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

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

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

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

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

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

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

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

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.
SECTION 2. Submission of Ballot Measure. Pursuant to the Charter of the City of San
Bernardino §§300, 304, Section 9222 of the Elections Code, and any other applicable
requirements of the laws of the State of California relating to charter cities, the Mayor and City
Council, by a simple majority vote, hereby call and order to be held in the City of San Bernardino
on Tuesday, November 6, 2018, an election for the purpose of submitting the Ordinance attached
hereto as Exhibit “A” and incorporated herein by this reference to the qualified electors of the
City (the “Measure”) with said election to be held on the same day as the City’s general
municipal election and consolidated with the Statewide General Election on Tuesday, November
6, 2018.

SECTION 3. Ballot Measure. The Mayor and City Council, pursuant to their right and
authority, do hereby order 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 election to be held at the City’s general municipal
election to be consolidated with the Statewide General Election on Tuesday, November 6, 2018,
in addition to any other matters required by law, there shall be printed substantially the
following:

| "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 |
SECTION 4. Election Procedures.

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

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

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

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

E. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections in the City.

F. Notice of the time and place of holding the election is 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.

G. All ballots shall be tallied at a central counting place and not at the precincts. Said central counting place shall be at a County center as designated by the Registrar of Voters.

H. The San Bernardino County Registrar of Voters is hereby authorized to canvass the returns of said election.

I. The City Clerk of the City of San Bernardino shall receive the canvass as it pertains to the election on the measure, and shall certify the results to the Mayor and City Council, as required by law.

SECTION 5. Primary Arguments and Impartial Analysis.

A. Primary Arguments. The Mayor and City Council authorize (i) the Mayor and/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 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 by the City Clerk, after which no arguments for or
against the City measure may be submitted to the City Clerk.

B. The deadline to submit arguments for or against the Measure pursuant to this
Resolution is declared by the City Clerk to be Wednesday, August 23, 2018 at or before 5:00
p.m. at the Office of the City Clerk, 215 N. "D" Street, 3rd Floor, San Bernardino, California.
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.

C. Pursuant to Section 9280 of the Elections Code, the City Council 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. The City Attorney shall transmit
such impartial analysis to the City Clerk, who shall cause the analysis to be published in the
ballot pamphlet along with the ballot measure as provided by law. The Impartial Analysis shall
be filed by Thursday, August 16, 2018 at or before 5:00 p.m. at the Office of the City Clerk, 215
N. "D" Street, 3rd Floor, San Bernardino, California. The impartial analysis shall include a
statement indicating that the measure was placed on the ballot by the Mayor and City Council. In
the event the entire text of the measure is not printed on the ballot, nor in the voter information
portion of the sample ballot, there shall be printed immediately below the impartial analysis, in
no less than 10-font bold type, the following: "The above statement is an impartial analysis of an
ordinance or measure. If you desire a copy of the Ordinance or Measure, please call the Office of
the City Clerk and a copy will be mailed at no cost to you.”

SECTION 6. Rebuttals.

A. Pursuant to Section 9285 of the Elections Code of the State of California, when
the Clerk has selected the arguments for and against the Measure which will be printed and
distributed to the voters, the Clerk shall send copies of the argument in favor of the Measure to
the authors of the argument against, and copies of the argument against to the authors of the
argument in favor. 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 27, 2018 at or before 5:00 p.m. at the Office of the City Clerk,
215 N. "D" Street, 3rd Floor, San Bernardino, California. Rebuttal arguments shall be printed in
the same manner as the direct arguments. Each rebuttal argument shall immediately follow the
direct argument which it seeks to rebut.

B. That all previous resolutions providing for the filing of rebuttal arguments for City
measures are repealed.

C. That the provisions herein shall apply only to the election to be held on November
6, 2018, and shall then be repealed.

SECTION 7. Placement on the Ballot. The full text of the Ballot Ordinance shall be
printed in the voter pamphlet, and a statement shall be printed in the ballot pursuant to Section
9223 of the Elections Code advising voters that they may obtain a copy of this Resolution, the
Ordinance and/or Measure, at no cost, upon request made to the City Clerk.
SECTION 8. Delivery of Resolution to County. The City Clerk shall certify to the passage and adoption of this Resolution. The Mayor and City Council direct the City Clerk to deliver copies of this Resolution, including the Ordinance attached hereto as Exhibit “A”, to the Clerk of the Board of Supervisors of San Bernardino County and to the Registrar of Voters of San Bernardino County.

SECTION 9. CEQA. The Mayor and City Council finds the adoption of this Resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378 because the activity relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment under Section 15378(b)(5)), and 15061(b)(3) (the activity will not have an effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because this resolution has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 10. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 11. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.
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

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

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

R. Carey Davis, Mayor
City of San Bernardino

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

By:

Georgeann Hanna, CMC, City Clerk