

**AGREEMENT FOR STATE ADMINISTRATION  
OF CITY TRANSACTIONS AND USE TAXES**

The City Council of the City of Chula Vista has adopted, and the voters of the City of Chula Vista (hereafter called "City") have approved by the required majority vote, the City of Chula Vista Transactions and Use Tax Ordinance (hereafter called "Ordinance"), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the State Board of Equalization, (hereinafter called the "Board") and the City do agree as follows:

**ARTICLE I**

**DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section 7285.9, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.
2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. 3371, as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II**

**ADMINISTRATION AND COLLECTION  
OF CITY TAXES**

**A. Administration.** The Board and City agree that the Board shall perform exclusively all functions incident to the administration and operation of the City Ordinance.

**B. Other Applicable Laws.** City agrees that all provisions of law applicable to the administration and operation of the State Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Board pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

**C. Transmittal of money.**

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City's self-imposed limits or by final judgment of any court of the State of California holding that City's ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

**D. Rules.** The Board shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

**E. Preference.** Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Board shall give no preference in applying money received for state sales and use taxes, stated-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.

**F. Security.** The Board agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Board shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Board.

**G. Records of the Board.**

When requested by resolution of the legislative body of the City under section 7056 of the Revenue and Taxation Code, the Board agrees to permit authorized personnel of the City to examine the records of the Board, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the City, pertaining to the

ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Board's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Board pursuant to this Agreement.

**H. Annexation.** City agrees that the Board shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Board. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

### ARTICLE III

#### ALLOCATION OF CITY TAX

**A. Allocation.** In the administration of the Board's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interests appear, or, in the discretion of the Board, to all districts with which the Board has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Board, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which determination, billing, refund or credit applies.

**B. Vehicles, Vessels, and Aircraft.** For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Board in determining the place of use.

**ARTICLE IV**  
**COMPENSATION**

The City agrees to pay to the Board as the Board's cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Board for the City.

**ARTICLE V**  
**MISCELLANEOUS PROVISIONS**

**A. Communications.** Communications and notices may be sent by first class United States mail to the address listed below, or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization  
P.O. Box 942879, MIC: 27  
Sacramento, California 94279-0027

Attention: Administrator  
Local Revenue Branch

Communications and notices to be sent to City shall be addressed to:

City of Chula Vista  
Finance Department  
276 4<sup>th</sup> Avenue  
Chula Vista, California 91910

Attention: Director of Finance

**Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.**

**B. Term.** The date of this Agreement is the date of which it is approved by the Department of General Services. The Agreement shall take effect on April 1, 2017. This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Board completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

**C. Notice of Repeal of Ordinance.** City shall give the Board written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.

**ARTICLE VI**  
ADMINISTRATION OF TAXES IF THE  
ORDINANCE IS CHALLENGED AS BEING INVALID

**A. Impoundment of funds.**

1. When a legal action is begun challenging the validity of the imposition of the tax, the City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II.C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall transmit to the Board the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

**B. Costs of administration.** Should a final judgment be entered in any court of the State of California, holding that City's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Board may retain all payments made by City to Board to prepare to administer the City Ordinance.

2. City will pay to Board and allow Board to retain Board's cost of administering the City Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Board or to the State of California the amount of any taxes plus interest and penalties, if any, that Board or the State of California may be required to rebate or refund to taxpayers.

4. City will pay to Board its costs for rebating or refunding such taxes, interest, or penalties. Board's costs shall include its additional cost for developing procedures for processing the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Board's staff for use in making these rebates or refunds and any other costs incurred by Board which are reasonably appropriate or necessary to

make those rebates or refunds. These costs shall include Board's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting and personnel records currently maintained by the Board. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Board in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Board in connection with such refunds shall be billed by Board on or before the 25<sup>th</sup> day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Board shall bill City on or before the 25<sup>th</sup> day of each month for all costs incurred by Board for the preceding calendar month. City shall pay to Board the amount of such costs on or before the last day of the succeeding month and shall pay to Board the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Board costs incurred in making those refunds.

CITY OF CHULA VISTA

STATE BOARD OF EQUALIZATION

By \_\_\_\_\_  
Gary Halbert, City Manager

By \_\_\_\_\_  
Administrator

DATE: 12/14/14

BY: [Signature]  
for CITY CLERK

ORDINANCE NO. 3371

ORDINANCE OF THE CITY OF CHULA VISTA ADDING  
CHAPTER 3.33 TO TITLE 3 OF THE CHULA VISTA  
MUNICIPAL CODE TO ESTABLISH A TEMPORARY ONE-  
HALF CENT GENERAL TRANSACTIONS AND USE TAX TO  
BE ADMINISTERED BY THE STATE BOARD OF  
EQUALIZATION INCLUDING PROVISIONS FOR CITIZENS'  
OVERSIGHT AND ACCOUNTABILITY

WHEREAS, numerous City facilities, including streets, storm drains, sidewalks, curbs, gutters, emergency response equipment and facilities, irrigation systems, park and recreation facilities, and libraries, are in dire need of repair, replacement, upgrading and/or maintenance; and

WHEREAS, the City has conducted significant public outreach to identify the most critical needs and priorities with respect to addressing the City's infrastructure needs, including forming a working group composed of City residents, business owners, and other stakeholders; and

WHEREAS, the public outreach efforts identified certain public priorities with respect to fixing City facilities, including: repairing City streets, potholes, sidewalks, and storm drains; upgrading aging police, fire, and 911 emergency response facilities; maintaining parks, recreation centers, and libraries; and improving water recycling and irrigation systems (collectively, "City Infrastructure, Facilities and Equipment Priorities"); and

WHEREAS, although the City's finances have improved since the recent recession, it is still experiencing financial challenges and is unable to address the City's infrastructure deficiencies within its current budget; and

WHEREAS, the City has determined that the enactment of a general local transactions and use tax (commonly known as a "sales tax") would allow the City to address the City Infrastructure, Facilities and Equipment Priorities identified above without compromising existing City services; and

WHEREAS, pursuant to Article XIII C of the California Constitution, and California Revenue and Taxation Code Section 7285.9, the City has the authority to enact a local sales tax for general purposes with the approval of the majority of voters in the City voting in an election on the issue; and

WHEREAS, the City Council directed staff to prepare for submittal to the voters an ordinance enacting a one-half cent sales tax for 10 years consistent with all applicable general purpose tax laws, including measures providing for citizens' oversight, separate accounting and independent audits; and

WHEREAS, proposed Chapter 3.33 of the Chula Vista Municipal Code, set forth below, establishes a transactions and use tax to be administered by the State Board of Equalization consistent with City Council direction; and

WHEREAS, concurrently herewith the City Council is adopting a spending plan expressing its intention to expend new sales tax revenues on City Infrastructure, Facilities and Equipment Priorities, as more particularly described therein (the "City Council Intended Infrastructure, Facilities and Equipment Expenditure Plan").

NOW, THEREFORE, subject to approval by an affirmative, simple majority vote of the people as required by law, the People of the City of Chula Vista do ordain as follows:

SECTION 1:

The Chula Vista Municipal Code is hereby amended to add Chapter 3.33 as set forth below, thereby enacting a local transactions and use tax within the City of Chula Vista, to be administered by the State Board of Equalization:

CHAPTER 3.33  
CHULA VISTA TEMPORARY ONE-HALF CENT SALES TAX

Sections:

- 3.33.010 Title.
- 3.33.020 Purpose.
- 3.33.030 Operative date.
- 3.33.040 Transactions and use tax imposition and rate.
- 3.33.050 Termination date.
- 3.33.060 Contract with State Board of Equalization.
- 3.33.070 Place of sale.
- 3.33.080 Adoption of provisions of state law.
- 3.33.090 Limitations on adoption of state law and collection of use taxes.
- 3.33.100 Permit not required.
- 3.33.110 Exemptions and Exclusions.
- 3.33.120 Amendments of Revenue and Taxation Code.
- 3.33.130 Enjoining collection forbidden.
- 3.33.140 Amendments by City Council.
- 3.33.150 Use of Proceeds.
- 3.33.160 Citizens' oversight and accountability.
- 3.33.170 Severability.

3.33.010 TITLE.

This ordinance shall be known as the Chula Vista Temporary One-Half Cent Sales Tax Ordinance. The City of Chula Vista hereinafter shall be called "City." This Ordinance shall be applicable in the incorporated territory of the City.



3.33.020 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 vote 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.

3.33.030 OPERATIVE DATE.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the approval of the voters of the City of a measure approving the imposition of the transactions and use tax set forth herein, unless a later Operative Date becomes effective under the provisions of Section 3.33.060.

3.33.040 TRANSACTIONS AND USE TAX IMPOSITION AND RATE.

A. 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 Ordinance.

B. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this Ordinance for storage, use or other consumption in said territory at the rate of one-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.

### 3.33.050 TERMINATION DATE.

The authority to levy the tax imposed by this Ordinance shall expire ten (10) years following the Operative Date.

### 3.33.060 CONTRACT WITH STATE BOARD OF EQUALIZATION.

Prior to the Operative Date, City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this 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 effective date of such a contract.

### 3.33.070 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.

### 3.33.080 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.

### 3.33.090 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 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 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.

### 3.33.100 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 Ordinance.

### 3.33.110 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 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 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 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 subsections (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 consumptions of which is subject to the use tax.

### 3.33.120 AMENDMENTS TO REVENUE AND TAXATION CODE.

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.

3.33.130 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 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.

3.33.140 AMENDMENTS BY CITY COUNCIL.

The following amendments to this Ordinance must be approved by the voters of the City: increasing the tax rate; 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 law); or extending the term of the tax. The City Council may otherwise amend this Ordinance without submitting the amendment to the voters for approval.

3.33.150 USE OF PROCEEDS.

The proceeds from the tax imposed by this Ordinance shall be for general governmental purposes of the City and shall be received into the general fund of the City. Nothing in this Ordinance shall constitute the tax imposed under this Ordinance as a special tax, or bind the City to use the proceeds for any specific purpose or function; the City Council shall retain discretion to expend the proceeds of the tax for any lawful purpose of the City.

3.33.160 CITIZENS' OVERSIGHT AND ACCOUNTABILITY.

In order to provide for citizens' oversight, transparency and accountability in connection with expenditures of tax revenues generated under the terms of this Ordinance, the City shall do the following:

A. Separate Fund Accounting. All revenue generated by the tax shall be accounted in the General Fund as a separate line item entitled "Local Sales and Use Tax – Measure 'P' Revenues." These revenues will then be transferred to a General Fund subfund entitled "Measure 'P' Fund." Any and all expenditures of Measure 'P' Fund monies will be tracked and accounted for by City Finance Department staff in accordance with Generally Accepted Accounting Principles (GAAP), and presented annually in a report (the "Finance Department Report") to the Citizens' Oversight Committee ("COC") created pursuant to subdivision D. below.

B. Initial and Annual Submittal of Measure 'P' Spending Plan. If Measure 'P' is approved by the voters, within 30 days after such approval the City Manager shall bring forth for City Council consideration and action, in its discretion, proposed budget amendments and financing options to accelerate large-scale projects for fiscal year 2016-17 that would fund and implement the City Council Intended Infrastructure, Facilities and Equipment Expenditure Plan that was approved by the City Council concurrent with this Ordinance, using Measure 'P' fund revenues. For each subsequent year, prior to City Council consideration of the City's annual budget, City staff will prepare and present to the COC for its review a spending plan for Measure

'P' Fund revenues. Such plan (the "Measure 'P' Spending Plan") shall be consistent with the City Council Intended Infrastructure, Facilities and Equipment Expenditure Plan, include specific proposals for near term expenditures, a plan for expenditures throughout the 10-year term of the tax, and finance options for larger-scale projects that may require the pledge of Measure 'P' revenues. After review by the COC, the Measure 'P' Spending Plan shall be incorporated into the City Manager's proposed budget, and then presented to the City Council for its consideration and action, in its discretion, as part of the City's annual budget process. The City Council must consider for approval the expenditure of projected Measure 'P' Fund revenues as a separate line item category in each year's budget.

C. Annual, Independent Audit. Beginning with the fiscal year that ends June 30, 2017, the City's independent auditors shall, as part of their annual audit of the City's financial statements, review the collection and expenditure of revenue from the Measure 'P' tax. Along with the City's Finance Department Report provided in subsection A., above, the auditors' review of such revenues ("Auditor Report") shall be presented each year to the COC at a public meeting for its review for compliance with the terms of this Ordinance and to disclose whether or not it has been expended in accordance with the City Council approved Measure 'P' Spending Plan. The results of the COC review shall then be transmitted through the City Manager's Office to the City Council for its consideration at a public meeting.

D. Citizens' Oversight Committee. Prior to the Operative Date, the City shall create and convene a Citizens' Oversight Committee ("COC"). The function of the COC shall be to review and report on City compliance with the terms of this Ordinance and the spending guidelines contained in the City Council Intended Infrastructure, Facilities and Equipment Expenditure Plan and each Measure 'P' Spending Plan presented and approved by the City Council thereafter. Specific COC responsibilities shall include: (1) public review and comment on each year's Finance Department Report, Measure 'P' Spending Plan and Auditor Report (as provided in subsections A-C, above); (2) preparation of an annual report regarding same for presentation to the City Council at a public meeting; and (3) working with City staff to identify and apply "best practices" for tracking and reporting on Measure 'P' revenues and expenditures relative to other City revenues and expenditures- Current elected City officials and employees are disqualified from membership. COC members shall be appointed by the City Council in accordance with existing City policies and will include individuals with a range of expertise, including accounting, finance and engineering. The COC shall operate in accordance with the Ralph M. Brown Act, which includes requirements that meetings be noticed in advance and held in public. The COC shall be created by City Council ordinance consistent with the terms of this Section adopted no later than December 31, 2016.

### 3.33.170 SEVERABILITY.

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 2:

The City Clerk shall be authorized to replace the term "Measure X" wherever it appears in this Ordinance with the respective ballot designations determined by the County Registrar before this Ordinance is codified.


SECTION 3:

This Ordinance shall take effect immediately, upon approval by a simple majority of the voters voting on the question at the November 8, 2016 election.

Presented by

Approved as to form by

  
\_\_\_\_\_  
Gary Halbert  
City Manager

  
\_\_\_\_\_  
Glen R. Googins  
City Attorney



PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 2nd day of August 2016, by the following vote:

AYES: Councilmembers: Aguilar, Bensoussan, Miesen, and Salas

NAYS: Councilmembers: McCann

ABSENT: Councilmembers: None

Mary Salas  
Mary Salas, Mayor

ATTEST:

Donna R. Norris  
Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA     )  
COUNTY OF SAN DIEGO    )  
CITY OF CHULA VISTA     )

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3371 had its first reading at a regular meeting held on the 12th day of July 2016 and its second reading and adoption at a regular meeting of said City Council held on the 2nd day of August 2016; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

August 16, 2016  
Dated

Donna R. Norris  
Donna R. Norris, CMC, City Clerk