

**CITY CLERKS DEPARTMENT**  
Marci Reyes, City Clerk



850 S. Madera Avenue  
Kerman, CA 93630

**Mayor** – Stephen B. Hill  
**Mayor Pro Tem** – Gary Yep

**Council Members**

Rhonda Armstrong  
Kevin Nehring  
Bill Nijjer

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**NOTICE AND CALL OF SPECIAL MEETING  
OF THE KERMAN CITY COUNCIL**

NOTICE IS HEREBY GIVEN that a Special Meeting of the Council of the City of Kerman is hereby called to be held on Tuesday, June 7, 2016 commencing at 6:30 p.m. in the Council Chambers at 850 S. Madera Avenue, Kerman, CA.

The sole business to be conducted is as follows:

1. Call to order
2. Study Session Regarding Proposed Ballot Measure: Resolution Submitting to City Voters at Next Regular Election to Be Held on November 8, 2016, a Ballot Measure to Adopt an Ordinance Approving a Three Quarter Cent (.75%) Retail Transactions and Use Special Tax for Capital Projects for Public Safety, Parks, and Downtown Revitalization and Introduction of Ordinance

This notice is given pursuant to CA Government Code Section 54956 and this notice shall also be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

Date: June 3, 2016

A handwritten signature in blue ink that reads "Marci Reyes". The signature is written in a cursive, flowing style.

Marci Reyes  
City Clerk



# City of Kerman

*"Where Community Comes First"*

**MAYOR**  
Stephen B. Hill

**MAYOR PRO-TEM**  
Gary Yep

**COUNCIL MEMBER**  
Rhonda Armstrong

**COUNCIL MEMBER**  
Kevin Nehring

**COUNCIL MEMBER**  
Bill Nijjer

DEPARTMENT: CITY MANAGER  
STAFF REPORT  
CITY COUNCIL MEETING

SPECIAL CALLED COUNCIL MEETING DATE: JUNE 7, 2016

**To:** Mayor and City Council

**From:** John Kunkel, City Manager

**Subject:** Study Session Regarding Proposed Ballot Measure: Resolution Submitting to City Voters at Next Regular Election To Be Held on November 8, 2016, a Ballot Measure to Adopt an Ordinance Approving a Three Quarter Cent (.75%) Retail Transactions and Use Special Tax for Capital Projects for Public Safety, Parks, and Downtown Revitalization and Introduction of Ordinance

## RECOMMENDATIONS

Council review, revise and direct staff regarding the proposed ballot measure and ordinance approving a three quarter cent (.75%) retail transactions and use special tax for capital projects for public safety, parks, and downtown revitalization.

## EXECUTIVE SUMMARY

At the May 18 meeting, council approved a special called meeting/study session to discuss the proposed ballot measure before the actual introduction of the ordinance and adoption of the ballot resolution.

## DISCUSSION

Key provisions in attached are as follows:

- Draft Ordinance which sets forth the tax in the form required by the Board of Equalization
- Draft Ballot Measure Resolution which calls for the election, asks for consolidation of the election on November 8, 2016, sets forth the question to be asked of the voters
- Council Preparation of Argument in Support of Measure; the City Attorney's Impartial Analysis

Per prior Council direction, the draft ordinance specifies that the special sales tax be used for the following purposes:

- Capital Projects
- Public Safety
- Parks
- Downtown Revitalization

Attachment:

- A. Draft of April 6, 2016 Staff Report w/Attachments



# City of Kerman

*"Where Community Comes First"*

**MAYOR**  
Stephen B. Hill  
**COUNCIL MEMBER**  
Rhonda Armstrong

**MAYOR PRO-TEM**  
Gary Yep  
**COUNCIL MEMBER**  
Nathan Fox

**COUNCIL MEMBER**  
Bill Nijjer

DEPARTMENT: CITY MANAGER  
STAFF REPORT  
CITY COUNCIL MEETING  
COUNCIL MEETING DATE: APRIL 6, 2016

**To:** Mayor and City Council  
**From:** John Kunkel, City Manager  
**Subject:** Resolution Submitting to City Voters at Next Regular Election To Be Held on November 8, 2016, a Ballot Measure to Adopt an Ordinance Approving a Three Quarter Cent (.75%) Retail Transactions and Use Special Tax for Capital Projects for Public Safety, Parks, and Downtown Revitalization and Introduction of Ordinance.

## RECOMMENDATIONS

Council by motion:

- (1) Adopt resolution submitting ballot measure regarding Special Sales Tax to City Voters by a 2/3 vote of all members of the City Council (4 votes);
- 2) Designate two members of the Council to author the ballot argument in favor of the measure. The designation will be inserted into the adopted resolution; and
- 3) Introduce and waive full reading of Ordinance of the City of Kerman Adding Chapter 3.16A to the Kerman Municipal Code to Approve a Special Three Quarter Cent (.75%) Transactions and Use Tax for Capital Projects for Public Safety, Parks, and Downtown Revitalization

## EXECUTIVE SUMMARY

At the March 16, 2016 Council meeting, Council approved placing a measure on the November 8, 2016, ballot which if approved, will add .75% to the transaction and use tax ("sales tax") currently collected in the City. As part of the process, the Council is required to adopt a resolution such as that attached submitting the ballot measure to the voters. The Council is also required to adopt the ordinance prior to the election by a 2/3 vote of the entire Council. The voters would be approving the Ordinance attached to the Resolution which enacts the special tax, specifies the purposes for which the special tax may be used, and includes accountability language as well as text required by the Board of Equalization.

If the resolution is adopted and the ordinance is introduced, the ordinance will be brought back to the Council for a second reading and adoption. If approved by the voters by a 2/3 vote, the ordinance will be added to the Kerman Municipal Code.

The City Attorney has drafted the Resolution and Ordinance and can answer any questions Council might have regarding the process and required language. Staff will answer questions regarding the proposed use and amounts to be generated by the special tax.

## DISCUSSION

### Ordinance

Under the State Revenue and Taxation Code if the Council wishes to increase the City's sales tax, the City Council must approve an ordinance establishing the sales tax by a 2/3 vote of the Council. The proposed ordinance is attached to the Council resolution calling for the election. Thereafter, the voters would vote on the ordinance via the ballot measure. Approval requires a 2/3 vote of the electorate. The ordinance designates the specified uses and purposes as directed by the Council on March 16, includes accountability language (annual audit, report, and a Citizens Oversight Committee) and includes text required by the Board of Equalization.

If the local revenue sales tax measure passes and the ordinance is adopted, Kerman will enter into two contracts with the State: the first to set up the tax and the second for ongoing administration. The tax will not be operative until the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance at the election. This means that a tax passed in November 2016 would not be imposed and collected until February 2017. The ordinance would also be part of the Kerman Municipal Code.

### Ballot Measure Resolution.

The Elections Code has specific requirements for placing a ballot measure on the ballot. The attached resolutions includes text required by the Elections Code as to the placement on the ballot, consolidation of Election, arguments, the ballot question, synopsis of the measure, and requirements of the Elections Office, City Clerk, and City Attorney.

The attached resolution proposes to place on the November ballot an ordinance that would implement a local transactions and use tax in the amount of  $\frac{3}{4}$  cent (0.75). This will be a special tax, legally restricting the funds generated from the tax exclusively to the purposes set forth in the Ordinance. Passage requires a two-thirds vote of the electorate, and the City Council must determine by a two-thirds vote to place it on the ballot. Voters will be voting on adoption of the entire Ordinance, but the ballot question to be placed before the voters is limited by statute to 75 words or less, and reads as follows:

MEASURE \_\_

SALES TAX ORDINANCE FOR CAPITAL PROJECTS FOR PUBLIC SAFETY, PARKS, AND DOWNTOWN REVITALIZATION.

Shall the City of Kerman approve a  $\frac{3}{4}$  cent sales tax dedicated and expended only for capital projects for Public Safety and Parks such as: new police station, senior center, youth center, animal kennel, parks development and up to 10% of the tax for downtown revitalization capital projects subject to annual audit, review, and Citizen Oversight Committee?

The entire Ordinance will be accessible to the public via the County Elections Office, the City's website, and the Kerman City Clerk's Office.

Council Preparation of Argument in Support of Measure.

Under Elections Code section 9282, a ballot argument on this City Council-sponsored measure may be authored by the City Council, or any members of the Council authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations. The City Council is asked to designate, by motion, two of its members to author the ballot argument in support of the measure. The two names will be included in the resolution. The argument may not exceed three hundred (300) words. Those two members may solicit up to three additional signatories.

Impartial Analysis.

As required by the Elections Code, the City Attorney will prepare an impartial analysis of the measure, not to exceed five hundred (500) words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit the impartial analysis to the Elections Division by the deadline set by the Elections Office.

Roles and Limitations During Ballot Measure Campaign Period.

The City can provide educational materials to the public, informing them about the Measure. But the City cannot expend any time, money, staff resources, or effort advocating a position supporting passage of the ballot measure. Councilmembers and staff can work on the campaign on their own time and at their own expense, provided it is made clear that they are doing so on their own time and not with City resources. The City Attorney will provide further guidance on this if the Resolution is adopted.

**OUTSTANDING ISSUES**

None

**FISCAL IMPACT**

Cost of placing initiative on the ballot: \$4,000-\$6,000.

Potential revenue of \$550,000-\$750,000 annually.

**PUBLIC HEARING**

If the proposed resolution is adopted and the ordinance is introduced, the ordinance will be considered for adoption at a public hearing.

Attachment:

- A. Resolution w/Exhibit

Attachment 'A'

**RESOLUTION NO. 16 -\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN, CALIFORNIA, SUBMITTING TO CITY VOTERS AT THE NEXT REGULAR MUNICIPAL ELECTION TO BE HELD NOVEMBER 8, 2016, A BALLOT MEASURE TO ADOPT AN ORDINANCE APPROVING A RETAIL TRANSACTIONS AND USE SPECIAL TAX FOR CAPITAL PROJECTS FOR PUBLIC SAFETY, PARKS, AND DOWNTOWN REVITALIZATION AND REQUESTING THAT THE BOARD OF SUPERVISORS CONSOLIDATE THAT ELECTION WITH THE STATEWIDE ELECTION HELD ON THAT SAME DATE.**

WHEREAS, the City of Kerman provides essential public safety and park services to the residents of Kerman; and

WHEREAS, a vibrant and healthy downtown promotes economic well-being and growth for the City and encourages new business development in the City; and

WHEREAS, the City General Fund lacks funds for capital projects such as a new police department, animal kennel, senior center, youth center, park development, and similar projects; and

WHEREAS, the City Council has held meetings on March 2, March 16, and April 6, 2016, to discuss and consider a potential sales tax for designated purposes; and

WHEREAS, the City Council has reviewed its economic forecast and determined that without an additional revenue source, the City will be unable to provide essential capital projects for public safety and parks; and

WHEREAS, at its meeting of April 6, 2016, the Council considered a staff report, public testimony, and deliberated on the matter regarding submitting a ballot measure to the voters concerning a Special Sales Tax; and

WHEREAS, the City Council desires to submit to the voters of the City of Kerman a ballot measure proposal to add Chapter 3.16A to Title 3 of the Kerman Municipal Code to impose a .75% transactions and use tax on retail sales in the City pursuant to California Revenue and Taxation Code Sections 7251 et seq., and 7285.9 et seq.; and

WHEREAS, the proposed special tax will be dedicated exclusively to capital projects for public safety and parks as well as a nominal percent for downtown revitalization; and

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

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

SECTION 1. The City Council submits to the voters of the City of Kerman at its next regular municipal election to be held on November 8, 2016, a ballot measure for consideration of an ordinance for establishment of a Special Sales Tax for Public Safety and Parks Capital Projects and Downtown Revitalization.

SECTION 2. The City Council requests the Fresno County Board of Supervisors that the election for this measure be consolidated with the statewide election also held on November 8, 2016.

SECTION 3. The question to be submitted to the voters with respect to the ballot measure shall be printed on the election ballot with the title and in the form set forth as follows:

|   |     |
|---|-----|
| MEASURE __<br><br>SALES TAX ORDINANCE FOR CAPITAL PROJECTS FOR PUBLIC SAFETY, PARKS, AND DOWNTOWN REVITALIZATION.   | YES |
| Shall the City of Kerman approve a ¾ cent sales tax dedicated and expended only for capital projects for Public Safety and Parks such as: new police station, senior center, youth center, animal kennel, parks development and up to 10% of the tax for downtown revitalization capital projects subject to annual audit, review, and Citizen Oversight Committee? | NO  |

SECTION 4. The following constitutes the synopsis of the measure to be voted on for purposes of meeting the publication requirements of Elections Code Section 12111:

**MEASURE TO BE VOTED ON**

Notice is hereby given that the following measure is to be voted on at the general municipal election to be held in the City of Kerman, on Tuesday, the 8<sup>th</sup> day of November, 2016.

ADOPTION OF ORDINANCE APPROVING A THREE QUARTER CENT (.75%) TRANSACTIONS AND USE TAX FOR CAPITAL PROJECTS FOR PUBLIC SAFETY, PARKS AND DOWNTOWN REVITALIZATION.

The proposed ordinance would approve a ¾ cent (.75%) sales tax dedicated and expended only for capital projects for Public Safety and Parks such as a new police station, senior center, youth center, animal kennel, parks development. Up to ten percent of the proposed ordinance revenues may also be expended for downtown revitalization. The sales tax would be subject to an annual audit and annual review report as well as a Citizens Oversight Committee.

\_\_\_\_\_  
City Elections Official

Dated: \_\_\_\_\_

City of Kerman

SECTION 5. The full text of the ordinance submitted to the voters is attached as Exhibit 'A'. The full text of the proposed ordinance is not required to be printed in the Sample Ballot and Voters Pamphlet. However, the full text of the measure shall be made available at the Office of the Fresno County Clerk/Registrar of Voters and the Kerman City Clerk's Office.

SECTION 6. Passage of this measure requires a two-thirds majority of votes.

SECTION 7. The City of Kerman requests that the Fresno County Clerk/Registrar of Voters conduct the election and canvass the returns, and the City consents to reimburse the Registrar of Voters for all costs incurred by said services.

SECTION 8. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 9. Arguments in favor or against the proposed measure are permissible and shall be filed with the Fresno County Clerk/Registrar in accordance with Elections Code Section 9282. \_\_\_\_\_ and \_\_\_\_\_ are authorized to prepare and file a written argument in favor of the proposed measure not to exceed 300 words on behalf of the City Council. The City Manager is authorized to provide input to the Fresno County Clerk/Registrar in determining a letter designation for this measure. In the event that an argument is filed against the Measure, \_\_\_\_\_ and \_\_\_\_\_ are also authorized to submit a rebuttal argument on behalf of the City Council.

SECTION 10. The Fresno County Clerk/Registrar of Voters shall give the appropriate notices for the election and shall conduct the election pursuant to appropriate provisions of state law. The City of Kerman acknowledges the Fresno County Clerk/Registrar may conduct the election in accordance with Elections Code 10418.

SECTION 11. The City Attorney shall prepare an impartial analysis of the measure in accordance with Elections Code Section 9280 and file it with the Fresno County Clerk/Registrar of Voters.

SECTION 12. The City Clerk shall file a certified copy of this resolution with the Fresno County Clerk/Registrar of Voters as required by applicable law. The City Clerk is hereby authorized and directed to work with the Fresno County Clerk/Registrar of Voters and take all steps necessary to cause placement of the Measure on the ballot.

SECTION 13. The City Clerk and City Attorney are authorized to make any typographical, clerical, non-substantive corrections to this resolution as may be deemed necessary by the Fresno County Clerk/Registrar of Voters.

The foregoing City of Kerman Resolution was adopted at a regular meeting of the City Council of the City of Kerman held on the \_\_\_ day of \_\_\_\_\_, 2016 and passed at said meeting by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The foregoing resolution is hereby approved.

\_\_\_\_\_  
Stephen B. Hill  
Mayor

ATTEST:

\_\_\_\_\_  
Marci Reyes  
City Clerk

Exhibit A'

ORDINANCE NO. 16-\_\_\_

**AN ORDINANCE OF THE CITY OF KERMAN ADDING CHAPTER 3.16A TO THE KERMAN MUNICIPAL CODE IMPOSING A SPECIAL THREE QUARTER CENT (.75 %) TRANSACTIONS AND USE TAX FOR CAPITAL PROJECTS FOR PUBLIC SAFETY, PARKS, AND DOWNTOWN REVITALIZATION**

THE PEOPLE OF THE CITY OF KERMAN DO ORDAIN AS FOLLOWS:

**SECTION 1.** Chapter 3.16A is added to Title 9 of the Kerman Municipal Code to read as follows:

**CHAPTER 3.16A**

**TRANSACTIONS AND USE TAX FOR CAPITAL PROJECTS RELATING TO PUBLIC SAFETY, PARKS, AND DOWNTOWN REVITALIZATION**

Sections:

- 3.16.010A Title.
- 3.16.020A Operative Date.
- 3.16.030A Purpose.
- 3.16.040A Use of Tax Revenue-Deposit in Special Fund.
- 3.16.050A Annual Audit and Citizen Oversight.
- 3.16.060A Contract with State.
- 3.16.070A Transactions Tax Rate.
- 3.16.080A Place of Sale.
- 3.16.090A Use Tax Rate.
- 3.16.100A Adoption of Provisions of State Law.
- 3.16.110A Limitations on Adoption of State Law and Collection of Use Taxes.
- 3.16.120A Permit Not Required.
- 3.16.130A Exemptions and Exclusions.
- 3.16.140A Amendments.
- 3.16.150A Enjoining Collection Forbidden.
- 3.16.160A Severability

**3.16.010A. Title.** This ordinance shall be known as the Transactions and Use Tax Ordinance for Capital Projects Relating to Public Safety, Parks, and Downtown Revitalization. The City of Kerman hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

**3.16.020A. 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.

**3.16.030A. 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 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if two-thirds 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.

### **3.16.040A Use And Expenditure of Tax Revenue-Deposit in Special Fund.**

A. The proceeds of the tax imposed by this Chapter shall be placed in a special fund and shall be dedicated and used only for City Council approved purposes set forth in this Section B. The Director of Finance shall establish and keep such accounts as may be necessary to account for said taxes.

B. All of the taxes collected under this Chapter shall be expended only for the following purposes:

1. Capital Projects for Public Safety and Parks such as a new police station, a senior center, youth recreation center, an animal kennel, park development and other similar projects.

2. Downtown Revitalization so long as such expenditures do not exceed ten percent (10 %) of the revenue generated by the taxes.

### **3.16.050A Annual Audit, Report, and Citizen Oversight.**

A. The revenues from the tax imposed by this Chapter shall be subject to the annual audit performed by the City's independent auditor of the City's books, records, accounts, and fiscal procedures and which is reported in the City's Comprehensive Annual Financial Report.

B. In addition to the annual audit, an Annual Review Report shall be prepared by the City setting forth the amount of revenues received from the tax imposed by this Chapter, amount of disbursements, and description of expenditures. The purpose is to assure accountability and the proper disbursement of the proceeds of the taxes collected under this ordinance. The Annual Review Report shall be filed in the City Clerk's Office not later than January 1 of each fiscal year in which the tax is collected.

C. A Special Sales Tax Oversight Committee comprised of City Residents shall be established by the City Council to review the Annual Review Report and related records and to make comments and recommendations to the City Council to ensure compliance with this ordinance.

**3.16.060A 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.

**3.16.070A 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 three quarter cent (.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.

**3.16.080A 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.

**3.16.090A 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 three quarter cent (.75 %) 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.

**3.16.100A 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.

**3.16.110A 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, Victim Compensation and Government Claims Board, 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.

**3.16.120A 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.

**3.16.130A Exemptions and Exclusions.**

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

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part

1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

**3.16.140A 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. The foregoing amendments shall not require voter approval.

B. The following amendments to this ordinance must be approved by the voters of the City: (i) increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; (ii) imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of preceding paragraph A); (iii) amending the purposes and/or use for which the tax is collected.

**3.16.150A 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.

**3.16.160A 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 2. Compliance with the California Environmental Quality Act.** The approval of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code Sections 21000 *et seq.*, "CEQA," and 14 Cal. Code Reg. Sections 15000 *et seq.*, "CEQA Guidelines"). This ordinance imposes a special tax that can be used only for any legitimate governmental purpose as specified in the ordinance. It is not a commitment to any specific project that may result in a potentially significant physical impact on the environment.

**SECTION 3. Two-Thirds Voter Approval.** The tax imposed by this ordinance is a special tax. This tax shall be effective only if approved by two-thirds of the City's voters voting thereon at the November 8, 2016, City election.

**SECTION 4. Effective Date.** This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

**SECTION 5. Certification and Publication.** The City Clerk shall certify the final approval of this Ordinance, publish the same as required by law, and forward a copy of the adopted Ordinance to the Board of Equalization.

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The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Kerman held on \_\_\_\_\_, 2016, and was passed and approved for placement on the ballot by a 2/3 vote of the City Council at a regular meeting of the City Council held on \_\_\_\_\_, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The foregoing ordinance was adopted by the voters of the City of Kerman at the regular election held on November 8, 2016 by the following vote:

YES:

NO:

The foregoing ordinance is hereby approved.

\_\_\_\_\_  
Stephen B. Hill  
Mayor

ATTEST:

\_\_\_\_\_  
Marci Reyes  
City Clerk