



Council Agenda Report

To: Mayor Grisanti and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Deputy City Manager

Reviewed by: Joseph D. Toney, Assistant City Manager

Approved by: Steve McClary, City Manager

Date prepared: July 18, 2022

Meeting date: August 8, 2022

Subject: Submission of a Proposed Measure to the Voters to Impose a One-Half Cent ($\frac{1}{2}$ ¢) Transactions and Use Tax

RECOMMENDED ACTION: 1) Adopt Resolution No. 22-34 ordering the submission of a proposed measure that would impose a one-half cent ($\frac{1}{2}$ ¢) Transactions and Use Tax at the General Municipal Election to be held on Tuesday, November 8, 2022, and directing the City Attorney to prepare an impartial analysis; 2) Adopt Resolution No. 22-35 consolidating a general municipal election to be held on November 8, 2022 with the statewide general election to be held on that date; 3) Adopt Resolution No. 22-36 setting priorities for filing written arguments regarding the submission of a proposed measure that would impose a one-half cent ($\frac{1}{2}$ ¢) Transactions and Use Tax at the General Municipal Election to be held on Tuesday, November 8, 2022; and 4) Consider whether to authorize up to two Councilmembers to author an argument in support of the proposed measure (and rebuttal arguments) on behalf of the Council on their personal time.

FISCAL IMPACT: No additional appropriation is required. It is anticipated that there is adequate funding for the costs associated with adding a ballot measure to the November 8, 2022 General Election ballot including in the Adopted Budget for Fiscal Year 2022-2023 in Account No. 100-7007-5150 (City Clerk - Elections).

The City has the authority to levy a district sales tax commonly referred to as a local transactions and use tax (TUT) for general purposes pursuant to Revenue and Taxation Code section 7285.9. The tax is subject to the rate limitation specified in statute and can only go into effect if approved by voters. The City's sales tax consultant, HdL Companies

estimates that a one-half cent ($\frac{1}{2}$ ¢) Transaction and Use Tax (TUT) is estimated to yield approximately \$2.88 million annually.

If approved by Malibu voters, the collection of the TUT would be administered by the California Department of Tax and Fee Administration (CDTFA).

Per the Revenue and Taxation Code section 7272, the CDTFA will bill a new special taxing jurisdiction for preparatory charges to administer the new district tax based on actual costs after the tax has been approved by the voters. These costs include but are not limited to updating returns, programming for data processing, developing and adopting regulations, developing procedures, updating publications, notifying taxpayers, and CDTFA's eligible indirect costs. The actual costs to be charged to the City are unknown at this time; however, the statutory maximum amount of preparatory costs shall not exceed \$175,000. In addition, CDTFA will charge ongoing administration costs the which will be calculated by a state costing model.

In 1979, California voters approved Proposition 4 and created Article XIII B of the State Constitution, a state law that requires the state and local governments to adopt an annual appropriation limit. This limit, also referred to as the "Gann Limit," establishes a limit on the proceeds of taxes that may be appropriated for spending in a given fiscal year. The limit allows the City's spending of tax proceeds to increase only by population growth and cost-of-living factors from the base year of 1978-1979. In June 1990, Proposition 111 was passed which changed the way the limit is calculated and enabled cities to increase the limit annually in two ways. First, by a percentage equal to the increase from the preceding year in county or city population (whichever is greater); and second by an amount equal to the change in per capita personal income in California or the change in the assessment roll the preceding year due to the addition of local nonresidential new construction (whichever is greater). The calculations also allow for exclusions of certain costs to the appropriations subject to the limit including but not limited to debt service, qualified capital outlay and the costs of complying with a federal mandate.

The City establishes the appropriation limit each fiscal year. On June 13, 2022, the Council adopted Resolution No. 22-23 establishing the appropriations limit of \$31,507,804 for Fiscal Year 2022-23. The appropriations included as part of Adopted Budget for Fiscal Year 2022-23 were \$3,347,683 under the limit. HdL Companies' revenue estimate of \$2.88 million from a one-half cent ($\frac{1}{2}$ ¢) TUT is within this limit. If the proposed TUT is approved by voters, the City will need to monitor this going forward.

WORK PLAN: This item was included as item #6.c. in the Adopted Work Plan for Fiscal Year 2021-2022.

DISCUSSION: Over the last year, the City Council has considered various potential revenue generating measures including TUT. On July 11, 2022, the Council directed staff to bring back resolutions to submit the question to the voters, setting priorities for arguments and rebuttals to impose a one-half cent ($\frac{1}{2} \phi$) TUT and direct the City Attorney to prepare an impartial analysis.

Staff has worked with the City Attorney's office to prepare Resolution No. 22-34 (Attachment 1) ordering the submission of the proposed measure on the November 8, 2022 ballot and placing the following question on the ballot:

“To support such city services as public safety, crime and fire prevention, addressing homelessness, keeping public areas safe and clean, preventing speeding and reckless driving, protecting coastal waters and beaches from pollution, preserving natural areas, supporting local businesses, and other general city services; shall a measure be adopted establishing a $\frac{1}{2}\phi$ transactions and use (sales) tax providing approximately \$3,000,000 annually until ended by voters, requiring public spending disclosures and local control of funds?”

In addition, staff has prepared Resolution No. 22-35 (Attachment 2) setting rules for primary and rebuttal arguments and providing for filing written arguments. California election law allows for the City Council to file an argument for or against the ballot measure. If the Council wishes file such an argument, it may designate up to two Councilmembers to prepare an argument for or against the TUT and submit them directly to the City Clerk without further action or involvement by the City Council. Designated Councilmembers must write the argument on their own time and at their own expense. No public resources may be used for arguments. The Council is not required to submit arguments regarding the measure. The deadline for designated Councilmembers or members of the public to submit arguments for and against the proposed measure is August 19, 2022.

Lastly, staff prepared Resolution No. 22-36 (Attachment 3) consolidating a general municipal election to be held on November 8, 2022 with the statewide general election to be held on that date.

On July 9, 2018, the Council adopted Resolution No. 18-46 (Attachment 3) providing for the filing of rebuttal arguments for measures submitted to voters at municipal elections from that date forward.

A supermajority of the Council (4/5 vote) is required to adopt Resolution No. 22-34 ordering the submission of a proposed measure that would impose a one-half cent ($\frac{1}{2} \phi$) Transactions and Use Tax at the General Municipal Election to be held on Tuesday, November 8, 2022. The legal deadline to call a local ballot measure is 88 days prior to

the election (August 12 for the November 8, 2022 ballot). Therefore, staff recommends Council take action on this matter tonight in order to meet the County's August 12th deadline to call ballot measures.

ATTACHMENTS:

1. Resolution No. 22-34
2. Resolution No. 22-35
3. Resolution No. 22-36
4. Resolution No. 18-46

RESOLUTION NO. 22-34

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, CALIFORNIA CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE BALLOT FOR THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF AN ORDINANCE TO ENACT A LOCAL GENERAL TRANSACTIONS AND USE TAX (SALES TAX) AT THE RATE OF ONE-HALF CENT ($\frac{1}{2}$ ¢) AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. The City Council of the City of Malibu (“City”) is authorized to levy a local Transactions and Use Tax (“sales tax”) for general purposes pursuant to California Revenue and Taxation Code section 7285.9, subject to approval by a majority vote of the electorate pursuant to Article XIII C, section 2 of the California Constitution (“Proposition 218”).

B. Pursuant to California Elections Code section 9222, the City Council has authority to place local measures on the ballot to be considered at a Municipal Election.

C. The City Council would like to submit to the voters at the November 8, 2022 General Municipal Election a measure enacting a general sales tax at a rate of one-half cent ($\frac{1}{2}$ ¢) on the sale and/or use of all tangible personal property sold at retail in the City until it is ended by voters, as more specifically set forth in the attached proposed ordinance adding Chapter 3.40 to Title 3 of the City’s Municipal Code.

D. The one-half cent ($\frac{1}{2}$ ¢) sales tax is a general tax, the revenue of which will be placed in the City’s general fund and will be used to pay for important general City services, such as public safety, crime and fire prevention, addressing homelessness, keeping public areas safe and clean, preventing speeding and reckless driving, protecting coastal waters and beaches from pollution, preserving natural areas, supporting local businesses, and other general city services.

E. A 5,640 square foot Sheriff substation is currently being constructed by Santa Monica College in the Malibu civic center area with occupancy anticipated July 1, 2023, that will require additional funding to operate. Proceeds from a Transactions and Use Tax, if approved by voters, could be used to help fund this additional public safety expenditure.

F. It is estimated that approximately seventy three percent (73%) of the revenue

generated by this type of locally-controlled funding measure would come from tourists and visitors to Malibu, so out-of-town visitors would pay a significant portion of this tax to offset the cost to use City roads, parks, public safety, and other City services.

G. On November 6, 1996, the voters of the State of California approved Proposition 218, an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election.

H. Pursuant to Proposition 218 (California Constitution, Article XIII C, § 2(b)), the general rule is that any local election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of the local government.

I. The next regularly scheduled general election at which City Council members are to be elected is November 8, 2022.

J. Pursuant to Government Code section 53724 (“Proposition 62”) and Revenue and Taxation Code section 7285.9, a two-thirds (2/3) vote of all members of the City Council is required to place the Measure on the November 8, 2022 ballot.

K. The ordinance to be considered by the qualified voters and the terms of approval, collection and use of the general sales tax are described and provided for in the ordinance/measure attached hereto as Exhibit “A” (the “Measure”) and by this reference made an operative part hereof, in accordance with all applicable laws.

SECTION 2. Submission of Ballot Measure. Pursuant to California Elections Code section 9222, Government Code section 53724, Revenue and Taxation Code section 7285.9 and any other applicable requirements of the laws of the State of California relating to the City, the City Council, by a two-thirds (2/3) vote of all members, hereby orders the Measure to be submitted to the voters of the City at the General Municipal Election to be held on Tuesday, November 8, 2022.

SECTION 3. Ballot Question. The City Council, pursuant to California Elections Code section 9222, hereby orders that the Measure shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth in this Section 3. On the ballot to be submitted to the qualified voters at the General Municipal Election to be held on Tuesday, November 8, 2022, in addition to any other matters required by law, there shall be printed substantially the following ballot question:

“To support such city services as public safety, crime and fire prevention, addressing homelessness, keeping public areas safe and clean, preventing speeding and reckless driving, protecting coastal	YES
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<p>waters and beaches from pollution, preserving natural areas, supporting local businesses, and other general city services; shall a measure be adopted establishing a 1/2¢ transactions and use (sales) tax providing approximately \$3,000,000 annually until ended by voters, requiring public spending disclosures and local control of funds?"</p>	<p>NO</p>
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SECTION 4. Conduct of Election. The City Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 5. Impartial Analysis. Pursuant to Elections Code section 9280, the City Council hereby directs the City Clerk to transmit a 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 transmit such impartial analysis to the City Clerk not later than the deadline for submittal of primary arguments for or against the Measure.

The impartial analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information guide, there shall be printed immediately below the impartial analysis, in no less than 10 size font bold type, the following: **“The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the Office of the City Clerk at (310) 456-2489 and a copy will be mailed at no cost to you.”**

SECTION 6. Notice. Notice of the election is hereby 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 7. Placement on the Ballot. The full text of the Measure will be printed in the voter information guide.

SECTION 8. Filing with County. The City Clerk shall, not later than the 88th day prior to the General Municipal Election to be held on Tuesday, November 8, 2022, file with the Board of Supervisors and the County Clerk – Registrar of Voters of the County of Los Angeles, State of California, a certified copy of this Resolution.

SECTION 9. Public Examination. Pursuant to Elections Code section 9295, this Measure will be available for public examination for no fewer than ten (10) calendar days prior to

being submitted for printing in the voter information guide. The City Clerk shall post notice in the Clerk's office of the specific dates that the examination period will run.

SECTION 10. CEQA. The City Council hereby finds and determines that the Measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, section 15378(b)(5).

SECTION 11. Severability. The provisions of this Resolution are severable and if any provision of this Resolution is held invalid, that provision shall be severed from the Resolution and the remainder of this Resolution shall continue in full force and effect, and not be affected by such invalidity.

SECTION 12. Effective Date. This Resolution shall become effective upon its adoption.

SECTION 13. Certification. The City Clerk shall certify to passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 8th day of August 2022.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:
THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, Interim City Attorney

Exhibit "A"
Transactions and Use Tax Ordinance

[attached behind this page]

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MALIBU, CALIFORNIA, ADDING CHAPTER 3.40 TO TITLE 3 OF THE MALIBU MUNICIPAL CODE TO ENACT A ONE HALF PERCENT (0.50%) GENERAL TRANSACTIONS AND USE TAX (SALES TAX) TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

The People of the City of Malibu do hereby ordain as follows:

SECTION 1. Recitals.

A. Pursuant to California Revenue and Taxation Code section 7285.9 the City of Malibu (“City”) is authorized to levy a Transactions and Use Tax for general purposes, subject to majority voter approval.

B. The People of the City desire to levy a Transactions and Use Tax for general purposes until repealed to fund important general City services, at a rate of one half percent (0.50%).

C. If approved by the City Council and Malibu voters, the Transactions and Use Tax Ordinance will be incorporated into Chapter 3.40 of Title 3 of the Malibu Municipal Code.

SECTION 2. Title and Text. This Ordinance shall be known as the Malibu Transactions and Use Tax Ordinance, the full text of which is set forth in Attachment “1”, attached hereto and incorporated herein by reference.

SECTION 3. Approval by the City Council. Pursuant to California Government Code section 53724 and Revenue and Taxation Code section 7285.9, this Ordinance was duly approved for placement on the ballot by a minimum two-thirds (2/3) supermajority of all members of the City Council on August 8, 2022.

SECTION 4. Approval by the Voters. Pursuant to California Elections Code section 9217, this Ordinance shall be deemed adopted and take effect only if approved by a majority of the eligible voters of the City of Malibu voting at the General Municipal Election of November 8, 2022. It shall be deemed adopted when the City Council has certified the results of that election by resolution and shall take effect ten (10) days thereafter.

SECTION 5. Operative Date. “Operative Date” for the Transactions and Use Tax means the first day of the first calendar quarter commencing more than 110 days after the date this Ordinance is adopted, as set forth in Section 3 above.

SECTION 6. 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.

I hereby certify that the Malibu Transactions and Use Tax Ordinance was PASSED, APPROVED, AND ADOPTED by the People of the City of Malibu on the 8th day of November, 2022.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk

APPROVED AS TO FORM:

TREVOR RUSIN, Interim City Attorney

ATTACHMENT “1”

Chapter 3.40 – TRANSACTIONS AND USE TAX

Sections:

- 3.40.010 - Purpose.
- 3.40.020 - Contract With State.
- 3.40.030 - Transactions Tax Rate.
- 3.40.040 - Place of Sale.
- 3.40.050 - Use Tax Rate.
- 3.40.060 - Adoption of Provisions of State Law.
- 3.40.070 - Limitations on Adoption of State Law and Collection of Use Taxes.
- 3.40.080 - Permit Not Required.
- 3.40.090 - Exemptions and Exclusions.
- 3.40.100 - Amendments.
- 3.40.110 - Enjoining Collection Forbidden.
- 3.40.120 - Duration of Tax

Sections:

- 3.40.010 - Purpose.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the 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 California Department of Tax and Fee Administration 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 California Department of Tax and Fee Administration 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.

3.40.020 - Contract With State.

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration 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 California Department of Tax and Fee Administration 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.

3.40.030- 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 percent (0.50%) 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.

3.40.040 - 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 California Department of Tax and Fee Administration.

3.40.050 - 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 one half percent (0.05%) 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.

3.40.060 - 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.

3.40.070 - 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, California Victim Compensation Board, California Department of Tax and Fee Administration, 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 California Department of Tax and Fee Administration, 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 reference to 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 of the Revenue and Taxation Code and in the definition of that phrase in Section 6203.

1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.40.080 - 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.

3.40.090 - 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 subsection, 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 subsection, 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.

3.40.100 - 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 ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.40.110 - 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.

3.40.120 – Duration of Tax.

The tax imposed by this chapter shall continue until this ordinance is repealed.

RESOLUTION No. 22-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO §10403 OF THE CALIFORNIA ELECTIONS CODE.

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On August 8, 2022, the City Council of the City of Malibu adopted Resolution No. 22-34, calling a General Municipal Election to be held on November 8, 2022; for the purpose of submitting to the voters the question relating to the Transactions and Use Tax; and

B. It is therefore desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places and election officers of the two elections be the same, and that the election department of the County of Los Angeles canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election.

SECTION 2. Request for Consolidation. Pursuant to the requirements of §10403 of the California Elections Code, the Board of Supervisors of the County of Los Angeles is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2022, for the purpose of submitting to the voters the following question relating to the Transactions and Use Tax.

SECTION 3. Measure Language. A measure is to appear on the ballot as follows:

<p>“To support such city services as public safety, crime and fire prevention, addressing homelessness, keeping public areas safe and clean, preventing speeding and reckless driving, protecting coastal waters and beaches from pollution, preserving natural areas, supporting local businesses, and other general city services; shall a measure be adopted establishing a 1/2¢ transactions and use (sales) tax providing approximately \$3,000,000 annually until ended by voters, requiring public spending disclosures and local control of funds?”</p>	Yes
	No

SECTION 4. Canvass of Returns. The County election department is authorized to canvass the returns and perform all other proceedings incidental to and connected with the General Municipal Election. The Election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. Pursuant to California Elections Code Sections 10403

and 10418, the election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election.

SECTION 5. Necessary Steps. The Board of Supervisors is requested to issue instructions to the County election department to take any and all steps necessary for the holding of the consolidated election.

SECTION 6. Costs. The City Council determines and declares that the City will pay to the County the reasonable and actual expenses incurred by the County by the consolidation of the General Municipal Election with the Statewide General Election. The City shall reimburse the County for services performed when the work is completed and upon presentation to the City of a properly approved bill. The City Manager of the City of Malibu is authorized and directed to pay for the expenses incurred after receiving a statement from the County of Los Angeles.

SECTION 7. Filing of Resolution. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the election department of the County of Los Angeles.

SECTION 8. Certification. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 8th day of August 2022.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, Interim City Attorney

RESOLUTION NO. 22-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, CALIFORNIA, PROVIDING FOR THE FILING OF PRIMARY AND REBUTTAL ARGUMENTS AND SETTING RULES FOR THE FILING OF WRITTEN ARGUMENTS REGARDING A CITY MEASURE TO BE SUBMITTED AT THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. General Municipal Election is to be held in the City of Malibu, California on November 8, 2022, at which there will be submitted to the voters the following measure:

<p>“To support such city services as public safety, crime and fire prevention, addressing homelessness, keeping public areas safe and clean, preventing speeding and reckless driving, protecting coastal waters and beaches from pollution, preserving natural areas, supporting local businesses, and other general city services; shall a measure be adopted establishing a 1/2¢ transactions and use (sales) tax providing approximately \$3,000,000 annually until ended by voters, requiring public spending disclosures and local control of funds?”</p>	Yes
	No

SECTION 2. Primary Arguments. That the City Council authorizes (i) the City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote on the above measure, (iii) a bona fide association of such citizens or (iv) any combination of voters and associations, to file a written argument in favor of or against the City measure, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, and to change the argument until and including the date fixed below by the City Clerk, after which no arguments for or against the City measure may be submitted to the City Clerk.

The deadline to submit arguments for or against the City Measure pursuant to this Resolution is declared by the City Clerk to be **Friday, August 19, 2022**. Each argument shall not exceed 300 words and shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

SECTION 3. Rebuttal Arguments. Pursuant to Section 9285 of the Elections Code of the State of California, when the City Clerk has selected the primary arguments for and against the City Measure which will be printed and distributed to the voters, the Clerk shall send copies of the

primary argument in favor of the Measure to the authors of the primary argument against, and copies of the primary argument against to the authors of the primary argument in favor. The procedure for rebuttal arguments is provided in Resolution No. 18-46. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk not later than **Monday, August 29, 2022**. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument which it seeks to rebut.

SECTION 4. Prior Resolutions. Resolution No. 18-46 regarding the filing of rebuttal arguments related to City measures remains in effect. All previous resolutions providing for the filing of primary arguments are repealed.

SECTION 5. November 8, 2022 Election. That the provisions of Sections 1 and 2 shall apply only to the election to be held on November 8, 2022, and shall then be repealed.

SECTION 6. Certification. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original Resolutions.

PASSED, APPROVED, and ADOPTED this 8th day of August 2022.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

TREVOR RUSIN, Interim City Attorney

RESOLUTION NO. 18-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU
PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR
MEASURES SUBMITTED TO THE VOTERS AT MUNICIPAL ELECTIONS
AND REPEALING RESOLUTION NO. 97-94

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Elections Code Section 9282 provides for written arguments to be filed in favor of or against initiative or City submitted measures not to exceed 300 words in length.

SECTION 2. Elections Code Section 9285 authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for measures submitted to the voters at municipal elections.

SECTION 3. Pursuant to Elections Code Section 9285, when an argument in favor and an argument against a measure have been selected to be printed in the voter information guide, the elections official shall send a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of an argument against the measure to the authors of the argument in favor of the measure.

The author or a majority of the authors of an argument relating to a City measure may prepare and submit a rebuttal argument or may authorize in writing another person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument shall not exceed 250 words. A rebuttal argument relating to a City measure shall be filed with the City Clerk **no later than 10 days** after the final filing date for primary arguments. A rebuttal argument relating to a city measure shall not be signed by more than five persons, shall be printed in the same manner as a direct argument, and shall immediately follow the direct argument which it seeks to rebut.

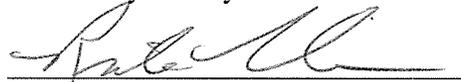
The rebuttal arguments shall be signed, with the printed name(s) and signature (s) of the author(s) submitting it, or if submitted on behalf of an organization the name of the organization, and the printed name and signature of at least one of its principal officers. The rebuttal arguments shall be accompanied by the Declaration by Author(s) of Arguments or Rebuttals.

SECTION 4. Resolution No. 97-94 is hereby repealed.

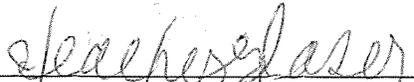
SECTION 5. The provisions of Section 3 shall apply to next ensuing municipal election and at each municipal election after that time.

SECTION 6. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED on this 9th day of July 2018.

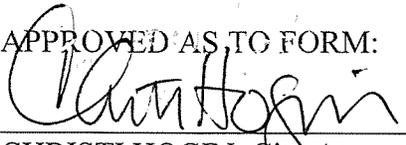

RICK MULLEN, Mayor

ATTEST:



HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 18-46 was passed and adopted by the City Council of the City of Malibu at the special meeting thereof held on the 9th day of July 2018 by the following vote:

AYES: 5 Councilmembers: La Monte, Peak, Rosenthal, Wagner, Mullen
NOES: 0
ABSTAIN: 0
ABSENT: 0



HEATHER GLASER, City Clerk
(seal)