

CITY OF GREENFIELD
RESOLUTION NO. 2015-50

A RESOLUTION OF THE CITY OF GREENFIELD CALLING AND GIVING NOTICE OF THE HOLDING OF A MUNICIPAL ELECTION TO ASK THE VOTERS OF THE CITY OF GREENFIELD TO APPROVE A "2015 CITY SERVICES TRANSACTIONS AND USE TAX" OF THREE QUARTERS OF ONE PERCENT; REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY CONSOLIDATE THE ELECTION WITH THE ESTABLISHED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2015 AND REQUESTING THAT THE COUNTY OF MONTEREY CONDUCT SUCH AN ELECTION ON THE CITY'S BEHALF

WHEREAS, pursuant to Elections Code Section 10002, the governing body of the City of Greenfield may by resolution request the Board of Supervisor of the County of Monterey to permit the Monterey County Election official to render specified services to the City of Greenfield relating to the conduct of an election; and

WHEREAS, the resolution of the City Council of the City of Greenfield shall specify the services requested; and

WHEREAS, pursuant to Elections Code Section 10002, the City of Greenfield shall reimburse the County of Monterey in full for the services performed upon presentation of a bill to the City of Greenfield; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, same territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers call the elections; and

WHEREAS, pursuant to Election Code Section 10400, such election for cities and special districts may be either completely or partially consolidated; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order the consolidation; and

WHEREAS, the resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution or order calling the election; and

WHEREAS, various districts, county, state or other political subdivision elections may be or have been called to hold on November 3, 2015;

WHEREAS, the City Council of the City of Greenfield desires to provide greater levels of vital community services, including enhancing public safety, expanding youth recreation, after-school, and anti-gang programs, furthering code enforcement services, and other general City services; and,

WHEREAS, new sources of revenues will be required in order for the City to meet the expectations of Greenfield residents for enhanced City services; and,

WHEREAS, the City Council wishes to ensure that the City has the financial resources necessary to provide these vital community services, in an effort to augment the public health, safety, and welfare of the City; and,

WHEREAS, a City-voter adopted transaction and use tax is an appropriate way of adding new funds, because the transaction and use tax is broad based and does not single out any one type of consumer, business or industry, and basic commodities and services like housing, food, and prescription drugs are exempt from transaction and use tax; and,

WHEREAS, transaction and use tax revenues are a source of local funding that cannot be taken by Sacramento, ensuring our tax dollars are spent locally for Greenfield residents; and,

WHEREAS, creating voter-approved funding at a 0.75 percent cent tax rate will serve to address enhancement of City services; and,

WHEREAS, the Transactions and Use Tax would be imposed on retail transactions and use of personal property; the tax rate would be Three Quarters of One Percent (0.75 %) of the sales price of the property; the tax revenue would be collected by the State Board of Equalization and remitted to the City. The termination date would be March 31, 2021; the tax shall be approved if the measure receives at least a majority of affirmative votes; and,

WHEREAS, the City will deposit all revenues it receives from the tax in the general fund of the City to be expended for any lawful public purpose; and,

WHEREAS, any local funding would require citizens' oversight, mandatory financial audits, and yearly reporting to the community to continue to ensure that all voter-approved funds are spent as appropriate; and,

WHEREAS, the City Council has concluded that all of the information presented indicates that, to obtain the revenue necessary to enrich service levels, the Council will ask the voters of the City to approve an additional Transactions and Use Tax of 0.75%, the revenue from which would be used to enhance municipal services.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Greenfield that the foregoing Recitals are true and correct and are hereby adopted by the City Council. Based on those Recitals, the Council unanimously finds and declares as follows:

1. The City has maintained a full-service Police Department and successfully recruited and employed a professional Police Chief, with the ability to prevent and investigate property, domestic violence, and other types of crime.

2. In order to enhance public safety, the City will need to recruit and retain additional police officers, which will necessitate that the City attains parity with the local labor market.

3. Additional City services, such as recreational programs and code enforcement will require additional revenues.

4. The City has used its available General Fund balance to bridge the structural budget deficit, meaning it has used all available financial resources and will have none available to enhance services.

5. Due to changes in State law, particularly the approval of Propositions 62 and 218, the City has very few means available for increasing General Fund revenue.

6. Absent an enhancement of City revenues, the City Council would be unable to authorize providing enhanced general City services.

IT IS HEREBY FURTHER RESOLVED AS FOLLOWS:

7. Purpose and Intent. In accordance with Government Code Sections 53724(a) and 50077(a), and Elections Code 9222, the City Council of the City of Greenfield hereby calls an election at which it shall submit to the qualified voters of the City, a transaction and use tax ordinance, which, if approved, would create the 0.75% transactions and use tax. The proceeds received from the transactions and use tax are designated a general tax and shall be deposited into the City of Greenfield General Fund. This measure shall be designated by letter by the Monterey County Elections Department.

It is the intent of the City Council that revenues received from the existing transaction and use tax shall be unaffected by the modification and will remain a general tax, which can be placed in the general fund and used for any governmental purpose.

8. Placement of Measure on the Ballot. Pursuant to California Elections Code Section 9222, the City Council hereby resolves that the ballot for the November 3, 2015 election shall include the measure herein described.

(a) Ballot Language

The ballot question for the measure shall be as follows:

Greenfield 2015 City Services Transactions and Use Tax Measure. To enhance the health, safety and welfare of Greenfield, and provide greater general City services, such as strengthened public safety; increased youth recreation programs; re-establishment of code enforcement services; and other essential services, shall the City of Greenfield enact a voter approved 0.75 cent transaction and use tax, subject to annual audits and public review?	YES	
	NO	

9. Proposed Ordinance. The ordinance authorizing the special tax to be approved by the voters pursuant to Section 3 is as set forth in Exhibit 1 hereto. The City Council hereby approves the submission of the ordinance to the voters of the City at the November 3, 2015 election. The City requests that County of Monterey print Exhibit 1 in its entirety with the election materials.

10. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of Greenfield, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

11. Request to Conduct Election and Canvass Returns.

(a) The Ordinance authorizing the tax to be approved by the voters pursuant to Sections 2 and 3 of this Resolution is as set forth in Attachment 1 hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 3, 2015 election. The Board of Supervisors of the County of Monterey is requested to order the County Registrar of Voters to set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the primary arguments and rebuttal arguments (if any) for and against the measure, and to provide absentee voter ballots for the election for use by qualified electors of the City who are entitled thereto in the manner provided by law. The Ordinance specifies that the rate of the transactions and use tax shall be 1%, and that the tax shall be extended for 15 years. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

(b) The City Clerk is authorized, instructed and directed to work with the Office of the Registrar of Voters as needed in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. The Office of the Registrar of Voters is authorized to canvass the returns of the general municipal election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

(c) The Board of Supervisors is requested to instruct the Office of the Registrar of Voters to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one election. The City of Greenfield recognizes that the County will incur additional costs because of this consolidation and agrees to reimburse the County for those costs. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the measure on the election ballot.

12. Submission of Ballot Arguments and Impartial Analysis.

(a) The last day for submission of ballot wording to the Board of Supervisors and Registrar of Voters is August 7, 2015.

(b) The last day for submission of direct arguments for or against the measure is August 14, 2015.

(c) The last day for submission of rebuttal arguments for or against the measure is August 24, 2015.

(d) Direct arguments shall not exceed 300 words and shall be signed by not more than five persons.

(e) Rebuttal arguments shall not exceed 250 words and shall be signed by not more than five persons.

(f) An impartial analysis showing the effect of the measure shall be prepared by the City Attorney.

(g) The City Council will prepare a written argument in favor of the proposed measure, not to exceed 300 words, on behalf of the City. In the event that an argument is filed against the measure, the two persons listed above are also authorized to select two members of the City Council to prepare a rebuttal argument on behalf of the City, which may also be signed by up to three other members of the City Council or bona fide associations or by individual voters who are eligible to vote.

(f) Pursuant to California Elections Code Section 9285, when the City Clerk receives 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. 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.

13. Effective Date. This Resolution shall become effective immediately upon its passage and adoption, and the City Clerk is directed to send certified copies of this Resolution to the Monterey County Board of Supervisors, to the County Clerk-Recorder, and County of Monterey Elections Department.

14. CEQA. This Resolution is exempt from the California Environmental Quality Act (Public Resources Code §21000, "CEQA") pursuant to CEQA guidelines 15060, "Preliminary Review," subdivision (c)(2) in that it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and 15378, "Project," subdivisions (2) and (4) of subdivision (b), in that this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

15. Boundaries. The jurisdictional boundaries of the City of Greenfield have not changed since the last general municipal election.

PASSED AND ADOPTED this 28th day of July, 2015 by the following vote:

AYES, and in favor, Councilmembers: Mayor Huerta, Mayor Pro-tem Rodriguez, Councilmembers Walker, Torres and Santibanez

NOES, Councilmembers: None

ABSENT, Councilmembers: None

ABSTAIN, Councilmembers: None



John P. Huerta, Mayor

ATTEST:



Ann F. Rathbun, City Clerk

EXHIBIT 1

ORDINANCE NO. 512

**AN ORDINANCE OF THE CITY OF GREENFIELD
IMPOSING A TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

Section 1. TITLE. This ordinance shall be known as the 2015 City Services Transactions and Use Tax Ordinance. The city of Greenfield 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 the adoption of this ordinance, the date of such adoption being as set forth below.

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 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 Transactions 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 Transaction 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.

EXHIBIT 1

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 0.75% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

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 transactions 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 0.75% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state transactions 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:

EXHIBIT 1

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 transactions 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 Transactions and Use Tax Law or the amount of any state-administered transactions or use tax.

EXHIBIT 1

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.

EXHIBIT 1

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.

EXHIBIT 1

Section 12. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to transactions 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. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

Section 16. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire on the fifth anniversary of the operative date, unless extended by the voters.

PASSED AND ADOPTED by the City Council of the City of Greenfield, State of California, on the ___ day of _____, 2015, by the following vote:

AYES, and all in favor, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

Mayor of the City of Greenfield

Attest: _____
City Clerk of the City of Greenfield