

RESOLUTION NO. 10,535

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF NEWARK A CERTAIN MEASURE RELATING TO A PROPOSED ORDINANCE ADDING CHAPTER 3.14 TO THE NEWARK MUNICIPAL CODE IMPOSING A ONE-HALF OF ONE PERCENT (0.5%) TRANSACTIONS AND USE (“SALES”) TAX FOR GENERAL PURPOSES AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, AS CALLED BY RESOLUTION NO. 10,506; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; SETTING THE DATES FOR ARGUMENTS ON THE MEASURE; AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA TO CONSOLIDATE SAID ELECTION PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, existing buildings owned by the City of Newark (“City”), specifically the Police station, Library, and City Administration Building (“City owned buildings”), are functionally obsolete, are not energy efficient, are not fully accessible, and are not seismically safe;

WHEREAS, the City owned buildings lack seismic upgrades, which prevent the City owned buildings from being usable after a major earthquake, slowing disaster response to Newark residents;

WHEREAS, the City’s current police station is in need of technological, operational, and energy upgrades to improve response time and crime prevention programs;

WHEREAS, in May, 2015, the City retained the services of Group 4 Architecture to study the potential replacement of the City owned buildings;

WHEREAS, as part of the study, Group 4 Architecture conducted a space needs assessment of City owned buildings, analyzed potential sites for construction of new buildings, and developed a conceptual Civic Center site plan;

WHEREAS, said study recommends the replacement of City owned buildings for a variety of reasons, such as the inability to meet existing and future space needs and to enable modern, efficient operations;

WHEREAS, said study projects that the total cost for construction of the City owned buildings would be sixty-four million dollars (\$64,000,000);

WHEREAS, the City does not have available sources of funding to finance the replacement of the City owned buildings despite consistently maintaining a balanced budget and sound fiscal stewardship;

WHEREAS, the City retained the services of Godbe Research to conduct a public opinion poll to determine whether the public would support a sales tax increase of one-half of one percent (0.5%);

WHEREAS, the polling indicates that the public generally supports construction of a modern, seismically sound Police Operations Center that maintains up-to date crime fighting technology and allows enhanced neighborhood police patrols, crime prevention, anti-drug and gang-prevention programs and improved 9-1-1 response;

WHEREAS, the polling further indicates that the public generally supports improving disabled access to the Library and dedicated space for seniors, teens, and children;

WHEREAS, it is fiscally responsible to rebuild the City owned buildings now and before they deteriorate further and become more costly to maintain in the future;

WHEREAS, the City Council desires to submit to the voters at the election a question relating the imposition of a one-half of one percent transactions and use ("sales") tax for general purposes;

WHEREAS, a General Municipal Election on Tuesday, November 8, 2016 has been called by Resolution No. 10,506, adopted on June 9, 2016;

WHEREAS, the City Council of the City of Newark desires that the County of Alameda County Registrar of Voters conduct the municipal election, pursuant to Elections Code Section 10403, to be held on November 8, 2016; and

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED AS FOLLOWS:

Section 1: The City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election of November 8, 2016 the following question:

"To upgrade City of Newark facilities and services, including replacing the seismically unsafe police operations/emergency operations center to survive an earthquake; providing updated crime-fighting technology; replacing aging library/city facilities with buildings meeting safety codes; providing disabled access and senior/teen/children's facilities; and other facilities and services; shall the City of Newark enact a one-half cent sales tax, providing \$3,500,000 annually, for 25 years, with annual audits, independent citizens' oversight, and all funds spent locally?"

YES/NO?

Section 2. The proposed measure submitted to the voters is attached as "**EXHIBIT A**". The City Council hereby approves the form of the ordinance and its submission to the voters of the City at the November 8, 2016, General Municipal 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 measure shall not take effect unless approved by a simple majority of voters voting on the measure at the November 8, 2016 election. If

adopted, the State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

Section 3. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections, including but not limited to Elections Code Section 10418.

Section 4. Pursuant to the requirements of Section 10403 of the Elections Code, the City Council of the City of Newark hereby requests the Board of Supervisors of the County of Alameda to agree to the consolidation of the Municipal Election with the Statewide General Election on November 8, 2016, and issue instructions to the Alameda County Registrar of Voters that the election in all respects be held as if there were only one election and to conduct the Municipal Election including the publishing of all election materials, the mailing of sample ballots, the hiring of election officers, canvassing the returns, and the actual conduct of the election.

Section 5.

- a. The last day for submission of primary arguments for or against the measure shall be by 4:00 p.m. on Thursday, July 28, 2016.
- b. The last day for submission of rebuttal arguments for or against the measure shall be by 4:00 p.m. on Monday, August 8, 2016.
- c. Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.
- d. Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments.
- e. Pursuant to California Elections Code Section 9282, the Mayor is hereby authorized to file a written argument in favor of the proposed measure on behalf of the City Council, which may be signed by individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure, the Mayor is also authorized to file a rebuttal argument on behalf of the City Council, which may be signed by individual voters who are eligible to vote on the measure, which may be different from those who signed the primary argument.
- f. Pursuant to California Elections Code Section 9285, 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. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument that it seeks to rebut.

- g. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a certified 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 file the impartial analysis with the City Clerk by 4:00 p.m. on Thursday, July 28, 2016.

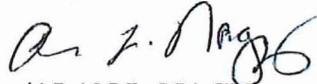
- Section 6. The City of Newark recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County of Alameda for all costs associated with the conduct of the City of Newark's municipal election to be held on November 8, 2016. The City of Newark acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418; and
- Section 7. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.
- Section 8. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.
- Section 9. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines Section 15060, CEQA analysis is not required.

NOW THEREFORE BE IT FURTHER RESOLVED the City Clerk is hereby directed to file a certified copy of this resolution with the Alameda County Board of Supervisors and the Alameda County Registrar of Voters.

I HEREBY CERTIFY the foregoing resolution was introduced at a regular meeting of the City Council of the City of Newark held on July 14, 2016, by Council Member Collazo, who moved its adoption and passage, which motion was carried after being duly seconded, and passed by the following vote:

AYES: Council Members Hannon, Collazo, Bucci, Vice Mayor Freitas, and Mayor Nagy
NOES: None
ABSENT: None
SECONDED: Council Member Hannon

APPROVED:


s/ALAN L. NAGY
Mayor

ATTEST:


s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:


s/DAVID J. BENOUN
City Attorney

“EXHIBIT A”

PROPOSED TRANSACTIONS AND USE (SALES) TAX

ORDINANCE NO.

AN INITIATIVE ORDINANCE OF THE CITY OF NEWARK
TO LEVY A LOCAL TRANSACTIONS AND USE (SALES) TAX TO
BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

WHEREAS, existing buildings owned by the City of Newark ("City"), specifically the Police station, Library, and City Administration Building ("City owned buildings"), are functionally obsolete, are not energy efficient, are not fully accessible, and are not seismically safe;

WHEREAS, the City owned buildings lack seismic upgrades, which prevent the City owned buildings from being usable after a major earthquake, slowing disaster response to Newark residents;

WHEREAS, the City's current police station is in need of technological, operational, and energy upgrades to improve response time and crime prevention programs;

WHEREAS, in May, 2015, the City retained the services of Group 4 Architecture to study the potential replacement of the City owned buildings;

WHEREAS, as part of the study, Group 4 Architecture conducted a space needs assessment of City owned buildings, analyzed potential sites for construction of new buildings, and developed a conceptual Civic Center site plan;

WHEREAS, said study recommends the replacement of City owned buildings for a variety of reasons, such as the inability to meet existing and future space needs and to enable modern, efficient operations;

WHEREAS, said study projects that the total cost for construction of the City owned buildings would be sixty-four million dollars (\$64,000,000);

WHEREAS, the City does not have available sources of funding to finance the replacement of the City owned buildings despite consistently maintaining a balanced budget and sound fiscal stewardship;

WHEREAS, the City retained the services of Godbe Research to conduct a public opinion poll to determine whether the public would support a sales tax increase of one-half of one percent (0.5%);

WHEREAS, the polling indicates that the public generally supports construction of a modern, seismically sound Police Operations Center that maintains up-to date crime fighting technology and allows enhanced neighborhood police patrols, crime prevention, anti-drug and gang-prevention programs and improved 9-1-1 response;

WHEREAS, the polling further indicates that the public generally supports improving disabled access to the Library and dedicated space for seniors, teens, and children; and

WHEREAS, it is fiscally responsible to rebuild the City owned buildings now and before they deteriorate further and become more costly to maintain in the future.

NOW THEREFORE THE PEOPLE OF THE CITY OF NEWARK DO ORDAIN AS FOLLOWS:

SECTION 1: ADDITION TO THE MUNICIPAL CODE. Chapter 3.14 is added to Title 3 of the Newark Municipal Code to read as follows:

Chapter 3.14
Transactions and Use (Sales) Tax

Section 3.14.010	Title
Section 3.14.020	Operative date
Section 3.14.030	Purpose
Section 3.14.040	Contract with State
Section 3.14.050	Transactions tax rate
Section 3.14.060	Place of sale
Section 3.14.070	Use tax rate
Section 3.14.080	Adoption of provisions of State law
Section 3.14.090	Limitations on adoption of State law and collection of use taxes
Section 3.14.100	Permit not required
Section 3.14.110	Exemptions and exclusions
Section 3.14.120	Amendments
Section 3.14.130	Enjoining collection forbidden
Section 3.14.140	Severability
Section 3.14.150	Use of tax proceeds
Section 3.14.160	Independent annual audit
Section 3.14.170	Independent community oversight committee
Section 3.14.180	Amendments of Chapter; Rescission of tax
Section 3.14.190	Termination of tax—Sunset

Section 3.14.010 Title.

This Chapter shall be known as the “Transactions and Use (Sales) Tax Ordinance” of the City of Newark. The City of Newark hereinafter shall be called “City.” This Chapter shall be applicable in the incorporated territory of the City.

Section 3.14.020 Operative date.

“Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance and approval by the voters.

Section 3.14.030 Purpose.

This chapter 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 transaction and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law or 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 collection 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 provision of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

Section 3.14.040 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 chapter; provided, that if the City shall not have contracted with the State Board of Equalization prior to 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 3.14.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 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 said territory on and after the Operative Date of this chapter.

Section 3.14.060 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from sales 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 3.14.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this chapter for storage, use or other consumption in said territory at the rate of one-half of one percent (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 3.14.080 Adoption of provisions of State law.

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

Section 3.14.090 Limitations on adoption of State law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

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

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State 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 chapter.

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 provision 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 3.14.100 Permit not required.

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

Section 3.14.110 Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law of 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 Chapter 2 of 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 chapter.

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 chapter.

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 chapter, 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 transaction 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 chapter.

4. If the possession of, or the exercise of any right or power over, the tangible 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 chapter.

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 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 chapter 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 3.14.120 Amendments.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

Section 3.14.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or City or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, 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 3.14.140 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 3.14.150 Use of tax proceeds.

All proceeds of the tax levied and imposed under this chapter shall be paid into the General Fund for use by the City of Newark. The City Council is authorized to incur debt financed by the proceeds of the tax to accelerate capital projects.

Section 3.14.160 Independent annual audit.

Annually the City Council retains an independent auditor to conduct an audit of and provide audited financial statements for all of the City's financial activities. The auditor shall include an accounting of the revenue received from the tax and expenditures thereof in the audited financial statements. The auditor's report shall be presented to the Council and the committee established by Section 3.14.170 and made available to the public.

Section 3.14.170 Independent community oversight committee.

The City Council shall, prior to the end of the first fiscal year after the operative date, establish an independent community oversight committee to review the expenditure of the revenue from this transactions and use (sales) tax. The committee shall consist of five members to be appointed by the Mayor and approved by the City Council. The terms of the committee members and their specific duties shall be established by resolution of the City Council.

Section 3.14.180 Amendments of Chapter; Rescission of tax.

The following amendments to this Chapter must be approved by the voters of the City of Newark: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of Section 3.14.120; or extending the tax. The City Council may otherwise amend this ordinance without submitting the amendment to the voters for approval.

Section 3.14.190 Termination of tax—Sunset.

A. The levy of taxes as provided in this Chapter shall expire on the twenty-fifth anniversary of the Operative Date (which is anticipated to occur at the end of the day on March 31, 2042) unless re-enacted by a majority vote of the electorate voting on the question.

B. The termination of the levy of taxes as provided in this Chapter shall not terminate the obligation to pay taxes levied on services used prior to such date. Taxes levied prior to such date shall remain a debt payable to the City. All provisions in this Chapter, except those relating to the levy of taxes, shall continue in full force and effect after such date.

SECTION 2: EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

SECTION 3: CERTIFICATION: PUBLICATION. Upon approval by the voters, the City Clerk shall cause this Ordinance to be published according to law and transmitted to the Board of Equalization.

SECTION 4: COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax enacted by this Ordinance is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA, analysis is not required.