



Gloria Olmos, Mayor
Gracie Retamoza, Mayor Pro Tem
Manuel Acosta, Councilmember
Richard Angel, Councilmember
Hector Delgado, Councilmember

Anthony R. Taylor, City Attorney
Rachel Barbosa, City Manager
Donna G. Schwartz, City Clerk

CALL AND NOTICE OF SPECIAL MEETING

CITY OF SOUTH EL MONTE

CALLED BY MAYOR GLORIA OLMOS

NOTICE IS HEREBY GIVEN That a Special Meeting of the City Council of the City of El Monte will be held on Tuesday, December 22, 2020 at 5:00 p.m. at City Hall Council Chambers, 1415 N. Santa Anita, Avenue, South El Monte, CA 91733

AGENDA

SPECIAL NOTICE REGARDING COVID-19

On March 17, 2020, Governor Newsom issued Executive Order N-29-20 in response to the COVID-19 pandemic, which authorizes the City Council to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body. All requirements of the Brown Act requiring the physical presence of Council Members, staff, or the public as a condition of participation in or quorum for a public meeting have been waived.

Public participation will be allowed via the information below.

TELECONFERENCE

Members of the public will have access to listen to and participate in the meeting by calling-in at the information below. Teleconference participation shall be available to the public at the following USA Toll-Free number,
1-888-204-5987, Access Code: 9671457.

LIVE TELECAST

The public may also view a live telecast online at
www.cityofsouthelmonte.org/129/City-Council-Agendas-Minutes

GENERAL COMMENT

Members of the public wishing to submit a general comment or a comment on an agenda item, can email dschwartz@soelmonte.org or call (626) 579-6540 to leave a voicemail message. All comments received an hour before the scheduled meeting will be added to the City Council agenda as part of the public comment.

MEETINGS

The City Council holds regular meetings on the second and fourth Tuesday of every month. Regular meetings start at 6 p.m. in the Council Chambers at City Hall, 1415 N Santa Anita Avenue, South El Monte, California. Special and Adjourned Regular meetings start time are to be determined.

POSTING LOCATIONS OF AGENDA AND/OR CANCELLATION NOTICES

Regular and Adjourned Regular meeting agendas will be posted at least 72 hours before the meeting (GC 54954(a)(1)).

Agenda and Cancellation Notices can be viewed online and are also posted at the following three (3) locations: City Hall located at 1415 Santa Anita Avenue, Senior Center located at 1556 Central Avenue and the Community Center located at 1530 Central Avenue, South El Monte, California.

VIEWING OF AGENDA PACKETS

Full agenda packet can be viewed either at www.cityofsouthelmonte.org/129/City-Council-Agendas-Minutes or in the City Clerk's Office during normal business hours Monday through Thursday 7:00 a.m. to 5:30 p.m. Closed on Fridays and major holidays.

ISSUES RELATED TO AGENDA

For issues related to the agenda, including a disability-related accommodation necessary to participate in this meeting, please contact Donna G. Schwartz, CMC, City Clerk at (626) 579-6540 ext. 3280 or (626) 274-0412 Cell or Paola Lara, Deputy City Clerk at (626) 579-6540 ext. 3220 or (626) 522-5341 Cell.

[Agenda Begins on the Following Page]

1. **ROLL CALL** Councilmembers: Acosta, Angel, Delgado, Retamoza, and Mayor Olmos

2. **APPROVAL OF AGENDA**

By motion of the City Council, this is the time to notify the public of any changes to the agenda, and/or rearrange the order of the agenda.

3. **PUBLIC COMMENTS**

Persons wishing to address the City Council on any item on the agenda are invited to do so at this time. Pursuant to the Brown Act, the City Council cannot discuss or take action on items not on the agenda. Matters brought before the City Council that are not on the agenda may, at the City Council's discretion, be referred to staff or placed on the next agenda.

4. **GENERAL BUSINESS**

4.a. **CONSIDERATION OF RESOLUTION NO. 20-133, AUTHORIZING CITY MANAGER TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX & FEE ADMINISTRATION (CDTFA) FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX (MEASURE ES); CONSIDERATION OF RESOLUTION NO. 20-134 AUTHORIZING THE EXAMINATION OF TRANSACTIONS & USE TAX RECORDS; AND AUTHORIZING THE CITY MANAGER TO EXECUTE & FILE ADDITIONAL AGREEMENTS, LETTERS AND FORMS WITH THE CDTFA AND OTHER APPROPRIATE STATE AGENCIES AS REQUIRED FOR IMPLEMENTATION OF THE LOCAL TRANSACTIONS & USE TAX (MEASURE ES) AND TO TAKE SUCH OTHER ACTIONS NECESSARY TO IMPLEMENT THE LOCAL TRANSACTIONS & USE TAX (MEASURE ES)**

On November 30, 2020, the City of South El Monte received its Official Canvass Certificate and the Official Statement of Votes Cast by precinct for the City of South El Monte General Municipal election consolidated with the General Election held on November 3, 2020. Measure ES passed with a 70.90% electoral vote. These election results were declared by the City Council at its December 8, 2020, meeting.

RECOMMENDED ACTION: Staff recommends City Council:

1. **Adopt Resolution No. 20-133, authorizing the City Manager to execute agreements with the California Department of Tax and Fee Administration (CDTFA) for the implementation of a local transaction and use tax (Measure ES);**

2. **Adopt Resolution No. 20-134, authorizing City representatives and sales tax consultant to examine sales, transactions and use tax records pursuant to Revenue and Taxation Code Section 7056; and**
3. **Authorize City Manager to complete, execute, file additional agreements, letters, and forms with the CDTFA and other appropriate state agencies as required for the implementation of the City's local transactions and use tax, and to take such other actions as may be necessary to implement the City's local transactions and use tax.**

5. ADJOURNMENT

I Donna G. Schwartz, hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted not less than 24 hours at City of South El Monte City Hall, Senior Center and Community Center and made available at www.cityofsouthelmonte.org on this 21st day of December 2020.



CMC, City Clerk



City Council Agenda Report

**Agenda
Item No.
4.a.**

DATE: December 22, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

APPROVED AS TO FORM: Anthony R. Taylor, City Attorney

SUBMITTED BY: William Fox, Interim Finance Director

SUBJECT: CONSIDERATION OF RESOLUTION NO. 20-133, AUTHORIZING CITY MANAGER TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX & FEE ADMINISTRATION (CDTFA) FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX (MEASURE ES); CONSIDERATION OF RESOLUTION NO. 20-134 AUTHORIZING THE EXAMINATION OF TRANSACTIONS & USE TAX RECORDS; AND AUTHORIZING THE CITY MANAGER TO EXECUTE & FILE ADDITIONAL AGREEMENTS, LETTERS AND FORMS WITH THE CDTFA AND OTHER APPROPRIATE STATE AGENCIES AS REQUIRED FOR IMPLEMENTATION OF THE LOCAL TRANSACTIONS & USE TAX (MEASURE ES) AND TO TAKE SUCH OTHER ACTIONS NECESSARY TO IMPLEMENT THE LOCAL TRANSACTIONS & USE TAX (MEASURE ES)

SUMMARY: On November 30, 2020, the City of South El Monte received its Official Canvass Certificate and the Official Statement of Votes Cast by precinct for the City of South El Monte General Municipal election consolidated with the General Election held on November 3, 2020. Measure ES passed with a 70.90% electoral vote. These election results were declared by the City Council at its December 8, 2020, meeting.

RECOMMENDATION: Staff recommends City Council:

1. Adopt Resolution No. 20-133, authorizing the City Manager to execute agreements with the California Department of Tax and Fee Administration (CDTFA) for the implementation of a local transaction and use tax (Measure ES);

2. Adopt Resolution No. 20-134, authorizing City representatives and sales tax consultant to examine sales, transactions and use tax records pursuant to Revenue and Taxation Code Section 7056; and

3. Authorize City Manager to complete, execute, file additional agreements, letters, and forms with the CDTFA and other appropriate state agencies as required for the implementation of the City's local transactions and use tax, and to take such other actions as may be necessary to implement the City's local transactions and use tax.

FISCAL IMPACT: Measure ES is expected to generate approximately \$1,000,000 annually.

DISCUSSION: Pursuant to Revenue and Taxation Code Section 7265, the new tax is scheduled to become operative on April 1, 2021 and will be administered by the CDTFA.

The CDTFA requires that the City Council approve a Resolution No. 20-133 authorizing the City Manager to execute a Preparatory Agreement and an Administrative Agreement with the CDTFA for implementation of a local transactions and use tax.

1. The Preparatory Agreement authorizes the CDTFA to do the necessary work to administer the Measure ES transactions and use (sales) tax. This includes work relating to developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the CDTFA's staff and for taxpayers, and other necessary functions.

2. The Administrative Agreement authorizes the CDTFA to administer and implement the Measure ES transactions and use (sales) tax. This includes administrative and operational functions, such as ensure compliance with the guidelines established in the City's Transactions and Use Tax Ordinance, collecting funds from retailers, reviewing payment submissions for appropriateness, and remitting funds to the City.

These agreements are respectively attached within Exhibits A and B of the attached Resolution No. 20-133.

The CDTFA also requires that the City Council designate authorized representatives to examine the confidential sales, use and transactions tax records pertaining to taxes collected by CDTFA for the City by adopting Resolution No. 20-134.

The CDTFA performs all functions incident to the administration and collection of local sales, use and transactions taxes in the State of California. The proposed resolutions are required by CDTFA in order for the new tax to become operative on April 1, 2021, or the first day of the first calendar quarter commencing more than 110 days after the adoption.

The CDTFA may also require completion, execution, and filing of additional agreements, letters, and forms with the CDTFA and other appropriate state agencies as required for the

implementation of the local transactions and use tax. These could include items such as a contract form for notifications and appeals, a media and registration request form, and an EFT authorization agreement.

Based on the forgoing, the City Council is therefore asked (1) to adopt Resolution Nos. 20-133 and 20-134 and (2) to authorize the City Manager to complete, execute, file additional agreements, letters, and forms with the CDTFB and other appropriate state agencies as required for the implementation of the City's local transactions and use tax, and to take such other actions as may be necessary to implement the City's local transactions and use tax.

ATTACHMENTS:

[Attachment A - Resolution No. 20-133 with Exhibit A and Exhibit B](#)

[Attachment B - Resolution No. 20-134](#)

ATTACHMENT A

RESOLUTION NO. 20-133

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL AUTHORIZING CITY MANAGER TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX

WHEREAS, on December 8, 2020 the City Council approved Ordinance No. 1250 amending the City Municipal Code and providing for a local transactions and use tax increase from 0.5% to 0.75%; 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 City; and

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

WHEREAS, the Department requires that the City Council authorize the agreements.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of South El Monte that the “Preparatory Agreement” attached as Exhibit A and the “Administrative Agreement” attached as Exhibit B are hereby approved and the City Manager is hereby authorized to execute each agreement.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to make such other changes to this Resolution and its exhibits as may be required to ensure that this Resolution and its exhibits conform with the requirements of the California Department of Tax and Fee Administration and applicable law.

PASSED, APPROVED, AND ADOPTED on this 22nd day of December 2020.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 20-133 was passed and approved by the City Council of the City of South El Monte at a special meeting of said Council held on the 22nd day of December 2020 and that said Resolution was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Donna G. Schwartz, City Clerk

Exhibit A
Preparatory Agreement

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the City of South El Monte, hereinafter called *City*, and the CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, hereinafter called *Department*, do agree as follows:

1. The Department agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Department at the times and in the amounts hereinafter specified all of the Department's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Department's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Department's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Department. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Department shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Department shall be billed by the Department periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Department the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Department's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail. Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration
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 South El Monte
1415 Santa Anita Avenue
South El Monte, CA 91733
Attention: City Manager

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Department has received all payments due from City under the terms of this agreement.

CITY OF SOUTH EL MONTE

CALIFORNIA DEPARTMENT OF TAX
AND FEE ADMINISTRATION

By _____
(Signature)

By _____
Administrator
Local Revenue Branch

Rachel Barbosa
(Typed Name)

City Manager
(Title)

(Rev. 11/17)

Exhibit B
Administrative Agreement

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the City of South El Monte, hereinafter called *City*, and the CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, hereinafter called *Department*, do agree as follows:

1. The Department agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Department at the times and in the amounts hereinafter specified all of the Department's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Department's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Department's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Department. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Department shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Department shall be billed by the Department periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Department the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Department's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail. Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration
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 South El Monte
1415 Santa Anita Avenue
South El Monte, CA 91733
Attention: City Manager

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Department has received all payments due from City under the terms of this agreement.

CITY OF SOUTH EL MONTE

CALIFORNIA DEPARTMENT OF TAX
AND FEE ADMINISTRATION

By _____
(Signature)

By _____
Administrator
Local Revenue Branch

Rachel Barbosa
(Typed Name)

City Manager
(Title)

(Rev. 11/17)

ATTACHMENT B

RESOLUTION NO. 20-134

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL AUTHORIZING THE EXAMINATION OF TRANSACTIONS (SALES) AND USE TAX RECORDS

WHEREAS, pursuant to Ordinance No. 1250 of City of South El Monte, hereinafter called City, and Section 7270 of the Revenue and Taxation Code, the City entered into a contract with the California Department of Tax and Fee Administration (CDTFA) to perform all functions incident to the administration and operation of the Transactions and Use Tax Ordinance; and

WHEREAS, the City deems it desirable and necessary for authorized representatives of the City to examine confidential transactions and use tax records of the California Department of Tax and Fee Administration pertaining to transactions and use taxes collected by the California Department of Tax and Fee Administration for the City pursuant to that contract; and

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

NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:

Section 1. That the City Manager, Deputy City Manager, Finance Director, City Treasurer, Accounting Manager or other officer or employee of the City designated in writing by the City Manager to the California Dept of Tax and Fee Administration (hereafter referred to as the CDTFA) is hereby appointed to represent the City with authority to examine transactions and use tax records of the CDTFA pertaining to transactions and use taxes collected for the City by the CDTFA pursuant to the contract between the City and the CDTFA. The information obtained by examination of CDTFA records shall be used only for purposes related to the collection of the City's transactions and use taxes by the CDTFA pursuant to the contract.

Section 2. That the City Manager, Deputy City Manager, Finance Director, City Treasurer, Accounting Manager or other officer or employee of the City designated in writing by the City Manager to the California Dept of Tax and Fee Administration is hereby appointed to represent the City with authority to examine those transactions and use tax records of the California Department of Tax and Fee Administration for purposes related to the following governmental functions of the City:

- a) Revenue management and budgeting
- b) Community and economic development
- c) City Administration

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

Section 3. That Hinderliter, de Llamas and Associates is hereby designated to examine the transactions and use tax records of the CDTFA pertaining to transactions and use taxes collected for the City by the CDTFA. The person or entity designated by this section meets all of the following conditions:

- a) has an existing contract with the City to examine those transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from those 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 transactions and use tax records after that contract has expired.

Section 4. That the information obtained by examination of CDTFA records shall be used only for purposes related to the collection of City's transactions and use taxes by the CDTFA pursuant to the contracts between the City and CDTFA.

Section 5. The City Council hereby authorizes the City Manager to make such other changes to this Resolution as may be required to ensure that it conforms with the requirements of the California Department of Tax and Fee Administration and applicable law

Section 6. That this resolution supersedes all prior transactions and use tax resolutions of the City of South El Monte adopted pursuant to subdivision (b) of Revenue and Taxation Section 7056.

PASSED, APPROVED, AND ADOPTED on this 22nd day of December 2020.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 20-134 was passed and approved by the City Council of the City of South El Monte at a special meeting of said Council held on the 22nd day of December 2020 and that said Resolution was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Donna G. Schwartz, City Clerk