



# AGENDA REPORT

Meeting Date: 6/22/2016

## ***Westminster City Council***

**To:** Honorable Mayor and City Council  
**Thru:** Eddie Manfro, City Manager  
**From:** Margie L. Rice, Council Member  
**Reviewed by:** Erin Backs, Financial Services Manager  
**Prepared by:** Chet Simmons, Assistant City Manager

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**SUBJECT:** Placement of a One Percent (1%) Transactions and Use Measure on the November 8, 2016 General Election Ballot

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### **RECOMMENDED ACTION/MOTION:**

Staff recommends that the Mayor and City Council adopt a Resolution entitled, "A Resolution of the Mayor and City Council of the City of Westminster calling for the placement of a Measure on the Ballot of the November 8, 2016 Election to adopt a Transactions and Use Tax, Requesting that the Orange County Board of Supervisors Consolidate this Election with the Statewide General Election to be held on November 8, 2016, and providing for the filing of rebuttal arguments regarding this same tax measure".

### **SUMMARY/BACKGROUND:**

The City of Westminster is facing a significant structural budget deficit. This financial situation is extremely serious and poses a very real threat to the City and the vital services it provides. As significant budget cuts have not been enough to remedy the budget deficit, the City should consider allowing the residents to decide if they wish to pursue a locally enacted revenue measure to ensure that the City is able to maintain vital services, such as maintaining rapid 911 emergency response, police and fire protection response times, preventing cuts to paramedics, gang prevention officers and firefighters, protecting drinking water supplies, repairing streets and potholes, providing a good environment for businesses, and preventing city bankruptcy, among others. A 1 percent (1%) transactions and use tax ("sales tax") would allow the City to fund services at levels consistent with community priorities and the public's desired services levels, and would prevent the need for further devastating cuts to vital City services.

In November of 2015, the Westminster Mayor and City Council conducted a Study Session in order to obtain an overview of the City's financial position. This overview highlighted the City's current year's budgetary problems, as well as its ongoing structural deficit. These two issues are extremely serious and pose a very real threat to the City. As the Study Session pointed out, these issues are also not new and are not of the City's making. The City's financial condition, which the City Council has been actively working to remedy since 2012, is the result of a series of State take away of local funds. This, and the fact that the City receives a reduced share of property tax compared to most other California cities, has seriously impacted Westminster's ability to continue to deliver vital City services.

In order to address these shortcomings in funds, the Mayor and City Council have made significant cuts to the City's budget. This has included laying off over 25% of the City staff and reducing funding for other City programs and services. The City Council has also sought to find ways to raise revenue in those areas under its control, such as the imposition of fees for services and cost recovery items, ensuring that the City is capturing revenue where it can. Unfortunately, these measures have not been enough to close the City's structural budget deficit.

Notwithstanding these efforts, for the last five years the City has been forced to rely on reserves in order to continue to provide vital services to the community, even at reduced levels. The City Council was hopeful that the use of reserves would help the City to 'weather the storm,' preserve continuity of basic city services, while providing the local economy time to recover from the recession and begin generating revenues once again. This has not yet happened to the level needed to sustain basic municipal services, even at already-reduced levels. Using the City reserves is also no longer an option, as these reserves will be depleted in Fiscal year 2018/2019.

Unless something significant changes the City is facing a dire financial situation in 2018/2019. Reserves will be depleted and the City will be unable to submit a balanced budget as required by State law. The City Council, as a model of good governance, has attempted all remedies available to it in order to address this problem, including extensive cuts to expenditures. Individual reductions in services will no longer suffice to close our upcoming budget deficit. As Public Safety accounts for 77% of the City's current budget, any additional cuts would have to impact our Police, Fire, Gang Prevention, Emergency Response, other public safety services, as well as other general City services. At this point, the only remaining courses of action are to either drastically reduce or eliminate many basic city services, or allow the voters to choose whether they wish to increase revenue in order to maintain those services.

A one percent (1%) sales tax measure would help ensure that the City is able to provide the vital services that our residents have told us they want and expect, in a fiscally sustainable manner. If approved by voters, the 1 percent (1%) transaction and use tax/sales tax would be a general tax. It would eliminate the City's structural deficit, provide funding for vital services and begin to restore financial reserves. It would also allow the City to maintain its current levels of police protection, firefighters and paramedics, as well as Senior and After-School Programs.

The measure that is being proposed has a number benefits for the long term financial health of the City:

- Costs would be shared by visitors to Westminster who purchase certain goods and products.

- The measure would ensure that the fund would stay in Westminster and cannot be taken away by the State.
- The measure would require independent annual audits and citizen oversight.
- The measure would include tough fiscal accountability and transparency controls to ensure that all funds were being used properly.

### **Conclusion**

The City's financial situation requires significant action. Placement of this measure on the November, 2016 ballot will allow Westminster voters to decide the future of the City. It is important to note that the Mayor and City Council legally cannot not decide this matter. Only the voters of Westminster have the power to make this decision. We, as elected officials, have a responsibility to provide them with that opportunity so that their voices can be heard.

I call for my colleagues to authorize this measure for the ballot so that the residents of Westminster can decide.

### **FISCAL IMPACT:**

Elimination of the City's structural deficit and the ability to fund reserves that have decreased dramatically over the past four years. A one cent (1%) transaction and use/sales tax increase would generate approximately \$14 million in General Fund Revenue annually.

### **ATTACHMENTS:**

1. Proposed Resolution
2. Proposed Ordinance

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTMINSTER CALLING FOR THE PLACEMENT OF A MEASURE ON THE BALLOT OF THE NOVEMBER 8, 2016 ELECTION TO ADOPT A TRANSACTIONS AND USE TAX, REQUESTING THAT THE ORANGE COUNTY BOARD OF SUPERVISORS CONSOLIDATE THIS ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, AND PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING THIS SAME TAX MEASURE.

WHEREAS, due to Sacramento takeaways, the City of Westminster ("City") has lost over \$12 million annually in local tax dollars, and now faces a \$5.3 million budget deficit which will double by 2017; and

WHEREAS, the City has depleted its rainy-day fund, will soon be unable to present a balanced budget as required by state law, and is facing Bankruptcy as soon as the 2018 Fiscal Year; and

WHEREAS, the City Council holds the authority to levy a Transactions and Use Tax for general purposes pursuant to Revenue and Taxation Code Section 7285.9, subject to approval by a majority vote of the electorate pursuant to Article XIII C, Section 2 of the California Constitution ("Proposition 218"); and

WHEREAS, without taking a formal position on the matter, the City Council has decided to submit to the voters the question whether the attached ordinance should be approved, enacting a Transactions and Use Tax ("Sales Tax") of one cent (1%) on the sale of all tangible personal property sold at retail in the City; and

WHEREAS, the Sales Tax would be a general tax, the revenue of which would be placed in the City's general fund and would be used to pay for essential City services.

WHEREAS, the proposed ordinance includes strict accountability provisions, such as independent citizens' oversight, public spending reports and annual independent financial audits, to ensure every cent is used effectively, efficiently and as promised to voters; and

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

Section 1. Incorporation of Recitals. The foregoing recitals are true and correct and are hereby incorporated and made an operative part of this Resolution.

Section 2. Pursuant to Government Code Section 53724, Revenue and Taxation Code Section 7285.9 and any other applicable requirements of California law relating to general law cities, the City Council, by a two-thirds vote, hereby calls and orders to be held in the City of Westminster on Tuesday, November 8, 2016, a General Municipal Election for the purpose of submitting a ballot measure to the voters, seeking the approval of the ordinance attached hereto as Exhibit "A" and incorporated herein by this reference.

Section 3. The City Council, pursuant to Elections Code Section 9222, hereby orders that the following question be submitted to the voters of the City of Westminster at the election to be held on November 8, 2016:

<p><b>Westminster Police/9-1-1/Essential City Services Measure.</b> To address state takeaways of local funds, protect property values, drinking water supplies and prevent more cuts to: 9-1-1 response times; police officers/firefighters/paramedics; drug/gang prevention, domestic violence/sex crimes/human trafficking units; and other general city services, shall an ordinance establishing an ongoing 1% transactions and use (sales) tax, providing estimated \$13.9 million annually, requiring audits, citizens' oversight, all funds remaining in Westminster, be adopted?</p>	<p><b>YES</b></p>
	<p><b>NO</b></p>

Section 4. The City Clerk is hereby directed to transmit a copy of the measure set forth in Section 3 above to the City Attorney, who shall prepare an impartial analysis of the measure in accordance with Elections Code Section 9280. The impartial analysis shall include a statement indicating whether the measure was placed on the ballot by the City Council. In the event that the entire text of the measure is not printed on the ballot, or in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font type, the following: "The above statement is an impartial analysis of Ordinance or Measure \_\_\_\_\_. If you desire a copy of the ordinance or measure, please call the election official's office at (714) 548-3174 and a copy will be mailed at no cost to you."

Section 5. The City Council requests that the Board of Supervisors of Orange County consolidate the election on the proposed measure with the established statewide election to be held the same day, and the Registrar of Voters of Orange County conduct the election in the manner provided by law. Pursuant to Elections Code Section 10400 et seq., the City Clerk is directed to file a certified copy of this Resolution with the Orange County Board of Supervisors and the Orange County Registrar of Voters on or before August 12, 2016.

Section 6. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 7. Notice of the time and place of the election is hereby given. Additionally, 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.

Section 8. The City Treasurer is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the ballot measure on the election ballot.

Section 9. That arguments for and against said measure may be filed in accordance with applicable provisions of the law. That the Council does not authorize the Council as a body or any individual member of the Council to file a written argument or any rebuttal argument for or against the measure. The City Clerk shall consider other arguments and rebuttal arguments filed by bona fide associations or individual residents who are eligible to vote in accordance with Elections Code Sections 9282, 9285 and 9287. Pursuant to Section 9285 of the California Elections Code, the provisions of which are hereby adopted, when the City Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The rebuttal arguments shall be filed with the City Clerk not more than ten (10) days after the final date for filing direct arguments. 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. The text of the measure shall be printed on the ballot in the voter information portion of the sample ballot.

Section 10. Pursuant to Elections Code section 12111, the City Clerk's Office shall publish the required notice in a newspaper of general circulation in the City of Westminster.

Section 11. The City Council finds that this Resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA guidelines, California Code of Regulations Title 14, Chapter 3 because it has no potential for resulting in physical change to the environment directly or indirectly.

Section 12. Severability. The provisions of this Resolution are severable, and if any provision of this Resolution is held invalid that provision shall be severed from the Resolution and the remainder of this Resolution shall continue in full force and effect and not be affected by such invalidity.

Section 13. This resolution shall become effective upon its adoption.

Section 14. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_ 2016, by the following vote:

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

\_\_\_\_\_  
TRI TA, MAYOR

ATTEST:

\_\_\_\_\_  
AMANDA JENSEN, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
RICHARD D. JONES, CITY ATTORNEY



Exhibit "A"

Transactions and Use Tax Ordinance

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**THE ORDINANCE BELOW WILL BE PRESENTED TO THE VOTERS OF THE CITY OF WESTMINSTER AT THE NOVEMBER 8, 2016 ELECTION.**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE PEOPLE OF THE CITY OF WESTMINSTER, ADDING CHAPTER 3.10 TO TITLE 3 (REVENUE AND FINANCE) OF THE WESTMINSTER MUNICIPAL CODE, RELATING TO A TRANSACTIONS AND USE (“SALES”) TAX.

WHEREAS, due to Sacramento takeaways, the City of Westminster (“City”) has lost over \$12 million annually in local tax dollars, and now faces a \$5.3 million budget deficit which will double by 2017;

WHEREAS, the City has depleted its rainy-day fund, will soon be unable to present a balanced budget as required by state law, and is facing Bankruptcy as soon as the 2018 Fiscal Year;

WHEREAS, this ordinance ensures that our city has a guaranteed source of funding for local services that cannot be seized by Sacramento, and requires that our tax dollars remain local and can only be used in Westminster;

WHEREAS, in just the last year there have been more than 42,000 9-1-1 calls in Westminster that have required emergency medical attention. This ordinance will help to maintain firefighters and paramedics, and keep rapid 9-1-1 emergency response times so that people suffering from heart attacks, strokes or other medical emergencies continue to receive the immediate, life-saving care they need; and

WHEREAS, public safety is a top priority in Westminster, comprising 77% of the City’s current budget, and without a local funding source the City will be forced to make further significant cuts to public safety services, potentially including gang and drug prevention; neighborhood police patrols; reducing the number of paramedics and firefighters; and consider eliminating the Police Narcotics, Domestic Violence, Sex Crimes, and human trafficking units in the Westminster Police Department; and

WHEREAS, our community has a history of gang problems, and currently there are over 100 active gang members in Westminster.

WHEREAS, the adoption of this revenue measure will prevent further deep cuts to gang and drug prevention programs, and will continue after school programs that keep children and youth off the streets and away from gangs and drugs; and

WHEREAS, we need to do more to stimulate local economic growth and create more well-paying local jobs for residents, and additional funds will help Westminster remain attractive to businesses, visitors and homebuyers by fixing blight and filling vacant storefronts with new businesses, strengthening local property values; and

WHEREAS, this ordinance provides the funds necessary to prevent further cuts to basic programs such as the continued provision of fast 911 emergency, police and fire protection response times, preventing cuts to paramedics, gang prevention officers and firefighters, protecting drinking water supplies, repairing streets and potholes, and providing a good environment for businesses, and helping to financially stabilize the city and prevent bankruptcy; and

WHEREAS, pursuant to California Revenue and Taxation Code Section 7285.9, the City of Westminster has the authority to levy a Transactions and Use Tax for general purposes, subject to approval by a majority vote of the electorate pursuant to Article XIII C, Section 2 of the California Constitution ("Proposition 218")

WHEREAS, the people of the City desire to levy a one cent (1%) Transactions and Use Tax ("Sales Tax") on the sale of all tangible personal property sold at retail in the City;

WHEREAS, the Sales Tax would be a general tax, the revenue of which would be placed in the City's general fund and used to pay for essential City services, including public safety.

WHEREAS, this ordinance includes strict accountability provisions such as independent citizens' oversight, public spending reports and annual independent financial audits to ensure that every cent of our money is used effectively, efficiently, and as promised to voters; and

WHEREAS, the people of the City believe that only a locally approved voter funding source would guarantee that new revenue stays in Westminster to help the City provide essential services to its residents; and

THE PEOPLE OF THE CITY OF WESTMINSTER DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.10 (Transactions and Use Tax) is hereby added to Title 3 (Revenue and Finance) of the Westminster Municipal Code as follows:

3.10.005. This ordinance shall be known as the "City of Westminster Transactions (Sales) and Use Tax Ordinance." The City of Westminster hereinafter shall be referred to as "City." This ordinance shall be applicable in the incorporated territory of the City.

3.10.010 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 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.

#### 3.10.020 Contract with state.

Prior to the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance (“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.

#### 3.10.030 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 one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

#### 3.10.040 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.

#### 3.10.050 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one percent (1%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

### 3.10.060 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.

### 3.10.070 Limitation 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 of Westminster 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.

### 3.10.080 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.

### 3.10.090 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 subsection (C), 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) of this subsection (C), 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.

### 3.10.100 Amendments.

- A. 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.
- B. The following amendments shall not be effective unless they are first approved by the voters of the City: any increase to the tax rate; any revision to the methodology for calculating the tax such that a tax increase would result; any imposition of the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically under state law by operation of section 3.10.100A). Except as limited above, the City Council is authorized to amend this Ordinance.

### 3.10.110 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.

### 3.10.120 Fiscal Accountability Provisions; Citizen Oversight and Independent Annual Financial Audits.

Consistent with the City's ongoing commitment to citizen involvement as a fundamental principle of good government, specific citizen oversight and fiscal accountability provisions regarding the revenues collected as a result of the adoption of this ordinance

are hereby established as follows:

A. Independent Annual Financial Audit. The amount generated by this new general purpose revenue source and how the revenues were used shall be included in the annual audit of the City's financial operations by an independent certified public accountant.

B. Integration of the Use of Funds into the City's Budget and Strategic Planning Process. The estimated revenue and proposed use of funds generated by this ordinance shall be an integral part of the City's budget and strategic planning process, and significant opportunities will be provided for meaningful participation by citizens in determining priority use of these funds.

C. Annual Community Report. A written report will be provided annually to every household in the City detailing how much revenue is being generated by the ordinance and how funds are being used.

D. Bi-annual Citizen Oversight Meeting. An oversight committee appointed by City Council will convene twice in a yearly period to review and discuss the use of the revenue generated by the measure. City staff will also be available to meet with any group that requests a specific briefing with their members to discuss and answer questions about the revenue generated by the measure and its uses.

## SECTION 2. Approval by the Voters.

Pursuant to California Elections Code section 9217, this Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Westminster voting at the Regular Election of November 8, 2016, and shall take effect ten (10) days after the City Council has certified the results of that election by resolution.

## SECTION 3. Severability.

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

I hereby certify that this Ordinance was PASSED, APPROVED, AND ADOPTED by the people of the City of Westminster at the general election held on this 8th day of November, 2016.

CITY OF WESTMINSTER

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TRITA, MAYOR

ATTEST:

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AMANDA JENSEN, CITY CLERK

APPROVED AS TO FORM:

RICHARD D. JONES, CITY ATTORNEY

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