

RESOLUTION NO. 5212

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD ORDERING A GENERAL MUNICIPAL ELECTION TO BOTH ELECT A MAYOR AND TWO CITY COUNCIL MEMBERS AND TO CONSIDER INCREASING THE CITY'S TRANSIENT OCCUPANCY TAX FROM NINE PERCENT (9%) TO TWELVE PERCENT (12%), REQUESTING THE MONTEREY COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION, REQUESTING CONSOLIDATION OF THE ELECTION WITH THE STATEWIDE GENERAL ELECTION, AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE MONTEREY COUNTY REGISTRAR OF VOTERS FOR RELATED ELECTION SERVICES

WHEREAS, pursuant to Elections Code Section 10002, the governing body of any city may by resolution request the Board of Supervisors of the county to permit the County Election Official to render specified services to the City relating to the conduct of an election; and

WHEREAS, the resolution of the governing body of the city shall specify the services requested; and

WHEREAS, pursuant to Elections Code Section 10002, the city shall reimburse the county in full for the services performed upon presentation of a bill to the city; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body calling the elections; and

WHEREAS, pursuant to Elections Code Section 10400, such election for cities may be either completely or partially consolidated; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a city for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the city shall, at least 88 days prior to the date of the election, file with the Board of Supervisors, and a copy with the Elections Official, a resolution of its governing body requesting the consolidation, and setting forth the exact form of any question proposition, or office to be voted upon at the election, as it is to appear on the ballot, and upon such request, the Board of Supervisors may order the consolidation; and

WHEREAS, the resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution or order calling the elections, and

WHEREAS, various district, county, state and other political subdivision elections, including the City's General Municipal Election, may be or have been called to be held on November 8, 2016; and

WHEREAS, the City Council desires to call for a general municipal election for the purpose of the election of the Mayor, for a term of two (2) years, and two members of the City Council, each for a term of four (4) years; and

WHEREAS, additionally, the City Council desires to submit to the voters at a November 8, 2016 consolidated statewide general and municipal election a question relating to an increase to the City's existing Transient Occupancy Tax ("TOT"), as set forth in Section 3.16.020 of the Soledad Municipal Code, from nine percent (9%) to twelve percent (12%) in order to maintain a consistent and reliable source of supplemental funding for the General Fund for general city services, pursuant to California Constitution Article XIIC, Section 2, Government Code Sections 53723 and 53724, Elections Code Section 9222, California Revenue and Taxation Code 7280, and the Municipal Code of the City of Soledad; and

WHEREAS, proceeds of the proposed increased TOT will be deposited into the City's General Fund and will be used to fund vital services, including but not limited to police, fire, street repair, park maintenance and community programs; and

WHEREAS, Elections Code Section 9282 sets forth the procedures for arguments in favor of or in opposition of any City measure; and

WHEREAS, Elections Code Section 9285 sets forth the procedures for rebuttal arguments; and

THEREFORE, BE IT RESOLVED by the City Council of the City of Soledad as follows:

Section 1. Recitals and Findings

1. All of the recitals set forth above are true and correct to the best of the City Council's knowledge and by this reference, are incorporated herein.
2. The City's TOT has not been increased since 1992.
3. The City believes that an increase to the City's TOT, which will only be imposed on the occupants of hotels and similar structures occupied by transients, as defined in the Code, is long overdue and that revenue generated by the TOT will assist the City's in paying for the ever increasing cost of providing vital and essential services to its citizens, such as police, fire, street repair, park maintenance and community programs.

Section 2. Call for Consolidated Election

A. The City Council of the City of Soledad hereby orders an election to be called and consolidated with any and all elections (including but not limited to the statewide general election) also called to be held on November 8, 2016, insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the City of Soledad,

and requests that the Board of Supervisors of the County of Monterey order such consolidation under Elections Code Section 10401 and 10403.

The purpose of the election is:

1. To conduct the election for the following offices on the November 8, 2016 ballot:

<u>Seats Open</u>	<u>Office</u>	<u>Term</u>
Fred J. Ledesma	Mayor	2 years
Patricia Stephens	Council member	4 years
Richard J. Perez	Council member	4 years

; and

2. To submit to the voters a question related to an increase to the City's Transient Occupancy Tax, as set forth in Section 3.16.020 of the Soledad Municipal code, from nine percent (9%) to twelve percent (12%).

B. The governing body of the City of Soledad hereby requests the Board of Supervisors to permit the Monterey County Elections Department to provide any and all services necessary for conducting the election and agrees to pay for said services.

C. Pursuant to Elections Code Section 13307, each candidate for city office will pay the cost of the candidate's statement. Said statement shall not exceed two hundred (200) words in length and unless authorized by law, no other candidate materials will be allowed to be mailed with the candidate's statement. The candidate shall submit payment to the City of Soledad upon submission of the candidate's statement.

Section 3. Placement of Measure on the Ballot. The official ballot to be used at said election shall conform to the laws of the State of California with relation thereto. The City Council of the City of Soledad, pursuant to its right and authority as established by the authorities cited herein, does order submitted to the voters at the consolidated General Municipal Election the following question concerning the extension of the City's Transient Occupancy Tax:

Shall Section 3.16.020 of Chapter 3.16 of the Soledad Municipal Code be amended to increase the existing transient occupancy tax, charged only to occupants of City hotels, from nine percent (9%) to twelve percent (12%), increasing the tax collected by an estimated \$20,000 for a new estimated annual total of \$100,000, with no termination date, to continue to provide funding for essential services such as police, fire, street repair, park maintenance and community programs?
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The words "yes" and "no" shall be printed on the ballots so the qualified electors may express their choice.

This measure shall be designated by letter by the Monterey County Elections Department.

The question requires a majority vote of the electorate for adoption.

Section 4. Proposed Ordinance. The ordinance authorizing an increase to the existing City of Soledad Transient Occupancy Tax to be approved by the voters pursuant to Section 3 is as set forth in Exhibit "A" hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 8, 2016 election, subject to the approval of a majority of the voters voting on the measure at a combined General and Municipal election. The entire text of the ordinance attached hereto as **Exhibit A** shall be printed in the voter information portion of the sample ballot. The ordinance specifies that the existing Transient Occupancy Tax shall be increased from nine percent (9%) to twelve percent (12%), and shall continue to be imposed and collected under the same terms and conditions as currently established in Chapter 3.16 of the Soledad Municipal Code.

Section 5. Impartial Analysis and Submission of Ballot Arguments. The City Attorney is hereby authorized to prepare an impartial analysis of the proposed measure by no later than August 18, 2016. The Attorney's impartial analysis of the ballot measure shall not exceed five hundred (500) words in length showing the effect of the measure on the existing law and the operation of the measure. Written arguments in favor or opposed to the measure may be prepared by the City Council, any member or members of the City Council so authorized by Council action, any individual voter who is eligible to vote on the measure, any bona fide association of citizens, or any combination of voters and associations. All arguments must be submitted to the City Clerk by 12:00 p.m. (noon) on August 18, 2016. No argument shall exceed three hundred (300) words in length. A ballot argument may not be accepted unless accompanied by the printed name and signature or printed names and signatures of the author or authors 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. No more than five signatures shall appear on any argument. If more than one argument is submitted for or against a measure, the City Clerk shall select the argument for printing and distribution in accordance with the provisions of Elections Code Section 9287. Pursuant to Section 9285 of the California Elections Code, 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 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. Rebuttal arguments may thereafter be prepared in a length not exceeding two hundred and fifty (250) words, and shall be filed with the City Clerk by no later than 12:00 p.m. (noon) on August 25, 2016. 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.

Section 6. CEQA. The City Council finds, based on all available information as of July 6, 2016, that under California Environmental Quality Act ("CEQA") Guidelines Section 15060(c)(2), subdivisions (2) and (4) of subdivision (b), the involved action does not constitute a project under CEQA and therefore review under CEQA is not required.

Section 7. Publication of Measure. In accordance with Sections 12101, 12110, and 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the election, the list of nominees, and the proposed measure to be published once in the Soledad Bee, a weekly newspaper of general circulation, printed, published and circulated in the City of Soledad and hereby designated for that purpose by the Council of Soledad.

Section 8. Canvass of Votes- Action Upon Tie. The City hereby requests that the Registrar of Voters shall conduct the official canvass, commencing no later than November 10, 2016, and shall provide the City with an Official Canvass and Statement of Votes. The City Council shall meet on or before the next scheduled meeting following the certification of the election to approve the canvass. Pursuant to Elections Code Section 15651(a), in the event of a tie vote, the City Council, acting as the Election Board, shall resolve the tie by lot.

Section 9. Payment For Services. The City Council determines that the "Service Agreement for the Provision of Election Services between the City of Soledad and the Monterey County Registrar of Voters," a copy of which is attached hereto as **Exhibit B** and by this reference incorporated herein, is hereby approved and the City Manager is hereby authorized and directed to execute the same on behalf of the City of Soledad.

Section 10. Effective Date. This resolution shall become effective immediately upon its passage and forthwith entered upon the minutes of this Council and kept and maintained by the City Clerk of the City of Soledad

Section 11. Certified Resolution. The City Clerk is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit a copy hereof so certified to the Board of Supervisors and the Registrar of Voters of Monterey County.

Section 12. Rescission of Resolution No. 5202. Adoption of this Resolution shall serve to rescind Resolution No. 5202, previously adopted on July 6, 2016, in its entirety.


PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 3rd day of August, 2016, by the following vote:

AYES, and in favor thereof, Councilmembers: Richard J. Perez, Christopher K. Bourke, Patricia D. Stephens, Mayor Pro Tem Alejandro Chavez and Mayor Fred J. Ledesma

NOES, Councilmembers: None


ABSTAIN, Councilmembers: None

ABSENT, Councilmembers: None



FRED L. LEDESMA, MAYOR

Attest:



ADELA P. GONZALEZ, CITY CLERK



ORDINANCE NO. 701**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLEDAD AMENDING SOLEDAD MUNICIPAL CODE SECTION 3.16.020 TO INCREASE THE RATE OF THE CITY'S TRANSIENT OCCUPANCY TAX FROM NINE PERCENT (9%) TO TWELVE PERCENT (12%)****BE IT HEREBY ORDAINED AS FOLLOWS:****Section 1. FINDINGS.**

- A. A combined General and Municipal Election is to be held in the City of Soledad, California on Tuesday, November 8, 2016, at which, among other matters, the Soledad City Council will be submitting to the voters a question relating to the amendment of Section 3.16.030 of the Soledad Municipal Code to effectuate an increase to the City's Transient Occupancy Tax ("TOT").
- B Pursuant to California Revenue and Tax Code Section 7280, the legislative body of any city, county, or city and county may levy a transient occupancy tax ("TOT"). Chapter 3.16 of the Soledad Municipal Code establishes a "uniform TOT" and methods of collection.
- C. Soledad Municipal Code Section 3.16.030 currently imposes a nine percent (9%) TOT for the privilege of occupancy in any hotel by a transient.
- D. Pursuant to Section 9222 of the California Elections Code, the Council may submit to the voters, without petition, a measure relating to the enactment of any ordinance.
- E. The Council deems it appropriate to adopt an ordinance, pursuant to the City's taxing authority, to amend Section 3.16.030 of Chapter 3.16 of the Soledad Municipal Code to increase the rate of TOT on the privilege of occupancy in any hotel located within the City from 9 percent (9%) to 12 percent (12%) of the rate charged for lodging.

Section 2. AUTHORITY. Section 2 of Article XIIC of the California Constitution and Section 53723 of the California Government Code authorize the City to impose a general tax after approval by a majority vote of the electorate.

Section 3. AMENDMENT TO THE SOLEDAD MUNICIPAL CODE. Section 3.16.030 of Chapter 3.16-Transient Occupancy Tax of the Soledad Municipal Code is hereby amended as follows:

3.16.030 For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of twelve percent (12%) of the rent charged by the operator. The 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 be paid directly to the tax administrator.

With the exception of the change noted above, all other provisions of Chapter 3.16 shall remain unchanged and in full force and effect.

Section 4. SUBSEQUENT ACTIONS. Notwithstanding Section 9217 of the California Elections Code, without a vote of the people, the City Council may do any and all of the following: 1) Repeal this ordinance; 2) Reduce the rate of the transient occupancy tax below 12%; or 3) Increase the rate of the transient occupancy tax to 12% if it has previously been reduced below such rate. In no event shall the City Council increase the rate of the transient occupancy tax in excess of 12% without approval of the majority of the voters voting in an election on the increase.

Section 5. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The voters of the City of Soledad hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentence, clauses or phrases is held unconstitutional, invalid or unenforceable.

Section 6. CEQA. The Council has determined that the matter to be submitted to the voters, an increase to a general tax that can be used for any legitimate governmental purpose, is not a project within the meaning of California Environmental Quality Act ("CEQA") Guidelines Section 15378(b)(4) because it merely creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potential impact on the environment. Therefore, under CEQA Guidelines Section 15060, review and analysis under CEQA is not required.

Section 7. CODIFICATION. Upon adoption of this ordinance pursuant to voter approval referenced in Section 2, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this ordinance in the Soledad Municipal Code.

Section 8. EFFECTIVE DATE OF TAX. If this ordinance is approved by a majority of the voters voting on this matter at the November 8, 2016 election, pursuant to Elections Code Section 9217, this ordinance shall become effective ten (10) days after the Council declares the results of the election.

Section 9. PUBLICATION. The City Clerk is directed to cause a summary of the ordinance to be published by one insertion in the Soledad Bee, a newspaper of general circulation published and circulated in the City of Soledad, and any further postings required by law.

APPROVED by the following vote of the Voters of the City of Soledad on November 8, 2016- Yes _____; No _____.

Adopted by Declaration of the vote of the City Council of the City of Soledad on _____, 2016.

AYES:

NOES:

ABSENT:

ABSTAINED:

FRED J. LEDESMA, Mayor

ATTEST:

ADELA P. GONZALEZ, City Clerk



SERVICE AGREEMENT FOR THE PROVISION OF ELECTION

SERVICES BETWEEN City of Soledad AND
City

MONTEREY COUNTY REGISTRAR OF VOTERS

Election Date -- November 8, 2016

This Agreement, entered into this 3rd day of August 2016, by and between

the City of Soledad and Monterey County Registrar of Voters (hereinafter referred to as
City

Registrar of Voters);

WHEREAS, it is necessary and desirable that the Registrar of Voters be retained for the purpose of conducting an election hereinafter described for the City of Soledad
City (hereinafter referred to as the City);

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

SERVICES TO BE PERFORMED BY THE CITY:

- 1) No later than the 88th day prior to the election the City shall submit a resolution requesting the Registrar of Voters for Monterey County to conduct an election for the City on ~~DATE OF ELECTION~~ DATE OF 11/08/16 ELECTION, and requesting election related services of the Registrar of Voters.
- 2) The City shall publish the Notice of Election and the Notice to File Declarations of Candidacy for the offices to be voted on, and/or the Notice to File Arguments for or against any measure.
- 3) The City shall submit to the Registrar of Voters in writing the exact number of offices to be voted on and the names and ballot designations of the candidates for those offices, and/or the exact ballot wording to be voted by no later than the 88th day prior to the election, or by the 83rd day prior to the election if Elections Code §§ 10225, 10229, and 10407 are applicable.
- 4) The City shall prepare and deliver to the Registrar of Voters the Voter Guide information containing, as applicable, candidates' statements of qualifications, ballot measure, tax rate statements impartial analysis, arguments for or against and rebuttals thereto. The last day for the

Election Service Agreement
County of Monterey Registrar of Voters and
City

ELECTION DATE

Aug. 18, 2016
submission of primary arguments (300 words) shall be no later than ~~[DATE]~~. The last day for the submission of rebuttal arguments (250 words) and impartial analysis shall be no later than ~~[DATE]~~ August 25, 2016.

- 5) The City shall be responsible for reviewing and approving the language of the sample ballot and official ballot wording for the Candidates and Measures no later than Aug. 25, 2016.

SERVICES TO BE PERFORMED BY REGISTRAR OF VOTERS:

- 1) The Registrar of Voters shall select and contract with the sample and official ballot printer(s) on behalf of the City.
- 2) The Registrar of Voters shall prepare and deliver to the printer the official ballot information.
- 3) The Registrar of Voters shall issue, receive and process all ballots on behalf of the City matters.
- 4) The Registrar of Voters shall procure all necessary and appropriate polling place locations, hire polling place workers, and conduct the election in accordance with all applicable state, federal and local laws.
- 5) The Registrar of Voters shall prepare a Canvass of Votes Cast and submit a Certificate of Registrar of Voters to the City regarding the City matters.
- 6) The Registrar of Voters shall conduct other various and miscellaneous election activities as required including but not limited to all those required as the City's Election Official other than those described under "Services to be Performed by the City".

TERMS:

This Agreement shall be in effect for the performance of all services incident to the preparation and conduct of the election to be held on ~~[DATE]~~ November 8, 2016.

In the event the Registrar of Voters is unable to perform services required under this Agreement, as a result of employer/employee relation conditions, vendor conditions or other conditions beyond the control of the Registrar of Voters, the Registrar of Voters will be relieved of all obligations under this Agreement. The Registrar of Voters may terminate this agreement after giving 72 hours written notice and the Registrar of Voters will be relieved of all obligations.

This agreement can be mutually terminated upon a 30 days' advance written notice.

CONSIDERATION:

Election Service Agreement
County of Monterey Registrar of Voters and
_____ City

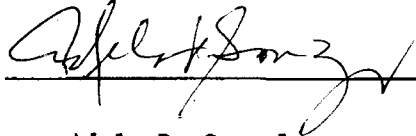
ELECTION DATE

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In consideration of the performance of services and supplies provided by the Registrar of Voters, the City shall pay to the Registrar of Voters a sum equal to the actual cost of such services, expenses, and supplies related to the work performed on behalf of City. In the event that this Agreement is terminated prematurely, the City shall pay to the Registrar a sum equal to the actual cost of such services performed or supplies/expenses incurred as of the effective date of the termination.

The City shall make payment within 30 days of receipt of invoice from Registrar of Voters.

CITY:

Signature:  Date: August 3, 2016

Print Name: Adela P. Gonzalez

Title: City Manager/City Clerk

COUNTY:

Signature: _____ Date: _____

Print Name: _____

Title: _____

