

ORDINANCE NO. 2220

AN ORDINANCE OF THE CITY OF ALAMO HEIGHTS, TEXAS, REPEALING THE APPLICATION OF THE EXEMPTION FROM LOCAL SALES AND USE TAXES ON RECEIPTS FROM THE SALE OF TELECOMMUNICATION SERVICES ON SALES WITHIN VIA METROPOLITAN TRANSIT AUTHORITY'S ENTITY AREA OF TELECOMMUNICATIONS SERVICES AND APPROVES VIA'S INTENT TO IMPOSE SUCH A TAX ON TELECOMMUNICATION SERVICES, AS PROVIDED IN SECTION 322.109 OF THE TEXAS TAX CODE; PROVIDING FOR NOTIFICATION TO THE COMPTROLLER OF THE STATE OF TEXAS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, under Section 322.109 of the Texas Tax Code there are exempted from the taxes imposed by a taxing entity the sales within the entity area of telecommunications services unless the application of the exemption is repealed under that section, and

WHEREAS, under Section 322.109(d) of the Texas Tax Code, the governing board of a taxing entity created under Chapter 451, Transportation Code, may not repeal the application of the exemption of taxes on sales within its entity area of telecommunications services unless the repeal is first approved by a majority of the members of the governing body of each municipality that created the taxing entity; and

WHEREAS, VIA Metropolitan Transit (VIA) is a taxing entity created under Chapter 451, Transportation Code; and

WHEREAS, the City Council of the City of Alamo Heights is a governing board of a municipality that assisted in the establishing of VIA; and

WHEREAS, VIA does not currently impose a sales and use tax on telecommunications services sold within its entity area; and

WHEREAS, the VIA Board of Trustees intends to repeal the application of the exemption of taxes on sales within VIA's entity area of telecommunications services and has requested the City Council of the City of Alamo Heights approve VIA's decision to do so as required under Section 322.109(d) of the Texas Tax Code; and

WHEREAS, after thorough review and consideration, the City Council finds it approves VIA's desire to repeal the application of the exemption of taxes on sales within VIA's entity area of telecommunications services and approves VIA's intent to impose such a tax on telecommunication services:

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALAMO HEIGHTS, THAT:

SECTION 1. The City Council of Alamo Heights hereby approves VIA's decision to repeal the application of the exemption of taxes on sales within VIA's entity area of telecommunications services and approves VIA's decision to impose such a tax on telecommunications services.

SECTION 2. The City Manager, upon the request from VIA, shall forward to the Comptroller of the State of Texas by certified or registered mail a copy of this Ordinance along with a copy of the minutes of the City Council's vote and discussion regarding this Ordinance.

SECTION 3. Upon this Ordinance becoming law pursuant to applicable City procedures, it shall be entered into the minutes of the City Council.

SECTION 4. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect. Further, the tax provided for hereunder shall not serve as an offset to, be in lieu of or in any way reduce any amount payable to the City pursuant to any franchise, street use ordinance, charter provision, statute, or without limitation by the foregoing enumeration, otherwise payable by any provider of telecommunications service; it being the express intent hereof that all such obligations, impositions, and agreements of every kind and nature shall remain in full force and effect without reduction or limitation hereby.

SECTION 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause, or phrase thereof. Irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 6. This Ordinance shall take effect and be in full force from and after its passage

PRESENTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALAMO HEIGHTS, TEXAS THIS 29th DAY OF APRIL, 2024.



BOBBY ROSENTHAL, MAYOR

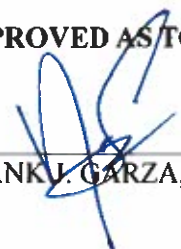
ATTEST:



ELSA T. ROBLES, CITY SECRETARY



APPROVED AS TO FORM:



FRANK J. GARZA, CITY ATTORNEY