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

Section 16. All Other Actions. That the City Clerk and City Manager are hereby authorized to take all actions as necessary to effectuate the purposes of this resolution and the election.

Section 17. Certification. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Irwindale, California, at a special meeting held on the 15th day of July, 2019.


Albert. F. Ambriz, Mayor

ATTEST:

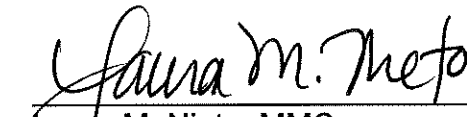


Laura M. Nieto, MMC
Chief Deputy City Clerk

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss.
CITY OF IRWINDALE }

I, Laura M. Nieto, Chief Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Resolution No. 2019-35-3119 was duly and regularly passed and adopted by the City Council of the City of Irwindale at its special meeting held on the 15th day of July, 2019 by the following vote:

AYES:	Councilmembers:	Breceda, Burrola, Garcia, Ortiz, Mayor Ambriz
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None
ABSTAIN:	Councilmembers:	None



Laura M. Nieto, MMC
Chief Deputy City Clerk

EXHIBIT "A"

[Proposed Ordinance]

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF IRWINDALE,
CALIFORNIA, ESTABLISHING A TRANSACTIONS AND USE TAX TO
BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX
AND FEE ADMINISTRATION**

**THE CITY COUNCIL
City of Irwindale, California**

**THE PEOPLE OF THE CITY OF IRWINDALE DO HEREBY ORDAIN AS
FOLLOWS:**

WHEREAS, Article XIIC, Section 2 of the California Constitution authorizes a city to impose a general tax if approved by a majority vote of the qualified electors; and

WHEREAS, pursuant to Article XIIC, the general tax may be approved at a special election in cases of emergency with the unanimous approval of the governing body; and

WHEREAS, Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code, and Section 7285.9 of the California Revenue and Taxation Code, authorizes a city to adopt a transactions and use (sales) 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; and

WHEREAS, on July 15, 2019, by unanimous approval, the City Council of the City of Irwindale (the "City") adopted Resolution No 2019-34-3118, declaring a fiscal emergency due to the severe expected budget deficits in the City;

WHEREAS, the City faces severe budget pressures due to continued increases in operating expenditures significantly outpacing increases in revenue, particularly in uncontrollable expense categories such as health insurance, pension costs, utilities, and liability insurance premiums. Additionally, capital expenditures for items including replacements to the City's vehicle fleet, technology replacements and upgrades, and deteriorating streets, infrastructure and facilities will result in the further reduction of the City's General Fund balance reserves over time unless new funding sources are realized; and

WHEREAS, Irwindale residents strongly prioritize maintaining and protecting key city services that protect health, welfare and safety of residents and improve the life of residents in the city; and

WHEREAS, to preserve vital City services and fund the items discussed herein, the City must identify a reliable source of locally controlled funding; and

WHEREAS, this Ordinance will maintain funding for vital City services and help implement the needs and plans of the City; and

WHEREAS, this Ordinance creates a locally-controlled funding source that can only be used for local services and address local priorities, which is legally-protected from being taken by the State; and

[WHEREAS, this Ordinance requires strict fiscal accountability, such as public spending reports, and annual independent audits to ensure all funds are spent responsibly.]

NOW, THEREFORE, THE PEOPLE OF THE CITY OF IRWINDALE AT THE NOVEMBER 5, 2019 SPECIAL ELECTION DO RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. ADOPTION OF NEW CHAPTER. A new Chapter 3.54 is hereby added to the Irwindale Municipal Code to read as follows:

"Chapter 3.54
TRANSACTIONS AND USE TAX

3.54.010 Title.

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

3.54.020 Operative date.

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

3.54.030 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 which authorizes the city to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with

the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the 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 chapter.

3.54.040 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.

3.54.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of 3/4 of a cent per dollar (0.75%) 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.

3.54.060 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.

3.54.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 3/4 of a cent per dollar (0.75%) 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.

3.54.080 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 chapter as though fully set forth herein.

3.54.090 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.

The words "A retailer engaged in business in the city" 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.

3.54.100 Permit not required.

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

3.54.110 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 or meets the requirements of a retailer engaged in business in the City in Section 3.54.090(B).

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.

3.54.120 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 of tax imposed by this ordinance.

3.54.130 Enjoining collection forbidden.

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

3.54.140 Severability.

If any provision of this chapter 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.

3.54.150 Effective date.

This chapter levying the tax described herein shall be effective ten (10) days after the date on which the City Council has declared that the voters of the City of Irwindale have approved the ordinance by a vote of no less than a majority of the votes cast by the electors voting on the tax measure set forth in this chapter at that special municipal election to be held on November 5, 2019.

3.54.160 Termination date.

The authority to levy the tax imposed by this ordinance shall not expire unless terminated by lawful vote of the electorate or as required or authorized by law."

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Irwindale hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any

one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 3. CEQA. The adoption of this ordinance is not a "project" subject to the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Section §§ 21000 *et seq.*). CEQA Guideline § 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

SECTION 4. APPROPRIATIONS LIMIT. Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of Irwindale is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this tax.

SECTION 5. EXECUTION. The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the approval thereof and cause same to be published at least once in a weekly newspaper of general circulation, published in the City of Irwindale, which newspaper is hereby designated for that purpose (GC § 40806). This Ordinance shall only be in effect following the approval of a majority of the voters at an election on March November 5, 2019, as certified by the election official.

SECTION 6. CERTIFICATION. The City Clerk of the City of Irwindale shall certify that this ordinance was passed, approved and adopted by the People of the City of Irwindale, California, voting on the 5th day of November, 2019.

PASSED, APPROVED and ADOPTED this ___ day of _____, 2019.

Albert F. Ambriz, Mayor

ATTEST:

Laura M. Nieto, MMC
Chief Deputy City Clerk

CERTIFICATION

I, Laura M. Nieto, Chief Deputy City Clerk of the City of Irwindale, do hereby certify that the foregoing Ordinance was duly approved by Resolution No. 2019-35-3119 at a special meeting of the Irwindale City Council held on the 15th day of July 2019, by the following vote of the Council and approved by the electorate of the City of Irwindale on November 5, 2019:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

I further certify that said Ordinance was published as required by law in a newspaper of general circulation in the City of Irwindale, California on the _____ day of _____, 20__.

Dated:

Laura M. Nieto, MMC
Chief Deputy City Clerk