

RESOLUTION NO. 2024-39

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, CALLING FOR THE SUBMISSION TO THE VOTERS OF THE CITY AT THE NOVEMBER 5, 2024, CONSOLIDATED GENERAL ELECTION, A PROPOSED LOCAL MORENO VALLEY ESSENTIAL SERVICES REAUTHORIZATION MEASURE TO ENACT A ONE-CENT (1¢) GENERAL TRANSACTIONS AND USE TAX (SALES TAX) TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION ON BEHALF OF THE CITY OF MORENO VALLEY

WHEREAS, Elections Code section 9222 authorizes the City Council to submit to the voters, without a petition, a proposition (measure) for the repeal, amendment, or enactment of any ordinance, to be voted upon at any succeeding regular election, and if the proposition (measure) is approved by the requisite number of votes cast on the measure at the election, the ordinance shall be repealed, amended, or enacted accordingly; and

WHEREAS, Elections Code section 9222 further provides that such a proposition (measure) may be submitted to the voters by ordinance or resolution, provided the election is held not less than 88 days after the date of the order of election; and

WHEREAS, consistent with Elections Code section 9222, the Riverside County Registrar's General Election Calendar indicates that August 9, 2024, is the last day to submit a resolution calling for a measure to be submitted to the Registrar of Voters for inclusion on the November 5, 2024, Consolidated General Election ballot; and

WHEREAS, pursuant to Article XIII C, section 2 of the California Constitution ("Proposition 218"), cities are authorized to levy a "Transactions and Use Tax" for general purposes pursuant to Revenue and Taxation Code section 7285.9, if proposed by a two-thirds vote of all members of the governing body (city council) and approved by a majority vote of the electorate at a regularly scheduled general election for members of the governing body of the local government (city council); and

WHEREAS, the November 5, 2024, Consolidated General Election is also the City's regularly scheduled general election for members of the Moreno Valley City Council; and

WHEREAS, although transactions and use taxes are, in common parlance, considered "sales taxes," the California Department of Tax and Fee Administration (CDTFA), which administers local sales taxes, refused to administer the one-cent sales tax approved by the voters in 2021, since CDTFA opined that the former sales tax proposal (measure), albeit approved by the voters, constituted a sales tax under the Bradley-Burns Uniform Local Sales and Use Tax Law, as set forth in Revenue and

Taxation Code sections 7200-7226, rather than a sales tax under the Transactions and Use Tax Law as set forth in Revenue and Taxation Code sections 7251 - 7279.6; and

WHEREAS, in order to resolve the dispute with CDFTA, the City believes it is prudent to seek reauthorization of the one-cent (1¢) sales tax previously approved by the voters in 2021, rather than to proceed with expensive and lengthy litigation with the state to enforce compliance with the will and intent of the voters of the City of Moreno Valley, as expressed in their 2021 vote approving the proposed one-cent (1¢) sales tax measure; and

WHEREAS, in light of the foregoing, it has been recommended that the City Council place a measure on the November 5, 2024, Consolidated General Election ballot that will ask the voters to reauthorize the enactment of the previously approved one-cent (1¢) sales tax, but this time, under the Transactions and Use Tax Law as set forth in Revenue and Taxation Code sections 7251 - 7279.6, rather than under the Bradley-Burns Uniform Local Sales and Use Tax Law, as set forth in Revenue and Taxation Code sections 7200-7226.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. INTENT

That pursuant to Government Code section 53724(d) and Elections Code section 9222, it is the intent of the City Council that the ballot question (measure) described herein be submitted to the voters of Moreno Valley on the November 5, 2024, Consolidated General Election ballot, since November 5, 2024, is also the City's regularly scheduled general election.

Section 2. BALLOT QUESTION

That the question to be submitted to the voters on the November 5, 2024, Consolidated General Election ballot shall be as follows:

Moreno Valley Essential Services Reauthorization Measure:	
To maintain critical Moreno Valley services, including 9-1-1 response times, robbery/burglary prevention, neighborhood police patrols/fire service levels; address homelessness; repair streets/ potholes; keep public areas safe/clean; help retain businesses; and for general government use, shall the measure establishing a locally-controlled 1¢ transaction and use (sales) tax, first enacted by local voters in 2021, generating approximately \$30,000,000 annually until ended by voters, with audits/spending disclosure, be adopted?	YES
	NO

Section 3. PROPOSED ORDINANCE

That the proposed ordinance the voters are being asked to consider is attached hereto as Exhibit "A" and incorporated herein by this reference and such ordinance shall be printed in the voter pamphlet.

Section 4. VOTER APPROVAL

That pursuant to Elections Code section 9217, upon approval of the ballot measure by the voters, at the November 5, 2024, Consolidated General Election, the proposed ordinance shall become a binding ordinance of the City of Moreno Valley, and shall be considered as adopted upon the date that the vote is declared by the City Council and the ordinance shall go into effect 10 days after that date, albeit pursuant to Revenue and Taxation Code section 7265, the operative date of the additional one percent transactions and use tax shall be April 1, 2025, which is the first day of the first calendar quarter commencing more than 110 days after adoption of the ordinance by the voters on November 5, 2024.

Section 5. RIVERSIDE COUNTY REGISTRAR OF VOTERS

That the City Council of the City of Moreno Valley further resolves, declares and orders as follows:

(a) That the City Clerk is directed to file a certified copy of this Resolution with the Riverside County Board of Supervisors and the Riverside County Registrar of Voters.

(b) That pursuant to Elections Code section 10403, the Riverside County Board of Supervisors is hereby requested to consent and agree to the consolidate the election regarding the ballot measure with the Consolidated General Election that is scheduled to be conducted by Riverside County on Tuesday, November 5, 2024.

(c) That the Riverside County Board of Supervisors is requested to issue instructions to the Riverside County Registrar of Voters to take all necessary steps for holding and conducting the consolidated election.

(d) That the Riverside County Registrar of Voters is hereby authorized to canvass the returns of the election regarding the ballot measure which shall be held in all respects as if there were only one election.

(e) That the City of Moreno Valley recognizes that additional costs will be incurred by Riverside County Registrar of Voters by reason of this consolidation and agrees to reimburse Riverside County for those costs.

(f) That the City Council authorizes the City Clerk to administer said election, including but not limited to, contracting with the Riverside County Registrar of Voters to assist with conducting the election, and otherwise take all reasonably necessary steps to ensure the proper handling and conduct of the election authorized by this Resolution, and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted invoice.

Section 6. BALLOT ARGUMENTS

Arguments for and against the ballot measure may be filed in accordance with the applicable provisions of law. The City Council does not authorize the Council as a body or any individual member of the City Council to file a written argument or any rebuttal argument for or against the ballot measure. The City Clerk shall consider other written arguments in favor or against the ballot measure filed by bona fide association of citizens or individual residents who are eligible to vote or any combination of voters and associations in accordance with Elections Code sections 9282, 9285 and 9287, that does not exceed 300 words and that shall be distributed to voters in the voter information guide.

Section 7. DEADLINE FOR SUBMISSION OF ARGUMENTS

That arguments in favor or against the ballot measure, each not exceeding 300 words in length, shall be filed with the City Clerk of the City of Moreno Valley on or before August 19, 2024, after which rebuttable arguments, not exceeding 250 words in length, may be filed no later than August 29, 2024, after which no further arguments for or against the measure may be submitted to the City Clerk.

Section 8. CITY ATTORNEY ANALYSIS

That the City Clerk is hereby directed to transmit a copy of the ballot measure and proposed ordinance to the City Attorney, who shall prepare an Impartial analysis of the ballot measure by August 19, 2024, showing the effect of the ballot measure on existing law and the operation of the ballot measure in accordance with Elections Code section 9280, which shall not exceed 500 words in length.

Section 9. PUBLIC INSPECTION

That the City Clerk shall make available for public inspection: (a) the arguments filed for or against the ballot measure and the City Attorney's Impartial Analysis during the period commencing August 20, 2024, and ending on August 29, 2024, and (b) the rebuttal arguments during the period commencing August 30, 2024, and ending on September 8, 2024.

Section 10. EFFECTIVE DATE

That this Resolution shall take effect upon its adoption.

Section 11. CERTIFICATION

That the City Clerk shall certify the passage of this Resolution and enter it into the book of original resolutions.

APPROVED AND ADOPTED this 6th day of August 2024.



Ulises Cabrera
Mayor
City of Moreno Valley

ATTEST:



M. Patricia Rodriguez
Acting City Clerk
City of Moreno Valley

APPROVED AS TO FORM:



Steven B. Quintanilla
City Attorney
City of Moreno Valley

RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, M. Patricia Rodriguez, Acting City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2024-39 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 6th day of August 2024 by the following vote:

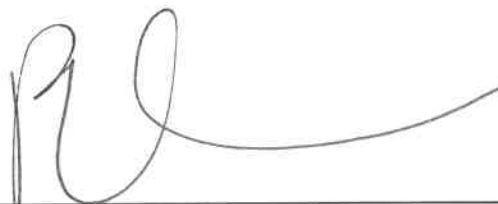
AYES: Councilmember Baca-Santa Cruz, Councilmember Delgado, Mayor Pro Tem Barnard, and Mayor Cabrera

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)



M. PATRICIA RODRIGUEZ, ACTING CITY CLERK



ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING TITLE 3 OF THE MORENO VALLEY MUNICIPAL CODE TO REPEAL AND REPLACE THE PROVISIONS OF CHAPTER 3.37 WITH THE PROVISIONS OF THIS ORDINANCE AUTHORIZING THE ENACTMENT OF A ONE-CENT (1¢) GENERAL SALES TAX UNDER THE TRANSACTIONS AND USE TAX LAW, AS SET FORTH IN REVENUE AND TAXATION CODE SECTIONS 7251 - 7279.6 AND 7285.9 - 7285.92 TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION ON BEHALF OF THE CITY OF MORENO VALLEY

THE PEOPLE OF THE CITY OF MORENO VALLEY ORDAIN AS FOLLOWS:

Section 1. ELECTIONS CODE SECTION 13119 STATEMENT

That the one percent transactions and use tax is estimated to produce approximately \$30 million per year, which may be used to fund general municipal services, and which shall remain in effect unless subsequently repealed by the voters.

Section 2. LOCAL USE OF PROCEEDS

That the revenue produced by the 1% transactions and use tax may be used for any local general municipal purpose including, but not limited to, maintain 9-1-1 emergency response times, robbery/burglary prevention, neighborhood police patrols/fire engine service levels; address homelessness, traffic; repair potholes/streets; keep public areas safe/clean; help retain local businesses; maintain senior services, youth/afterschool programs, until ended by voters, with independent financial audits, public review, all funds used locally.

Section 3. ANNUAL INDEPENDENT AUDITS

That the financial records, accounting practices and internal controls related to the collection, deposit and expenditure of the revenue produced by the one percent transactions and use tax shall be examined by means of an annual audit conducted by an independent auditor whose services shall be retained by the City through a contract for services as an independent contractor and available to the public for review.

Section 4. ONE PERCENT TRANSACTIONS AND USE TAX

That Title 3 (Revenue and Finance) of the Moreno Valley Municipal Code is hereby amended to repeal and replace the current Chapter 3.37 in its entirety with the following provisions:

Chapter 3.37

TRANSACTIONS AND USE TAX

3.37.010 Short title.

This chapter shall be known as the “Moreno Valley Transactions and Use Tax Ordinance.”

3.37.020 Rate.

The rate of the transactions and use tax imposed by this chapter shall be one percent.

3.37.030 Purpose.

The City Council declares that the ordinance codified in this chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transaction and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose;

B. To adopt a transactions and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code;

C. To adopt a transactions and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes;

D. To adopt a transactions and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting city transactions and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

E. To provide transactions and use tax revenue to the City to be used for the general governmental purposes of the City and with any transactions and use tax revenue received being placed into the City's general fund.

3.37.040 Contract with State.

Prior to the operative date the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract rather than the first day of the first calendar quarter following the adoption of the ordinance codified in this chapter.

3.37.050 Transactions tax.

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the City at the rate stated in Section 3.37.020 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this City on and after the operative date.

3.37.060 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-State destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.37.070 Use tax.

An excise tax is imposed on the storage, use or other consumption in this City of tangible personal property purchased from any retailer on and after the operative date for storage, use or other consumption in this City at the rate stated in Section 3.37.020 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made.

3.37.080 Adoption of provisions of State law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are adopted and made a part of this chapter as though fully set forth herein.

3.37.090 Limitations on adoption of State law.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of the City shall be substituted therefor. The substitution prescribed by subsection (a), however, shall not be made:

1. When the word "State" is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, the State Treasury, or the Constitution of the State of California;
2. When the result of that substitution would require action to be taken by or against the City, or any agency thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this chapter;
3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or to
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the provisions of that Code;
4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.37.100 Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this chapter.

3.37.110 Exclusions and exemptions.

The following exclusions and exemptions shall apply:

A. There shall be excluded from the measure of the transactions and sales tax and the use tax the amount of any sales tax or use tax imposed by the State of California

or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City, which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this chapter.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance codified in this chapter.

5. For the purposes of subsections B.3 and B.4 of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this chapter.

5. For the purposes of subsections C.3 and C.4 of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subsection C.7 of this section, a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

E. Nothing in this chapter shall be construed as imposing a tax upon any person or service when the imposition of such tax upon such person or service would be in violation of a federal or state statute, the Constitution of the United States, or the Constitution of the State of California.

3.37.120 Amendments.

All subsequent amendments of the Revenue and Taxation Code which relate to sales and use taxes and which are not inconsistent with Part 1.6 and 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.37.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or this City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.37.140 Violations—Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than six months, or by both such fine and imprisonment.

Section 5. SEVERABILITY

That should any provision, section, paragraph, sentence, or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 6. REPEAL OF CONFLICTING PROVISIONS

That all the provisions of the Municipal Code as heretofore adopted by the City of Moreno Valley that conflict with the provisions of this ordinance are hereby repealed.

Section 7. AMENDMENTS

That Section 3.37.020 (Rate) of Chapter 3.37 (Transactions and Use Tax) of Title 3 (Revenue and Finance) of the Moreno Valley Municipal Code shall not be subsequently

amended unless approved by the voters, but the remaining provisions of Chapter 3.37 (Transactions and Use Tax) may be amended by the City Council unless otherwise provided by applicable law.

Section 8. **CERTIFICATION**

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

Section 9. **OPERATIVE DATE OF ONE PERCENT TRANSACTIONS
AND USE TAX**

That the operative date of the one percent transactions and use tax shall be April 1, 2025, which is the first day of the first calendar quarter commencing more than 110 days after adoption of this ordinance by the voters on November 5, 2024, or as soon thereafter as permitted by law.

PASSED AND ADOPTED by the People of the City of Moreno Valley at a special municipal election held and conducted with the consolidated general election held on November 5, 2024.

Mayor

ATTESTED BY:

City Clerk