

C O U N T Y A D M I N I S T R A T O R



SUSAN S. MURANISHI
COUNTY ADMINISTRATOR

March 11, 2021

Honorable Board of Supervisors
Administration Building
Oakland, CA 94612

Dear Board Members:

SUBJECT: ADOPT RESOLUTIONS DECLARING THAT MEASURE W, THE “COUNTY OF ALAMEDA SALES AND USE TAX” (NOVEMBER 2020) WAS APPROVED AND PASSED BY THE VOTERS, DIRECTING THE COUNTY ADMINISTRATOR TO CONTRACT WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION FOR IMPLEMENTATION OF MEASURE W, AND AUTHORIZING THE EXECUTION OF AGREEMENTS WITH CDTFA FOR COLLECTION OF THE TAX AND EXAMINATION OF THE TAX RECORDS

RECOMMENDATIONS:

- A. Adopt a Resolution declaring that Measure W, the “County of Alameda Sales and Use Tax” (November 2020) was approved and passed by the voters, and directing the County Administrator or her designee to contract with the California Department of Tax and Fee Administration (CDTFA) for collection of Transactions and Use Taxes from Measure W and take all necessary action for collection of the tax;
- B. Adopt a Resolution approving and authorizing the County Administrator or her designee to execute with CDTFA a “Preparatory Agreement” in an amount not to exceed \$175,000, effective upon execution and until the preparatory work necessary to administer the Measure W Ordinance has been completed; and an “Administration Agreement” for administration and operation of the Measure W Ordinance in an amount as provided by law, effective upon execution and until all work necessary to the administration of the Measure W Ordinance is completed;
- C. Adopt a Resolution authorizing the County Administrator or her designee and HdL & Associates to examine CDTFA’s Sales or Transactions and Use Tax Records for Measure W; and
- D. Direct the Auditor-Controller to deposit all revenue collected by CDTFA for Measure W into an interest-bearing escrow account.

DISCUSSION/SUMMARY:

California law allows cities and counties to increase by up to 2.0% the minimum transactions and use tax rate levied by the State (7.25%). Alameda County voters have passed several sales taxes to fund services such as health care and transportation. Several cities within Alameda County have also passed their own sales taxes. State law allowed additional sales tax authority until December 31, 2022 for Alameda County to enable a 0.5% sales tax increase countywide. Article XIII C of the California Constitution distinguishes locally imposed general taxes from special taxes and requires majority voter approval for general taxes and a two-thirds supermajority requirement for special taxes.

On July 28, 2020 your Board adopted an ordinance (Item Number 31) to establish a ten-year, one-half percent countywide general transactions and use tax, subject to voter approval. This measure is not earmarked for specific purposes and all proceeds will be placed in the County's general fund for purposes consistent with general fund expenditures. Measure W was placed on the November 3, 2020 ballot and was subsequently approved by a majority of the voters.

On December 31, 2020 the Alameda County Taxpayers Association, Inc. and other individuals filed a reverse validation action (*Alameda County Taxpayers Association, Inc., et al. v. County of Alameda, et al.*, Alameda County Superior Court Case No. RG20085082) challenging the validity of Measure W.

The Auditor-Controller shall establish an interest-bearing escrow account for all proceeds collected by the California Department of Tax and Finance Administration until the litigation is resolved. At that time, an item will be brought forward to your Board to disburse the funds in concert with the outcome of the litigation.

FINANCING:

Based upon the past five years of transactions and use tax revenues, Measure W is estimated to generate approximately \$150 million in annual revenues, although this amount may be decreasing based upon COVID-19-related impacts.

VISION 2026 GOAL:

The revenues generated from Measure W support the Shared Visions of a **Thriving and Resilient Population** and a **Prosperous and Vibrant Economy** by increasing the County's ability to meet the basic needs of Alameda County.

Very truly yours,



Susan S. Muranishi
County Administrator

c: Auditor-Controller
County Counsel

BOARD OF SUPERVISORS, COUNTY OF ALAMEDA

STATE OF CALIFORNIA

RESOLUTION NO. 2021- 113

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA DECLARING THAT MEASURE W, THE "COUNTY OF ALAMEDA SALES AND USE TAX" ORDINANCE, ON THE NOVEMBER 3, 2020 ALAMEDA COUNTY GENERAL ELECTION WAS APPROVED AND PASSED BY THE VOTERS, AND DIRECTING THE COUNTY ADMINISTRATOR TO CONTRACT FOR COLLECTION OF THE TAX

WHEREAS, pursuant to law, a General Election was duly and regularly held in the County of Alameda on Tuesday, November 3, 2020; and

WHEREAS, the Alameda County Registrar of Voters has prepared and submitted a certified statement of the results of said General Election; and

WHEREAS, the Alameda County Registrar of Voters canvassed the election returns of said General Election for Measure W, the "County of Alameda Sales and Use Tax" Ordinance which proposed a 10 year, one-half percent (0.5%) sales and use tax increase with all proceeds placed in the County's general fund for purposes consistent with general fund expenditures; and

WHEREAS, the Alameda County Registrar of Voters certified the results for the General Election for Measure W, which received 358,123 affirmative votes for the Measure and 356,812 votes against the Measure; and

WHEREAS, California Elections Code Section 15400 provides that the governing body shall declare the results of each election under its jurisdiction as to the measures voted on at the election;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA HEREBY RESOLVES AND ORDERS AS FOLLOWS:

SECTION 1

The Board of Supervisors declares the results of the November 3, 2020 General Election conducted in the County of Alameda, as certified by the Alameda County Registrar of Voters, that Measure W, the County of Alameda Sales and Use Tax Ordinance, received an affirmative vote of more than a majority of the votes cast and therefore was approved and passed by the voters.

SECTION 2

The County Administrator is directed and authorized to contract with the California Department of Tax and Fee Administration, which performs all functions incident to the administration and operation of the tax approved by Measure W, for collection of the Measure W tax. The County Administrator is further directed and authorized to take all necessary actions for collection of the Measure W tax.

SECTION 3

This resolution is effective immediately upon adoption.

SECTION 4

The foregoing is **PASSED** and **ADOPTED** by the Board of Supervisors of the County of Alameda, State of California, on this 16th day of March 2021, by the following called vote:

AYES: Supervisors Chan, Haubert, Miley, Valle & President Carson - 5

NOES: None

EXCUSED: None



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:
CLERK OF THE BOARD OF SUPERVISORS

By: R. Bailey, Deputy

APPROVED AS TO FORM:
DONNA R. ZIEGLER, COUNTY COUNSEL

By: Farand Kan
Farand Kan
Deputy County Counsel

BOARD OF SUPERVISORS, COUNTY OF ALAMEDA

STATE OF CALIFORNIA

RESOLUTION NO. 2021-114

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX.

WHEREAS, on March 16, 2021 the Board of Supervisors of the County of Alameda adopted Resolution Number 2021-114 approving the "County of Alameda Sales and Use Tax" Ordinance on the November 3, 2020 Alameda County General Election, amending the County Ordinance Code (2.08.400-2.08.420) and providing for a local transactions and use tax; and

WHEREAS, the California Department of Tax and Fee Administration (Department) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

WHEREAS, the Department will be responsible to administer and collect the transactions and use tax for the County; and

WHEREAS, the Department requires that the County enter into a "Preparatory Agreement" and an "Administration Agreement" prior to implementation of said taxes, and

WHEREAS, the Department requires that the Board of Supervisors authorize the agreements;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA HEREBY RESOLVES AND ORDERS AS FOLLOWS:

SECTION 1

The "Preparatory Agreement" attached as Exhibit A and the "Administrative Agreement" attached as Exhibit B are hereby approved and the County Administrator is hereby authorized to execute each agreement.

SECTION 2

This resolution is effective immediately upon adoption.

SECTION 3

The foregoing is **PASSED** and **ADOPTED** by the Board of Supervisors of the County of Alameda, State of California, on this 16th day of March 2021, by the following called vote:

AYES: Supervisors Chan, Haubert, Miley, Valle & President Carson – 5

NOES: None

EXCUSED: None



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:
CLERK OF THE BOARD OF SUPERVISORS

By: RBailey, Deputy

APPROVED AS TO FORM:
DONNA R. ZIEGLER, COUNTY COUNSEL

By: Farand Kan
Farand Kan
Deputy County Counsel

BOARD OF SUPERVISORS, COUNTY OF ALAMEDA

STATE OF CALIFORNIA

RESOLUTION NO. 2021-115

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA
AUTHORIZING EXAMINATION OF SALES OR TRANSACTIONS AND USE TAX RECORDS

WHEREAS, on March 16, 2021 the Board of Supervisors of the County of Alameda adopted Resolution Number 2021-115, approving the "County of Alameda Sales and Use Tax" Ordinance that appeared on the November 3, 2020 Alameda County General Election, amending the County Ordinance Code (2.08.400-2.08.420) and providing for a local transactions and use tax; and

WHEREAS, pursuant to the County of Alameda Sales and Use Tax Ordinance, the County of Alameda (County) shall enter into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of sales or transactions and use taxes; and

WHEREAS, pursuant to Revenue and Taxation Code section 7270, the County entered into a contract with the Department to perform all functions incident to the administration and collection of transactions and use taxes; and

WHEREAS, the Board of Supervisors of the County of Alameda deems it desirable and necessary for authorized officers, employees and representatives of the County to examine confidential sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected by the Department for the County pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Department records, and Section 7056.5 of the California Revenue and Taxation Code establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales or transactions and use tax records of the Department;

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA
HEREBY RESOLVES AND ORDERS AS FOLLOWS:

SECTION 1

That the County Administrator, or other officer or employee of the County designated in writing by the County Administrator to the California Department of Tax and Fee Administration is hereby appointed to represent the County with authority to examine sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected for the County by the Department pursuant to the contract between the County and the Department.

SECTION 2

The information obtained by examination of Department records shall be used only for purposes related to the collection of County sales or transactions and use taxes by the Department pursuant to that contract, and for purposes related to the following governmental functions of the County:

- (a) Revenue management.

The information obtained by examination of Department records shall be used only for those governmental functions of the County listed above.

SECTION 3

That Hinderliter, de Llamas & Associates is hereby designated to examine the sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected for the County by the Department. The person or entity designated by this section meets all of the following conditions, which are also included in the contract between the County and Hinderliter, de Llamas & Associates:

- a) has an existing contract with the County to examine those sales or transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the officer or employee authorized under Section 1 of this resolution to examine the information.

- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;
- d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

BE IT FURTHER RESOLVED, that the information obtained by examination of Department records shall be used only for purposes related to the collection of County sales or transactions and use taxes by the Department pursuant to the contract between the County and the Department and for those purposes relating to the governmental functions of the County listed in section 2 of this resolution.

SECTION 4

This resolution is effective immediately upon adoption.

SECTION 5

The foregoing is **PASSED** and **ADOPTED** by the Board of Supervisors of the County of Alameda, State of California, on this 16th day of March 2021, by the following called vote:

AYES: Supervisors Chan, Haubert, Miley, Valle & President Carson - 5

NOES: None

EXCUSED: None



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:
CLERK OF THE BOARD OF SUPERVISORS

By: R Bailey, Deputy

APPROVED AS TO FORM:
DONNA R. ZIEGLER, COUNTY COUNSEL

By: Farand Kan
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Farand Kan
Deputy County Counsel