

RESOLUTION NO. 54-14

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND,
CALIFORNIA, CALLING AND PROVIDING FOR A SPECIAL MUNICIPAL
ELECTION TO BE HELD ON NOVEMBER 4, 2014, FOR THE PURPOSE OF
SUBMITTING TO THE VOTERS A MEASURE TO ADOPT A ONE-HALF CENT
TRANSACTIONS AND USE (SALES) TAX**

WHEREAS, the City Council (the "Council") of the City of Richmond (the "City"), within the County of Contra Costa, California (the "County"), desires to place a ballot measure before the voters at the November 4, 2014 election to adopt a Transactions and Use (Sales) Tax Ordinance (the "Ordinance"), as authorized by California Revenue and Taxation Code section 7285.9; and

WHEREAS, the Ordinance imposes a 1/2 cent transactions and use tax ("Sales Tax") to be collected in the manner set forth in the Ordinance, and deposited into the General Fund for general municipal purposes; and

WHEREAS, in order for the Sales Tax to become effective, it must be approved by the electorate; and

WHEREAS, the Council is authorized to request and order that this election be consolidated with other elections to be held on the same day and in the same territory (California Elections Code 10400 *et seq.*); and

WHEREAS, the City Council desires to call a special municipal election for November 4, 2014 ("Special Election"); and

WHEREAS, the City Council desires to submit the Sales Tax to the qualified electors of the City at that Special Election; and

WHEREAS, to minimize the expense of conducting the Special Election, the City Council desires to consolidate its election with a statewide election.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond, as follows:

Section 1. The foregoing recitals are true and correct, and this Council so finds and determines.

Section 2. A Special Election is hereby called and consolidated with the statewide election to be held in the City on Tuesday, November 4, 2014, on the following measure submitted by the City Council:

"Shall the City of Richmond adopt a one-half cent transactions and use (sales) tax, to fund and maintain essential city services, such as public safety, public health and wellness programs, city youth programs and street paving?"

Section 3. The Ordinance authorizing the general tax to be approved by the voters is as set forth in Exhibit A. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 4, 2014 election, as required by Revenue and Taxation Code section 7285.9. The Ordinance specifies that the rate of the transactions tax shall be one-half of one percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City. It specifies that the rate of the use tax shall be one-half of one percent (0.5%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

Section 4. The City Clerk of the City of Richmond is hereby ordered and directed to cause said proposed measure to be printed and to mail a copy of said measure to all registered voters in the City of Richmond with their sample ballots in substantially the form set forth in Exhibit B, attached hereto.

Section 5. (a) The City hereby requests the Board of Supervisors of the County to consolidate the Special Election with the statewide election being conducted on the same date in the same territory or any territory which is in part the same. Pending approval of such request, the Special Election will be consolidated with any election held by the County. In any event, the Special Election will be held on November 4, 2014, from the hour of 7:00 a.m. to the hour of 8:00 p.m., during which period of time the polls will remain continuously open. At 8:00 p.m. the polls will be closed, except as provided in Section 14401 of the Elections Code, and the officers of the Election shall thereupon proceed to canvass the ballots cast thereat.

(b) The election precincts, polling places and voting booths within said City for said Special Election shall in every case be the same as the election precincts, polling places and voting booths established for the statewide election and the election officers for said Special Election shall be the same as those selected and designated or to be selected and designated for the statewide election.

(c) Said Special Election shall be held and conducted, and the voters thereof canvassed, and the returns thereof made, all in accordance with the general election laws of the State of California and the Charter and ordinances of said City.

(d) All persons qualified to vote at municipal elections in said City shall be qualified to vote.

(e) Said Council shall meet forthwith after the canvass of the returns of said Special Election and shall state in the minutes of such meeting the results of said Special Election as ascertained by said canvass.

Section 6. The City Clerk of the City of Richmond is hereby authorized to sign a Notice of Election and Measure To Be Voted On in a form substantially similar to that attached hereto as Exhibit B. The Clerk of the City is hereby authorized and directed to publish said Notice of Election and Measure To Be Voted On at least one time not later than a week before the election in the WEST COUNTY TIMES, a newspaper of general circulation circulated within the City of Richmond, in accordance with the provisions of Section 12111 of the Elections Code of the State of California.

Section 7. The Clerk of the City is hereby authorized and directed to cause to be delivered, no later than August 8, 2014 (which date is not fewer than 88 days prior to the date set for the statewide election), one copy of this Resolution to the Registrar of Voters of the County.

Section 8. The City Council hereby directs the City Clerk 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 within ten (10) days of the adoption of this resolution.

Section 9. The Finance Director of the City is hereby authorized and directed to prepare and file with the Registrar of Voters an impartial analysis of the measure contained in Section 2 hereof covering its financial impact upon the City government in accordance with Section 2.16.070 of the Municipal Code of the City, within the time established by the Registrar of Voters.

Section 10. Pursuant to Section 9282 of the Elections Code of the State of California, the legislative body of the City of Richmond, or any member or members of the legislative body authorized by the body, or any individual voter who is eligible to vote on the measure or bona fide association of citizens, or any combination of voters and associations, may file a written argument, not to exceed 300 words in length, 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 its principal officers, for or against the City measure.

Section 11. This tax is a general tax requiring the approval of a majority of qualified electors casting votes. While the measure lists examples of various municipal purposes to be funded, the list is illustrative only and the Council retains complete discretion to expend the tax proceeds for any lawful purpose of the City of Richmond.

Section 12. This resolution shall take effect immediately upon its adoption.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held on **June 17, 2014**, by the following vote:

AYES: Councilmembers Bates, Boozé, Butt, Myrick, Rogers, Vice Mayor Beckles, and Mayor McLaughlin.

NOES: None.

ABSENT: None.

ABSTENTION: None.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 54-14**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on June 17, 2014.

Exhibit A
Ordinance

ORDINANCE NO. N.S.

**ORDINANCE OF THE CITY OF RICHMOND ENACTING A TRANSACTIONS AND USE TAX TO
BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION, SUBJECT TO ADOPTION
BY THE ELECTORATE**

The Council and People of the City of Richmond, California, do ordain as follows:

Section 1. **TITLE.** This ordinance shall be known as the City of Richmond Transactions and Use Tax Ordinance of 2014. The City of Richmond hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 2. **OPERATIVE DATE.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after November 4, 2014.

Section 3. **PURPOSE.** This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish these 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 that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

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

Section 4. **CONTRACT WITH STATE.** Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. **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 0.5% 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.

Section 6. **PLACE OF SALE.** For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is

made. In the event a retailer has no permanent place of business in the State or has more than one place

of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 7. **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 0.5% 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.

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

Section 9. **LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.** In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

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

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this 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.

Section 10. **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.

Section 11. **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 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.

Section 12. **AMENDMENTS TO STATE LAW.** 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.

Section 13. **ENJOINING COLLECTION FORBIDDEN.** No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 14. **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 15. **EFFECTIVE DATE AND SUBMISSION TO VOTERS.** This ordinance relates to the levying and collecting of City transactions and use taxes and shall take effect immediately. However, no tax imposed by this ordinance shall be effective unless that tax has been approved by a majority of the voters of the City as required by Section 2(b) of Article XIIC of the California Constitution and applicable law.

Section 16. **AMENDMENT AND TERMINATION.** The authority to levy the taxes imposed by this ordinance shall continue indefinitely until this ordinance is repealed. However, as required by Article XIIC of the California Constitution, no amendment to this ordinance may increase the rates of the taxes above what is authorized by this ordinance unless such amendment is submitted to and approved by the voters.

Section 17. **DECLARATION.** The proceeds of the taxes imposed by this ordinance may be used for any lawful purpose of the City, as authorized by ordinance, resolution or action of the City Council or by Ordinance adopted by the electorate of the City. These taxes do not meet the criteria established by Section 1(d) of Article XIIC of the California Constitution for special taxes, and are general taxes imposed for general government purposes.

Section 18. **RELATIONSHIP TO EXISTING TAX.** The tax imposed by this Ordinance is separate from, and in addition to, any transactions and use tax currently imposed by the City. Nothing in this Ordinance shall be interpreted to affect the rate or administration of any tax other than the tax imposed by this Ordinance.

First read at a regular meeting of the Council of the City of Richmond held on , 2014, and finally passed and adopted at a regular meeting thereof held on , 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTION:

CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney

Exhibit B
Notice of Election and Measure To Be Voted On

CITY OF RICHMOND

**NOTICE OF SPECIAL MUNICIPAL ELECTION
AND MEASURE TO BE VOTED ON**

NOTICE IS HEREBY GIVEN that a Special Municipal Election will be held in the City of Richmond on Tuesday, November 4, 2014, at which there will be submitted to the voters the following measure:

"Shall the City of Richmond adopt a one-half cent transactions and use (sales) tax, to fund and maintain essential city services, such as public safety, public health and wellness programs, city youth programs and street paving?"

Said Initiative Election has been consolidated with the Statewide General Election to be held in the City of Richmond on November 4, 2014. The election precincts within the City of Richmond for said Initiative Elections shall be the regular election precincts established for said Statewide General Election, and the polling places and officers of election within the City of Richmond for said Initiative Elections shall be the same as those selected and designated or to be selected and designated for said Statewide General Election.

NOTICE IS FURTHER GIVEN pursuant to Article 4, Section 9282 of the Elections Code of the State of California, the legislative body of the City of Richmond, or any member or members of the legislative body authorized by the body, or any individual voter who is eligible to vote on the measure or bona fide association of citizens, or any combination of voters and associations, may file a written argument, not to exceed 300 words in length, 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 its principal officers, for or against the City measures.

NOTICE IS FURTHER GIVEN that, based upon the time reasonably necessary to prepare and print the arguments and sample ballots for the election, the City Clerk has fixed August 20, 2014, during normal office hours, 8:30 a.m. to 5:00 p.m., as the date after which no arguments for or against the City measures may be submitted to the Clerk for printing and distribution to the voters as provided in Article 4. Arguments shall be submitted to the City Clerk, 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 its principal officers

who is the author of the argument, at the Richmond City Hall, 450 Civic Center Plaza, Suite 300, Richmond, California. No more than five signatures may appear on the argument.

NOTICE IS FURTHER GIVEN that the City Council of the City of Richmond has determined that rebuttal arguments, not to exceed 250 words in length, as submitted by the authors of the opposing direct arguments, may be filed with the City Clerk by August 25, 2014, during normal office hours, 8:30 a.m. to 5:00 p.m., accompanied by the printed names (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 its principal officers. No more than five signatures may appear on the rebuttal.

NOTICE IS FURTHER GIVEN that any ordinance, impartial analysis, or direct argument filed under the authority of the Elections Code will be available for public examination in the City Clerk's office from August 21, 2014, to September 2, 2014. Any rebuttal argument filed under the authority of the Elections Code will be available for public examination in the City Clerk's Office from August 26, 2014, to September 4, 2014.

The polls will be open on Election Day between the hours of 7:00 a.m. and 8:00 p.m.

Diane Holmes
Clerk of the City of Richmond
City Elections Official

NOTA:

Si desea obtener la version en Espanol de este aviso legal, puede solicitar una copia de la misma llamando al Departamento de Elecciones, 1(925) 335-7800.

Dated: June 18, 2014

Publish: July 22, 29, and August 5, 2014