

FILED

AUG 10 2018

BY  DEPUTY
REGISTRAR OF VOTERS

RESOLUTION NO. 2018-228

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, CALLING A GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF SAN BERNARDINO ON NOVEMBER 6, 2018 FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A GENERAL TAX MEASURE, TO ESTABLISH A CANNABIS BUSINESS TAX; REQUESTING THAT THE SAN BERNARDINO COUNTY BOARD OF SUPERVISORS CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE CONDUCTED ON THE SAME DATE AND TO PERMIT THE REGISTRAR OF VOTERS TO PROVIDE ELECTION SERVICES; AND SETTING RULES FOR ARGUMENTS AND REBUTTALS FOR AND AGAINST SAID MEASURE

WHEREAS, the Mayor and City Council have identified seven goals and objectives for the City of San Bernardino, including providing for the safety of City residents and businesses, creating, maintaining, and growing jobs and economic value in the City, ensuring development of a well-planned, balanced and sustainable City, improving City government operations, and operating in a fiscally responsible and business-like manner; and

WHEREAS, voter-approved funding will help to address City service needs that San Bernardino residents have indicated are important, including fixing potholes and repairing neighborhood and city streets, roads, and sidewalks and providing adequate police services; and

WHEREAS, the City of San Bernardino currently has more than \$107 million dollars in deferred street maintenance and over \$182 million in deferred facilities maintenance, and additional local funds could help ensure that the City can address critical maintenance needs now before costing taxpayers millions more in the future; and

WHEREAS, on November 6, 1996, the voters of the State of California approved Proposition 218 (California Constitution, Article XIII C), an amendment to the State Constitution which requires that all general taxes which are imposed, extended, or increased must be approved by a majority vote of the voters; and

WHEREAS, the Mayor and City Council of the City of San Bernardino ("City") are authorized to levy a Cannabis Business Tax ("CBT") for general purposes pursuant to the Charter of the City of San Bernardino and Sections 37101 and 37100.5 of the Government Code, subject to approval by a majority vote of the electorate; and

WHEREAS, the CBT is a general tax, the revenue of which is to be placed in the City's general fund and used to pay for important general City services; and

1 **WHEREAS**, pursuant to Section 9222 of the California Elections Code, the Mayor and
2 City Council have authority to place propositions on the ballot to be considered at a Municipal
3 Election; and

4 **WHEREAS**, the City Council would like to submit to the voters a measure establishing a
5 permanent CBT; and

6 **WHEREAS**, pursuant to Proposition 218, any general tax measure submitted to the
7 voters must be consolidated with a regularly scheduled election for members of the Mayor and
8 City Council, unless the Mayor and City Council places it on a special election, by a unanimous
9 vote, and upon finding that there exists an emergency requiring an election to be conducted
10 earlier than the next regularly scheduled election at which Mayor and City Council members are
11 to be elected; and

12 **WHEREAS**, pursuant to the Charter of the City of San Bernardino, §800, the City's
13 General Election is held on the same day as the State General Elections, which is the first
14 Tuesday after the first Monday in November of each even-numbered year. Therefore, the next
15 regularly scheduled General Municipal Election for the election of members of the Mayor and
16 City Council will be held on Tuesday, November 6, 2018; and

17 **WHEREAS**, the Mayor and City Council also desires to consolidate the election for the
18 ballot measure described herein with the Statewide General Election to be held on November 6,
19 2018; and

20 **WHEREAS**, pursuant to California Elections Code, the Mayor and City Council further
21 desire to establish rules and regulations for the preparation, submittal and printing of arguments
22 and rebuttals for and against the Measure described herein; and

23 **WHEREAS**, the specific terms relating to the CBT tax are provided for in the ordinance
24 to be considered by the qualified voters, attached hereto as Exhibit "A" (the "Ordinance") and by
25 this reference made an operative part hereof, and in accordance with all applicable laws.

26 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY
27 COUNCIL OF THE CITY OF SAN BERNARDINO AS FOLLOWS:**

28 **SECTION 1. Recitals.** The Mayor and City Council hereby find and determine that the
foregoing recitals are true and correct, are incorporated herein and by this reference made an
operative part hereof.

1 **SECTION 2. Submission of Ballot Measure.** Pursuant to the Charter of the City of San
 2 Bernardino §§300, 304, Section 9222 of the Elections Code, and any other applicable
 3 requirements of the laws of the State of California relating to charter cities, the Mayor and City
 4 Council, by a simple majority vote, hereby call and order to be held in the City of San Bernardino
 5 on Tuesday, November 6, 2018, an election for the purpose of submitting the Ordinance attached
 6 hereto as Exhibit “A” and incorporated herein by this reference to the qualified electors of the
 7 City (the “Measure”) with said election to be held on the same day as the City’s general
 8 municipal election and consolidated with the Statewide General Election on Tuesday, November
 9 6, 2018.
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12 **SECTION 3. Ballot Measure.** The Mayor and City Council, pursuant to their right and
 13 authority, do hereby order that the Measure shall be presented and printed upon the ballot
 14 submitted to the qualified voters in the manner and form set forth in this Section 3. On the ballot
 15 to be submitted to the qualified voters at the election to be held at the City’s general municipal
 16 election to be consolidated with the Statewide General Election on Tuesday, November 6, 2018,
 17 in addition to any other matters required by law, there shall be printed substantially the
 18 following:
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“Shall an ordinance imposing a Cannabis Business Tax of up to \$10.00 per square foot for cultivators and up to 6% of gross receipts on other businesses operating in the City of San Bernardino, estimated to initially raise between \$810,000 to \$2,475,000 annually, with funds staying local for unrestricted general revenue purposes, including but not limited to, police services, street repairs, parks and library services until ended by voters be adopted?”	YES	
	NO	

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2 **SECTION 4. Election Procedures.**

3 A. The Mayor and City Council consent to the consolidation of the election on this
4 Measure with all other elections being held in the same territory on November 6, 2018, and to
5 hold and conduct the consolidated election in the manner prescribed in Elections Code Section
6 10400, *et seq.*

7
8 B. The ballots to be used at the election shall be in the form and content as required
9 by law.

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11 C. In accordance with Section 10002 of the Elections Code, the Board of Supervisors
12 of San Bernardino County is hereby requested to consent to the consolidation of this election
13 with the Statewide General Election on the same date and have the Registrar of Voters render
14 such election services to the City of San Bernardino as may be requested by the City Clerk of
15 said City. The County of San Bernardino will be reimbursed in full for such services as are
16 performed.

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18 D. The election services which the City of San Bernardino requests the Registrar of
19 Voters, or such other official as may be appropriate, to perform and which such officer is hereby
20 authorized and directed to perform, if said Board of Supervisors consents, include: the
21 preparation, printing and mailing of sample ballots and polling place cards; the establishment or
22 appointment of precincts, polling places, and election officers, and making such publications as
23 are required by law in connection therewith; the furnishing of ballots, voting booths and other
24 necessary supplies or materials for polling places; the canvassing of the returns of the election
25 and the furnishing of the results of such canvassing to the City Clerk of the City of San
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1 Bernardino; and the performance of such other election services as may be requested by the City
2 Clerk.

3 E. In all particulars not recited in this Resolution, the election shall be held and
4 conducted as provided by law for holding municipal elections in the City.
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6 F. Notice of the time and place of holding the election is given and the City Clerk is
7 authorized, instructed and directed to give further or additional notice of the election, in time,
8 form, and manner as required by law.

9 G. All ballots shall be tallied at a central counting place and not at the precincts. Said
10 central counting place shall be at a County center as designated by the Registrar of Voters.
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12 H. The San Bernardino County Registrar of Voters is hereby authorized to canvass
13 the returns of said election.

14 I. The City Clerk of the City of San Bernardino shall receive the canvass as it
15 pertains to the election on the measure, and shall certify the results to the Mayor and City
16 Council, as required by law.
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18 **SECTION 5. Primary Arguments and Impartial Analysis.**

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

3 B. The deadline to submit arguments for or against the Measure pursuant to this
4 Resolution is declared by the City Clerk to be Wednesday, August 23, 2018 at or before 5:00
5 p.m. at the Office of the City Clerk, 215 N. "D" Street, 3rd Floor, San Bernardino, California.
6 Each argument shall not exceed 300 words and shall be filed with the City Clerk, signed, and
7 include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on
8 behalf of an organization, the name of the organization, and the printed name and signature of at
9 least one of its principal officers who is the author of the argument.
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12 C. Pursuant to Section 9280 of the Elections Code, the City Council directs the City
13 Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an
14 impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the
15 measure on the existing law and the operation of the measure. The City Attorney shall transmit
16 such impartial analysis to the City Clerk, who shall cause the analysis to be published in the
17 ballot pamphlet along with the ballot measure as provided by law. The Impartial Analysis shall
18 be filed by Thursday, August 16, 2018 at or before 5:00 p.m. at the Office of the City Clerk, 215
19 N. "D" Street, 3rd Floor, San Bernardino, California. The impartial analysis shall include a
20 statement indicating that the measure was placed on the ballot by the Mayor and City Council. In
21 the event the entire text of the measure is not printed on the ballot, nor in the voter information
22 portion of the sample ballot, there shall be printed immediately below the impartial analysis, in
23 no less than 10-font bold type, the following: "The above statement is an impartial analysis of an
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1 ordinance or measure. If you desire a copy of the Ordinance or Measure, please call the Office of
2 the City Clerk and a copy will be mailed at no cost to you.”

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4 **SECTION 6. Rebuttals.**

5 A. Pursuant to Section 9285 of the Elections Code of the State of California, when
6 the Clerk has selected the arguments for and against the Measure which will be printed and
7 distributed to the voters, the Clerk shall send copies of the argument in favor of the Measure to
8 the authors of the argument against, and copies of the argument against to the authors of the
9 argument in favor. The authors or persons designated by them may prepare and submit rebuttal
10 arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk
11 not later than Monday, August 27, 2018 at or before 5:00 p.m. at the Office of the City Clerk,
12 215 N. "D" Street, 3rd Floor, San Bernardino, California. Rebuttal arguments shall be printed in
13 the same manner as the direct arguments. Each rebuttal argument shall immediately follow the
14 direct argument which it seeks to rebut.
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17 B. That all previous resolutions providing for the filing of rebuttal arguments for City
18 measures are repealed.

19 C. That the provisions herein shall apply only to the election to be held on November
20 6, 2018, and shall then be repealed.
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22 **SECTION 7. Placement on the Ballot.** The full text of the Ballot Ordinance shall be
23 printed in the voter pamphlet, and a statement shall be printed in the ballot pursuant to Section
24 9223 of the Elections Code advising voters that they may obtain a copy of this Resolution, the
25 Ordinance and/or Measure, at no cost, upon request made to the City Clerk.
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1 **SECTION 8. Delivery of Resolution to County.** The City Clerk shall certify to the
2 passage and adoption of this Resolution. The Mayor and City Council direct the City Clerk to
3 deliver copies of this Resolution, including the Ordinance attached hereto as Exhibit "A", to the
4 Clerk of the Board of Supervisors of San Bernardino County and to the Registrar of Voters of
5 San Bernardino County.
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7 **SECTION 9. CEQA.** The Mayor and City Council finds the adoption of this Resolution
8 is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections
9 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical
10 change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378
11 because the activity relates to organizational or administrative activities of governments that will
12 not result in direct or indirect physical changes in the environment under Section 15378(b)(5)),
13 and 15061(b)(3) (the activity will not have an effect on the environment) of the CEQA
14 Guidelines, California Code of Regulations, Title 14, Chapter 3, because this resolution has no
15 potential for resulting in physical change to the environment, directly or indirectly.
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18 **SECTION 10. Severability.** If any provision of this Resolution or the application thereof
19 to any person or circumstance is held invalid, such invalidity shall not affect other provisions or
20 applications of the Resolution which can be given effect without the invalid provision or
21 application, and to this end the provisions of this Resolution are severable. The City Council
22 hereby declares that it would have adopted this Resolution irrespective of the invalidity of any
23 particular portion thereof.
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25 **SECTION 11. Effective Date of Resolution.** This Resolution shall take effect
26 immediately upon its adoption.
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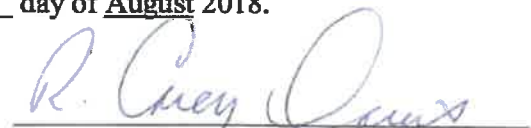
1 **RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN**
 2 **BERNARDINO, CALIFORNIA, CALLING A GENERAL MUNICIPAL ELECTION TO**
 3 **BE HELD IN THE CITY OF SAN BERNARDINO ON NOVEMBER 6, 2018 FOR THE**
 4 **PURPOSE OF SUBMITTING TO THE VOTERS A GENERAL TAX MEASURE, TO**
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 6 **BERNARDINO COUNTY BOARD OF SUPERVISORS CONSOLIDATE SAID**
 7 **ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE CONDUCTED**
 8 **ON THE SAME DATE AND TO PERMIT THE REGISTRAR OF VOTERS TO**
 9 **PROVIDE ELECTION SERVICES; AND SETTING RULES FOR ARGUMENTS AND**
 10 **REBUTTALS FOR AND AGAINST SAID MEASURE**

11 I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Mayor and
 12 City Council of the City of San Bernardino at a Joint Regular Meeting thereof, held on the 1st day
 13 of August 2018, by the following vote, to wit:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MARQUEZ	<u>X</u>	_____	_____	_____
BARRIOS	<u>X</u>	_____	_____	_____
VALDIVIA	<u>X(M)</u>	_____	_____	_____
SHORETT	<u>X</u>	_____	_____	_____
NICKEL	<u>X</u>	_____	_____	_____
RICHARD	<u>X</u>	_____	_____	_____
MULVIHILL	<u>X(S)</u>	_____	_____	_____

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 19 Georgeann Hanna, CMC, City Clerk

20 The foregoing Resolution is hereby approved this 1st day of August 2018.

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 22 
 23 R. Carey Davis, Mayor
 City of San Bernardino

24 Approved as to form:
 25 Gary D. Saenz, City Attorney

26 By: 