RESOLUTION NO. __18-110__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DALY CITY ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF DALY CITY A MEASURE TO APPROVE AN INCREASE TO THE TRANSIENT OCCUPANCY TAX AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018; REQUESTING CONSOLIDATION BY THE SAN MATEO COUNTY BOARD OF SUPERVISORS OF THE ELECTION REGARDING SAID MEASURE WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE AND THAT SAN MATEO COUNTY PROVIDE ELECTION SERVICES WITH FULL REIMBURSEMENT BY THE CITY OF DALY CITY; SETTING CITY COUNCIL PRIORITY FOR FILING WRITTEN ARGUMENT; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AUTHORIZING THE FILING OF REBUTTAL ARGUMENT; AND AUTHORIZING THE RELEASE OF CITY COUNCIL REBUTTAL ARGUMENT

WHEREAS, at its May 14, 2018 regular meeting the City Council adopted the FY 2018-19 and 2019-20 biennial budget, and the General Fund Operating Budget includes a $10.6 million transfer from the General Fund Reserve to cover anticipated budget shortfalls; and

WHEREAS, Daly City's Police and Fire Departments have seen a dramatic increase in calls for service in the past few years while the cost of providing services is increasing every year; and

WHEREAS, the City wishes to maintain the City's level of police and school safety officers, rapid response to burglaries, and disaster preparedness programs; and

WHEREAS, maintaining senior, youth, after-school, parks and recreation, and library programs for residents of all generation are priorities identified by our public; and

WHEREAS, the City has a growing number of homeless individuals who need compassionate, effective services; and

WHEREAS, a reliable source of locally-controlled revenue will assist in maintaining the City's long-term financial stability; and

WHEREAS, the proposed measure does not increase taxes for Daly City residents who are not hotel guests or business proprietors but is paid only by out-of-town visitors and tourists when they stay at a hotel or motel in our City; and

WHEREAS, the proposed measure includes tough accountability provisions by requiring annual independent financial audits and public review of expenditures; and

WHEREAS, all funds remain in the City of Daly City and cannot be taken by Sacramento; and

WHEREAS, the City of Daly City has been facing ongoing fiscal challenges dating to the "great recession" of 2008/2009, resulting in reductions to staffing levels across all city departments and operations; and

WHEREAS, salaries and benefits have been reduced for staff, and significant reductions have been made in direct services to the public and departmental operations; and

WHEREAS, stagnant revenue growth over the last serval years, as well as the lack of a diversified revenue base, have contributed to a structural budget deficit; and

WHEREAS, accordingly the City Council directed staff to examine new revenue measures and City staff presented the City Council with the proposed "ORDINANCE AMENDING SECTION 3.32.020 OF CHAPTER 3.32 OF TITLE 3 OF THE CITY OF DALY CITY MUNICIPAL CODE PROVIDING FOR AN INCREASE IN THE TRANSIENT OCCUPANCY TAX RATE TO TWELVE PERCENT EFFECTIVE JANUARY 1, 2019 AND TO THIRTEEN PERCENT EFFECTIVE JULY 1, 2020", attached hereto and incorporated herein by reference as Exhibit "A" (the "Transient Occupancy Tax Ordinance"), which would increase the tax rate on rent charged to transients for the privilege of occupancy in any hotel within the City of Daly City to twelve percent (12%) effective January 1, 2019, and to thirteen percent (13%) effective July 1, 2020, to be collected by the hotel operator at the same time rent is paid for said occupancy; and

WHEREAS, a general municipal election consolidated with the statewide general election to be held on Tuesday, November 6, 2018, has been called and pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council desires to submit the Transient Occupancy Tax Ordinance to the qualified electors of the City of Daly City at the consolidated election;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Daly City does hereby declare, determine and order as follows:

MEASURE TO BE SUBMITTED TO THE VOTERS

Section 2(b) of Article XIIIC of the California Constitution (Proposition 218) and Government Code Section 53723 requires that a general tax must be submitted to the voters for approval and Government Code Section 53724 (c) requires that *any* tax submitted to the voters for approval shall be consolidated with a statewide primary election, a statewide general election, or a regularly scheduled local election at which all of the electors of the local government or district are entitled to vote, and the City Council desires that the Transient Occupancy Tax Ordinance be submitted to the voters for approval at the general municipal election consolidated with the statewide general election to be held on Tuesday, November 6, 2018.

The full text of the Transient Occupancy Tax Ordinance, attached to this Resolution as Exhibit A, shall be printed in the voter pamphlet. Pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council hereby submits the Transient Occupancy Tax Ordinance to the voters at the general municipal election consolidated with the statewide general election and orders the following question to be submitted to the voters on the ballot as follows:

Ballot Question

"Daly City Hotel Guest Tax/Local Services Protection Measure. To maintain senior, youth/afterschool, parks/recreation, library, disaster preparedness programs, school safety officers, rapid response to burglaries; address homelessness; improve traffic safety; maintain Daly City financial stability and other general services, shall an ordinance be adopted increasing the City's transient occupancy (hotel) tax by up to 3% paid by hotel/motel guests, providing approximately $300,000 annually until ended by voters, requiring audits, with all funds only for Daly City?

Yes _____   No _____

This question requires the approval of a majority vote of the City of Daly City electorate voting on the measure at the election to become effective. If this ordinance is approved by the City of Daly City electorate as outlined above, then this ordinance shall become effective ten (10) days following the date the vote is declared by the City Council in accordance with Elections Code §9217; and, be it, further

RESOLVED, on June 11, 2018, the City Council adopted a resolution requesting the Board of Supervisors of the County of San Mateo to consolidate the City of Daly City's general municipal election for the purpose of electing three (3) Councilmembers with the Statewide election to be held on November 6, 2018, and accordingly, pursuant to the requirements of Elections Code §10403, the City Council hereby requests that the consolidated election of November 6, 2018, include the submission of the Transient Occupancy Tax Ordinance measure to the voters of the City of Daly City; and, be it, further

RESOLVED, the City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed by Elections Code §10418; the City of Daly City requests the services of San Mateo County to conduct said general municipal election and the Board of Supervisors is requested to issue instructions to the County staff to take any and all steps necessary for the holding of a consolidated election; San Mateo County and its staff are authorized and instructed to procure and furnish any and all official ballots, notices, printed matter and all supplies and equipment and other necessary items in order to properly and lawfully conduct the election; San Mateo County is authorized to canvass the returns of the election, which shall be held in all respects as if there were only one election, and only one form of ballot shall be used; and the City of Daly City recognizes that additional cost will be incurred by the County by reason of the consolidation of the Transient Occupancy Tax Ordinance measure with the Statewide election and agrees to reimburse the County for any costs that are not reimbursed by the State; and, be it, further

RESOLVED, that in accordance with California Elections Code §9282, the City Council of the City of Daly City does resolve, declare, determine, and order that the City Council of the City of Daly City is authorized to file a written argument in favor of the City measure as specified above, 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 by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk; and, be it, further

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RESOLVED, that in accordance with California Elections Code §9282, arguments in favor and against, not exceeding 300 words, shall be filed with the City Clerk no later than **5:00 p.m. on Friday, August 17, 2018**, 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 who is the author of the argument. The arguments shall be accompanied by the *Form of Statement to Be Filed By Author(s) of Argument,* which can be obtained from the Office of the City Clerk; and be it, further

RESOLVED, that in accordance with California Elections Code §9280, the City Council directs the City Clerk to transmit a copy of the Transient Occupancy Tax Ordinance measure to the City Attorney, who shall prepare an impartial analysis showing the effect of the measure on the existing law and the operation of the measure; the City Attorney's impartial analysis may not exceed 500 words and shall be filed with the City Clerk no later than **5:00 p.m. on Friday, August 27, 2018;** and, be it, further

RESOLVED, the City Council elected to author ballot argument in support of the Transient Occupancy Tax Ordinance measure, and California Elections Code §9285 authorizes the City Council to adopt provisions for the filing of rebuttal arguments for measures submitted at municipal elections; accordingly, when the City Clerk has selected the argument for and against the measure which will be printed and distributed to the voters, the City Clerk shall send a copy of the argument in favor of the measure to the authors of the argument against, and a copy of the argument against to the authors of the argument in favor of the measure immediately upon receiving the arguments. The authors may prepare and submit rebuttal arguments not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be filed no later than **5:00 p.m. on Friday, August 27, 2018,** accompanied by the printed names and signatures of the persons 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 *Form of Statement To Be Filed By Author(s) of Argument,* which can be obtained from the Office of the City Clerk. Rebuttal arguments shall be printed in the same manner as the direct arguments, and rebuttal argument shall immediately follow the direct argument which it seeks to rebut; and, be it, further

RESOLVED, that all previous resolutions providing for the filing of rebuttal arguments for city measures are hereby repealed and the provisions of this resolution providing for the filing of rebuttal arguments regarding a city measure to approve a Transient Occupancy Tax Ordinance shall only apply to the election to be held on November 6, 2018, and shall thereafter be repealed; and, be it, further

RESOLVED, the City Council elected to author ballot argument in support of the measure and to permit rebuttal argument, and as authorized by California Elections Code §9285, the City Council is authorized to release of the City Council's rebuttal argument to individual voters and thus hereby authorizes each individual member of the City Council to release rebuttal argument in writing to any other person or persons to prepare, submit, or sign the rebuttal argument; and, be it, further

RESOLVED, should any section, subsection, clause or provision of this resolution for any reason be held to be invalid, then the remainder of the resolution shall be deemed valid, it being

expressly declared that this resolution, and each and every section, subsection, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified even if any other section, subsection, sentence, clause or phrase of this resolution were declared invalid; and, be it, further

RESOLVED, the City Council hereby finds that the proposed Transient Occupancy Tax Ordinance is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) (CEQA) because the City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of the ordinance may have a significant effect on the environment, and accordingly the adoption of the ordinance is not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3); additionally, the ordinance involves the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment and thus is not a project subject to the requirements of CEQA pursuant to CEQA Guidelines Section 15378 (b)(4).

I hereby certify the foregoing to be a true copy of a Resolution adopted by the City Council of Daly City, California, at a regular meeting thereof held on the ___23rd___ day of _July___, 2018, by the following vote of the members thereof:

AYES, and in favor thereof, Councilmembers: _____ Buenaventura, Christensen, Guingona _____

Sylvester, Manalo

NOES, Councilmembers: _____ None

Absent, Councilmembers: _____ None

CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

_____
JUSLYN C. MANALO
MAYOR OF THE CITY OF DALY CITY

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ORDINANCE NO. **1420**

AN ORDINANCE OF THE CITY OF DALY CITY AMENDING SECTION 3.32.020 OF CHAPTER 3.32 OF TITLE 3 OF THE CITY OF DALY CITY MUNICIPAL CODE PROVIDING FOR AN INCREASE IN THE TRANSIENT OCCUPANCY TAX RATE FROM TEN PERCENT TO TWELVE PERCENT EFFECTIVE JANUARY 1, 2019 AND THIRTEEN PERCENT EFFECTIVE JULY 1, 2020

SECTION ONE.   AMENDING SECTION 3.32.020 OF CHAPTER 3.32 OF TITLE 3 OF THE CITY OF DALY CITY MUNICIPAL CODE. Section 3.32.020 of Chapter 3.32 of Title 3 of the City of Daly City Municipal Code titled "Tax Imposed" is hereby amended in its entirety to read as follows:

Section 3.32.020. Tax Imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax of ten percent of the rent charged by the operator. Effective January 1, 2019, each transient is subject to and shall pay a tax of twelve percent of the rent charged by the operator. Effective July 1, 2020, each transient is subject to and shall pay a tax of thirteen percent of the rent charged by the operator. This tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

SECTION TWO.   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, and to this end the provisions of this ordinance are declared to be severable.

SECTION THREE. CODIFICATION.   Section One of this ordinance shall be codified in the City of Daly City municipal code. Sections Two, Three, Four, and Five of this ordinance shall not be codified.

SECTION FOUR.   COMPLIANCE WITH CEQA. The action to adopt this ordinance is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) (CEQA) because it can be seen with certainty that there is no possibility the adoption and implementation of this ordinance may have a significant effect on the environment, and accordingly the adoption of this ordinance is not subject to CEQA pursuant to CEQA Guidelines Section 15061(b)(3). Additionally, the ordinance involves the increase to an existing tax on transient occupancies and does not involve any commitment to any project which may result in a potentially significant impact on the environment and thus is not a project subject to the requirements of CEQA pursuant to CEQA Guidelines Section 15378 (b)(4).

SECTION FIVE.   **EFFECTIVE DATE.**   This ordinance relates to the increase of the City of Daly City transient occupancy tax authorized pursuant to the provisions of Article 3.7 of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code (Sections 53720-53730), for unrestricted general revenue purposes, and submitted to the City of Daly City electorate at an election called for November 6, 2018. This ordinance may be approved by a majority vote of the City of Daly City electorate voting on the measure at the election. If this ordinance is approved by the City of Daly City electorate as outlined above, then this ordinance shall become effective ten (10) days following the date the vote is declared by the City Council in accordance with Elections Code §9217.

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IT IS HEREBY FURTHER CERTIFIED that the foregoing Ordinance was adopted by Declaration of the November 6, 2018 election results by the City Council of the City of Daly City at a meeting held on _____, 2018, by the following vote

AYES: Councilmembers:_____

_____

NOES: Councilmembers:_____

ABSENT;   Councilmembers:_____

ABSTAIN: Councilmembers:_____

_____
CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

_____
MAYOR OF THE CITY OF DALY CITY