



CITY COUNCIL AGENDA REPORT



DEPARTMENT: Administrative Services

MEETING DATE: December 3, 2019

PREPARED BY: Buffy J. Bullis, Administrative Services Director

AGENDA LOCATION: AR-1

TITLE: Preparatory and Administrative Agreements with the California Department of Tax and Fee Administration (CDTFA) for Implementation of the City's Local and Transactions Use Tax, Resolution No. 2019-69; Authorizing the Examination of Sales, Use, and Transactions Tax Records, Resolution No. 2019-70; and Amendment to Monrovia Municipal Code Chapter 3.42 Relating to the Transactions and Use Tax, Introduction and First Reading of Ordinance No. 2019-16

OBJECTIVE: To approve the necessary agreements that will allow the CDTFA to administer and collect the Measure K 0.75% transactions and use tax, authorize the City Manager to execute the agreements, designate and authorize City officials that may access sales tax data, and introduce and call for first reading an Ordinance related to the Measure K 0.75% transactions and use tax.

BACKGROUND: On November 5, 2019, Monrovia voters approved Measure K, which authorizes a 0.75% transactions and use tax to become effective April 1, 2020. In order to begin receiving the tax, it is necessary for the City to complete several administrative steps, including entering into agreements with the CDTFA for the collection and administration of the tax and making necessary amendments to the existing Transactions and Use Tax Ordinance.

ANALYSIS: The CDTFA is the state agency responsible for overseeing the collection and reporting of all sales taxes throughout the state. In its role as administrator, CDTFA collects sales taxes from retailers throughout the state and remits these revenues to cities, counties, and special districts, as applicable. To that end, in order for the City of Monrovia to begin receiving Measure K revenues in April 2020, it is necessary to approve the following documents required by the CDTFA:

1. Resolution No. 2019-69:

- a. Agreement for the Preparation to Administer and Operate the City's Transactions and Use Tax – This agreement authorizes the CDTFA to do the necessary preparatory work to administer the Measure K sales and use tax. This includes work related to developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the CDTFA's staff and for taxpayers, and any other necessary functions. It should be noted that, as part of this agreement, the CDTFA will notify retailers of the new tax rate that becomes effective April 1, 2020. The maximum amount of all costs to be paid by the City to the CDTFA for these services shall not exceed \$175,000. However, it is expected that the actual cost will likely be less, because this one-time cost will be allocated among all agencies implementing a new tax rate at the same time as the City.
- b. Agreement for State Administration of City Transactions and Use Taxes – This agreement authorizes the CDTFA to administer and implement the Measure K transaction and use tax on an ongoing basis each year. This includes administrative and operational functions, such

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as ensuring compliance with the guidelines established in the City's Transactions and Use Tax Ordinance, collecting funds from retailers, reviewing payment submissions for appropriateness, and remitting funds to the City. The annual fee for the CDTFA's cost to administer the City Ordinance will be deducted from the taxes collected for the City.

It should be noted that the above agreements with CDTFA are standard agreements that have been provided by the CDTFA and cannot be altered as to form.

2. Resolution No. 2019-70:

- a. Resolution Authorizing the Examination of Sales, Use, and Transactions Tax Records – This Resolution will authorize certain City officials and the City's sales tax consultant, Hinderliter, de Llamas & Associates, to access confidential sales tax data.

3. Ordinance No. 2019-16:

- a. Amendment to the Monrovia Municipal Code Relating to the Transactions and Use Tax – In addition to the required Resolutions noted above, changes to the Monrovia Municipal Code Chapter 3.42 relating to the 0.75% transactions and use tax are being proposed to comply with the provisions of Part 1 of Division 2 of the Revenue and Taxation Code. As such, the following verbiage will be added:

Section 3.42.090.B.1 – Limitations on Adoption of State Law and Collection of Use Taxes: A retailer engaged in business in the State 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.

By approving the proposed Resolutions and Ordinance changes noted above, the City can proceed with the next steps necessary in implementing and collecting revenues for the Measure K 0.75% transactions and use tax.

ENVIRONMENTAL IMPACT: There is no environmental impact associated with the adoption of Resolution Nos. 2019-69 and 2019-70, and Ordinance No. 2019-16.

FISCAL IMPACT: The voter-approved Measure K transactions and use tax will take effect April 1, 2020. It is estimated that approximately \$1 million in revenues will be collected in the remainder of Fiscal Year 2019-20, for the months of April through June 2020. Once fully implemented, it is estimated that the tax will generate approximately \$4.5 million, annually, in future years.

The agreement with CDTFA to perform the necessary preparatory work to implement the tax should cost no more than \$175,000. The actual cost will likely be less, as it will be split amongst the number of agencies that are implementing a tax at the same time. The cost of the invoice will be paid from Measure K revenues received during this fiscal year.

OPTIONS: The following options are provided for consideration:

- 1) Approve the agreements with the CDTFA to prepare and administer the Measure K 0.75% transactions and use tax, authorize the City Manager to execute the agreements, authorize City officials that may access sales tax data, and approve changes to the Transactions and Use Tax Ordinance.
- 2) Direct staff to make changes to the items presented for approval, which may delay the implementation and administration of the Measure K 0.75% tax.

RECOMMENDATION: Staff recommends that the City Council select Option 1, approving the agreements with CDTFA to prepare and administer the City's Transaction and Use Tax Ordinance, authorize the City Manager to execute the agreements, authorize the examination of sales, use, and transactions tax records, and approve the Ordinance amending Monrovia Municipal Code Chapter 3.42 Relating to the Imposition of a 0.75% transactions and use tax to be administered by the CDTFA.

COUNCIL ACTION REQUIRED: If the City Council concurs, the appropriate action would be a motion to adopt Resolution Nos. 2019-69 and 2019-70, and introduce, waive further reading, and read by title only Ordinance No. 2019-16.

RESOLUTION NO. 2019-69

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX

RECITALS

WHEREAS, on November 5, 2019, the voters of the City of Monrovia approved Ordinance No. 2019-15 amending the City Municipal Code and providing for a local transactions and use tax, and on December 3, 2019, the City Council subsequently approved Ordinance No. 2019-16, thereby amending Ordinance No. 2019-15 pursuant to Elections Code Section 9217; and

WHEREAS, the California Department of Tax and Fee Administration (Department) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

WHEREAS, the Department will be responsible to administer and collect the transactions and use tax for the City; and

WHEREAS, the Department requires that the City enter into a "Preparatory Agreement" and an "Administration Agreement" prior to implementation of said taxes, and

WHEREAS, the Department requires that the City Council authorize the agreements;

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

SECTION 1: The "Preparatory Agreement", attached as Exhibit A, and the "Administrative Agreement", attached as Exhibit B, are hereby approved and the City Manager is hereby authorized to execute each agreement.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 3rd day of December, 2019.

Tom Adams, Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Alice D. Atkins, MMC, City Clerk
City of Monrovia

Craig A. Steele, City Attorney
City of Monrovia

EXHIBIT A
“PREPARATORY AGREEMENT”

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the City of Monrovia, hereinafter called *City*, and the CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, hereinafter called *Department*, do agree as follows:

1. The Department agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Department at the times and in the amounts hereinafter specified all of the Department's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Department's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Department's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Department. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Department shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Department shall be billed by the Department periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Department the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Department's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail. Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration
P.O. Box 942879 MIC: 27
Sacramento, California 94279-0027

Attention: Supervisor
Local Revenue Branch

Communications and notices to be sent to City shall be addressed to:

City of Monrovia
415 S. Ivy A
Monrovia, California 91016

Attention: Director
Administrative Services Department

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Department has received all payments due from City under the terms of this agreement.

CITY OF MONROVIA

CALIFORNIA DEPARTMENT OF TAX
AND FEE ADMINISTRATION

By _____
(Signature)

By _____
Administrator
Local Revenue Branch

(Typed Name)

(Title)

EXHIBIT B
“ADMINISTRATIVE AGREEMENT”

AGREEMENT FOR STATE ADMINISTRATION
OF CITY TRANSACTIONS AND USE TAXES

The City Council of the City of Monrovia has adopted, and the voters of the City of Monrovia (hereafter called “City” or “District”) have approved by the required majority vote, the City of Monrovia Transactions and Use Tax Ordinance (hereafter called “Ordinance”), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the California State Department of Tax and Fee Administration, (hereinafter called the “Department”) and the City do agree as follows:

ARTICLE I
DEFINITIONS

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section 7285.9, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. 2019-15 and 2019-16, as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

ARTICLE II
ADMINISTRATION AND COLLECTION
OF CITY TAXES

A. Administration. The Department and City agree that the Department shall perform exclusively all functions incident to the administration and operation of the City Ordinance.

B. Other Applicable Laws. City agrees that all provisions of law applicable to the administration and operation of the Department Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Department pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

C. Transmittal of money.

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City's self-imposed limits or by final judgment of any court of the State of California holding that City's ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

D. Rules. The Department shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

E. Preference. Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Department shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.

F. Security. The Department agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Department shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Department.

G. Records of the Department. When requested by resolution of the legislative body of the City under section 7056 of the Revenue and Taxation Code, the Department agrees to permit authorized personnel of the City to examine the records of the Department, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the City, pertaining to the ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Department's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Department pursuant to this Agreement.

H. Annexation. City agrees that the Department shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Department. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

ARTICLE III **ALLOCATION OF TAX**

A. Allocation. In the administration of the Department's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion of the Department, to all districts with which the Department has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Department, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund or credit applies.

B. Vehicles, Vessels, and Aircraft. For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Department in determining the place of use.

ARTICLE IV COMPENSATION

The City agrees to pay to the Department as the State's cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Department for the City.

ARTICLE V MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Department shall be addressed to:

California State Department of Tax and Fee Administration
P.O. Box 942879
Sacramento, California 94279-0027

Attention: Administrator
Local Revenue Branch

Communications and notices to be sent to the City shall be addressed to:

City of Monrovia
415 S. Ivy A
Monrovia, California 91016

Attention: Director
Administrative Services Department

Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on December 3, 2019. This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Department completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

C. Notice of Repeal of Ordinance. City shall give the Department written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.

ARTICLE VI
ADMINISTRATION OF TAXES IF THE
ORDINANCE IS CHALLENGED AS BEING INVALID

A. Impoundment of funds.

1. When a legal action is begun challenging the validity of the imposition of the tax, the City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall transmit to the Department the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

B. Costs of administration. Should a final judgment be entered in any court of the State of California, holding that City's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Department may retain all payments made by City to Department to prepare to administer the City Ordinance.

2. City will pay to Department and allow Department to retain Department's cost of administering the City Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Department or to the State of California the amount of any taxes plus interest and penalties, if any, that Department or the State of California may be required to rebate or refund to taxpayers.

4. City will pay to Department its costs for rebating or refunding such taxes, interest, or penalties. Department's costs shall include its additional cost for developing procedures for processing the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Department's staff for use in making these rebates or refunds and any other costs incurred by Department which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Department's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Department. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Department in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Department in connection with such refunds shall be billed by Department on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Department shall bill City on or before the 25th of each month for all costs incurred by Department for the preceding calendar month. City shall pay to Department the amount of such costs on or before the last day of the succeeding month and shall pay to Department the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Department costs incurred in making those refunds.

CITY OF MONROVIA

CALIFORNIA STATE DEPARTMENT OF
TAX AND FEE ADMINISTRATION

By _____
(Signature)

By _____
Administrator

(Typed Name)

(Title)

RESOLUTION NO. 2019-70

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA, AUTHORIZING THE EXAMINATION OF SALES, USE AND TRANSACTIONS TAX RECORDS

RECITALS

WHEREAS, pursuant to Monrovia Municipal Code Section 3.40.050, Ordinance Nos. 2019-15 and 2019-16 of the City of Monrovia, and Section 7270 of the Revenue and Taxation Code, the City of Monrovia entered into a contract with the California Department of Tax and Fee Administration (formerly known as the State Board of Equalization) to perform all functions incident to the administration, operation and collection of local sales, use and transactions taxes and of the Transactions and Use Tax Ordinance; and

WHEREAS, the City Council of the City of Monrovia deems it desirable and necessary for authorized representatives of the City to examine confidential sales, use and transactions tax records of the California Department of Tax and Fee Administration (hereafter referred to as CDTFA) pertaining to sales, use and transactions taxes collected by the CDTFA for the City pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of CDTFA records, and establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales, use and transactions tax records of the CDTFA.

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

SECTION 1. That the City Manager, or other officer or employee of the City designated, in writing, by the City Manager to the CDTFA, is hereby appointed to represent the City of Monrovia with authority to examine sales, use and transactions tax records of the CDTFA pertaining to sales, use and transactions taxes collected for the City by the CDTFA pursuant to the contract between the City and the CDTFA. The information obtained by examination of CDTFA records shall be used only for purposes related to the collection of City sales, use and transactions taxes by the CDTFA pursuant to that contract.

The following City Officials are hereby designated and authorized to receive and review sales, and use tax transactions for the City of Monrovia:

- 1) City Manager
- 2) Assistant City Manager/Deputy City Manager
- 3) Community Development Director
- 4) Administrative Services Director
- 5) Deputy Administrative Services Director
- 6) Finance Management Analyst

SECTION 2. That the City Manager, or other officer or employee of the City designated in writing by the City Manager to the CDTFA, is hereby appointed to represent the City with authority to examine those sales, use and transactions tax records of the CDTFA, for purposes related to the following governmental functions of the City:

- a) City administration
- b) Revenue management and budgeting
- c) Community and economic development
- d) Business license tax administration
- e) Other purposes as deemed necessary

The information obtained by examination of CDTFA records shall be used only for those governmental functions of the City listed above.

SECTION 3. That Hinderliter, de Llamas & Associates, Inc. is hereby designated to examine the sales, use and transactions tax records of the CDTFA pertaining to sales, use and transactions taxes collected for the City by the CDTFA. The person or entity designated by this section meets all of the following conditions:

- a) has entered into a contract with the City to examine those sales, use and transactions tax records;
- b) is required by that contract to disclose information contained in, or derived from, those sales, use and transactions tax records only to the officer or employee authorized under Sections 1 or 2 of this resolution to examine the information.
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract; and
- d) is prohibited by that contract from retaining the information contained in, or derived from those sales, use and transactions tax records, after that contract has expired.

BE IT FURTHER RESOLVED that the information obtained by examination of CDTFA records shall be used only for purposes related to the collection of City sales, use and transactions taxes by the CDTFA pursuant to the contract between the City and the CDTFA and for purposes relating to the governmental functions of the City listed in Section 2 of this resolution.

SECTION 4. That this resolution supersedes all prior transactions and use tax resolutions of the City adopted pursuant to subdivision (b) of Revenue and Taxation Section 7056.

PASSED, APPROVED AND ADOPTED this 3rd day of December, 2019.

Tom Adams, Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Alice D. Atkins, MMC, City Clerk
City of Monrovia

Craig A. Steele, City Attorney
City of Monrovia

ORDINANCE NO. 2019-16

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MONROVIA, CALIFORNIA, AMENDING CHAPTER 3.42 OF THE
MONROVIA MUNICIPAL CODE RELATING TO THE
TRANSACTIONS AND USE TAX**

WHEREAS, on November 5, 2019, the voters of the City of Monrovia adopted Ordinance No. 2019-15, imposing a 0.75% sales and use tax ordinance in the City to be administered by the California Department of Tax and Fee Administration (“CDTFA”);

WHEREAS, Pursuant to Elections Code Section 9217, Section 3.42.120 of said ordinance permits the City Council to make technical amendments to the ordinance that do not impact the rate of the tax imposed, and

WHEREAS, CDTFA has requested that the City Council make a technical amendment to the ordinance that will not affect the rate of the tax.

THE CITY COUNCIL OF THE CITY OF MONROVIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 3.42.090 of the Monrovia Municipal Code is hereby amended to read as follows (throughout this ordinance text to be added is underlined; text to be deleted is shown in ~~strikethrough~~):

“3.42.090 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 the 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 State" 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."

SECTION 2. Except as specifically amended herein, the remaining Sections of Ordinance No. 2019-15 shall remain in full force and effect.

SECTION 3. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part hereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraphs, sentences, clauses or phrases be declared invalid.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law and transmit a copy of the adopted Ordinance to CDTFA.

INTRODUCED this 3rd day of December, 2019.

PASSED, APPROVED, AND ADOPTED this 17th day of December, 2019.

Tom Adams, Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Alice D. Atkins, MMC, City Clerk
City of Monrovia

Craig A. Steele, City Attorney
City of Monrovia