CITY OF SUN VALLEY
RESOLUTION 2016-03

A RESOLUTION OF THE CITY OF SUN VALLEY, IDAHO,
PROCLAIMING A SPECIAL MUNICIPAL ELECTION
TO BE HELD ON TUESDAY, MAY 17, 2016 TO
ADOPT A NEW LOCAL-OPTION NONPROPERTY TAX ORDINANCE

WHEREAS, the City of Sun Valley, Idaho (the "City") is a municipal corporation duly organized and operating under the laws of the State of Idaho; and

WHEREAS, Sections 50-1044 to 50-1049 of the Idaho State Code authorize the voters of resort cities to authorize their city government to adopt, implement and collect local-option nonproperty taxes; and

WHEREAS, the local-option nonproperty tax cannot be adopted, implemented or collected without the assent of a sixty percent (60%) majority of the qualified electors of the City voting in an election called for such purpose; and

WHEREAS, the City Council of the City of Sun Valley has determined to call and the County will conduct an election for the aforesaid purposes as required by Sections 50-1044 to 50-1046 of the Idaho State Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SUN VALLEY, IDAHO:

SECTION 1: A Special Municipal Election shall be held in the City of Sun Valley, Idaho, on Tuesday, the 17th day of May, 2016, to adopt a new local-option nonproperty tax ordinance in a form attached hereto as Ordinance No. 484.

SECTION 2: The polling place or places for the special election shall be determined by the Blaine County Clerk, and the election shall be conducted by the Blaine County Clerk. The Blaine County Clerk shall appoint election judges and election clerks for the polling place or places for the special election.

SECTION 3: The polls of the special election shall open at the hour of 8:00 A.M. on May 17, 2016, and shall remain open continuously until the hour of 8:00 P.M., at which time the polls shall be closed. The administration of the election shall be conducted by Blaine County in accordance with Chapter 4 of Title 50 and Title 34 of the Idaho Code.

SECTION 4: The ballot proposition for the special election shall be in substantially the following form:

SPECIAL NONPROPERTY TAX ELECTION

CITY OF SUN VALLEY
STATE OF IDAHO
May 17, 2016

QUESTION: Shall the City of Sun Valley, Idaho (the "City") adopt Ordinance No. 484, which shall provide for the imposition and collection of, for a period of ten (10) years from its effective date of October 1, 2017, certain local-option nonproperty taxes as follows:

(1) **a three percent (3%) tax** on the sales price of all sales transactions described as furnishing, preparing, or serving food, meals, or drinks and nondepreciable goods and services directly consumed by customers included in the charge thereof;

(2) **a three percent (3%) tax** on the sales price of all sales transactions described as:

a. admission to a place or for an event in the City of Sun Valley;

b. the use of or the privilege of using tangible personal property or facilities for recreation, including golf membership and fees, but not ski lift facilities;

c. providing hotel, motel, campground, or trailer court accommodations, nondepreciable goods directly consumed by customers and included services, except where residence is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days;

d. the lease or rental of tangible personal property;

e. the intrastate transportation for hire by air of freight or passengers, except (1) as part of a regularly scheduled flight by a certified air carrier, under authority of the United States, or (2) when providing air ambulance services;

f. any Sale, regardless where generated, for admission to a place or for an event taking place within the City of Sun Valley;

g. any Sale, regardless where generated, for the use of or the privilege of using tangible personal property or facilities for recreation within the City of Sun Valley;

(3) **a two percent (2%) tax** on the sales price of all tangible personal property including:

a. producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers who furnish, either directly or indirectly the tangible personal property used in producing, fabricating, processing, printing, or imprinting;

b. a transfer of possession of property where the seller retains the title as security of the payment of the sales prices;

c. a transfer of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;

(4) **a one percent (1%) tax** on the sales price of sales of ski lift tickets and season ski lift passes;.

(5) **a three percent (3%)** room occupancy charge on receipts from all short-term rental (30 days or less) charges for hotel-motel rooms, condominium units, tourist homes, vacation rentals or other sleeping accommodations;

(6) **a one percent (1%)** tax on the sales price of "building and construction materials," as defined in Section 2(c)(1) of Ordinance No. 484; and

(7) **a three percent (3%)** liquor by-the-drink sales tax on all sales at retail of liquor by-the-drink including liquor, beer, wine, and all other alcoholic beverages, for consumption on the premises, or at any event or activity in the City of Sun Valley.

The nonproperty sales tax revenue derived from and collected under this Ordinance shall be used for the following purposes: administration and legal expenses; economic development activity; fire protection; land acquisition; law enforcement; municipal transportation; parks, trails, and recreation; property tax relief; public information and education; and roads, buildings and grounds.

IN FAVOR →	☐
AGAINST →	☐

SECTION 5: The Council shall meet within thirty (30) days following the election, or at such time to which said meeting is continued, at the regular meeting place of the City Council, for the purpose of canvassing the results of the election. Thereupon, the results of the election shall be entered in the minutes of the Council and proclaimed as final.

PASSED by the City Council and approved by the Mayor this 7 day of March 2016.

SIGNED:

Peter Hendricks, Mayor

ATTEST:

Alissa Weber, City Clerk

CITY OF SUN VALLEY Seal SUN VALLEY, IDAHO

EXHIBIT 1: ORDINANCE NO. 484

ORDINANCE NUMBER 484

AN ORDINANCE OF THE CITY OF SUN VALLEY, BLAINE COUNTY, IDAHO; PROVIDING FOR CERTAIN FINDINGS THAT THE CITY OF SUN VALLEY HAS SIGNIFICANT ECONOMIC DEPENDENCE ON VISITORS AND TRAVELERS AND IS A RESORT CITY WITH A POPULATION NOT IN EXCESS OF TEN THOUSAND PERSONS ACCORDING TO THE MOST RECENT CENSUS; THAT THE CITY OF SUN VALLEY DERIVES A MAJOR PORTION OF ITS ECONOMIC WELL BEING FROM BUSINESSES CATERING TO RECREATIONAL NEEDS AND MEETING THE NEEDS OF PEOPLE TRAVELING TO THAT CITY FOR AN EXTENDED PERIOD OF TIME; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE IMPOSITION OF CERTAIN NONPROPERTY TAXES, TO WIT: A THREE PERCENT (3%) TAX ON THE SALES PRICE FOR FOOD AND NONALCOHOLIC BEVERAGES; A THREE PERCENT (3%) TAX ON THE SALES PRICE OF SALES OTHER THAN CERTAIN TANGIBLE PERSONAL PROPERTY, SKI LIFT TICKETS, SEASON SKI PASSES, AND BUILDING AND CONSTRUCTION MATERIALS; A TWO PERCENT (2%) TAX ON THE SALES PRICE FOR CERTAIN TANGIBLE PERSONAL PROPERTY; A ONE PERCENT (1%) TAX ON THE SALES PRICE OF SKI LIFT TICKETS AND SEASON SKI PASSES; A ONE PERCENT (1%) TAX ON TRANSACTIONS IN BUILDING AND CONSTRUCTION MATERIALS AS DEFINED; A THREE PERCENT (3%) HOTEL-MOTEL ROOM OCCUPANCY TAX; AND A THREE PERCENT (3%) LIQUOR BY-THE-DRINK TAX; PROVIDING FOR A TEN (10) YEAR TERM; ESTABLISHING THE PURPOSES FOR WHICH THE REVENUES DERIVED FROM THE NONPROPERTY TAXES SHALL BE USED; CREATING A PROPERTY TAX RELIEF FUND; AUTHORIZING THE CITY CLERK TO ADMINISTER, REGULATE AND COLLECT SAID NONPROPERTY TAXES; PROVIDING FOR PERMITS AND ISSUANCE THEREOF; PROVIDING METHODS FOR THE PAYMENT OF TAXES, AUDITS, DEFICIENCY DETERMINATIONS, REDETERMINATION OF DEFICIENCY, APPEALS, INTEREST ON DEFICIENCIES, COLLECTIONS, ENFORCEMENT AND REFUNDS; PROVIDING LIMITATIONS AND INTEREST; PROVIDING FOR RESPONSIBILITY FOR PAYMENT OF TAXES; PROVIDING A PERIOD OF LIMITATIONS ON ASSESSMENTS AND COLLECTION; ESTABLISHING SUCCESSOR'S LIABILITY; PROVIDING FOR GENERAL ADMINISTRATION BY THE CITY CLERK; PROVIDING PENALTIES AND PENALTY CHARGES; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; PROVIDING FOR THE CODIFICATION OF THE ORDINANCE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED by the Mayor and the City Council of the City of Sun Valley, Idaho:

SECTION 1. FINDINGS.

The City Council of the City of Sun Valley, State of Idaho, hereby finds that the City of Sun Valley is a resort city with a population not in excess of ten thousand persons according to the most recent census within the State of Idaho, and is a city organized under the general laws of the State of Idaho. The City Council of the City of Sun Valley further finds that as a resort city, the

City of Sun Valley derives a major portion of its economic well being from businesses catering to recreational needs and meeting the needs of people traveling to the City of Sun Valley as a destination city for an extended period of time; and that the City of Sun Valley has a significant economic dependence upon visitors and travelers passing through or staying in the City of Sun Valley and those visitors and travelers require services of the City of Sun Valley.

SECTION 2. DEFINITIONS.

When used in this Ordinance, the terms defined in the following subparagraphs shall have the meanings respectively ascribed to them.

a. The terms "in this City" or "in the City" mean within the exterior limits of the City of Sun Valley, Blaine County, Idaho.

b. Except as specifically noted herein, the terms used in this Ordinance shall have the same definitions as such terms have been defined in the Idaho Sales Tax Act, found at Chapter 36, Title 63, Idaho Code, as that legislation may from time to time be amended; and the Idaho Sales and Use Tax Regulations as adopted by the Department of Revenue and Taxation, State Tax Commission, as those Regulations may from time to time be amended; and the retail sale of Liquor By-The-Drink Act as that legislation and Regulation may from time to time be amended. Whenever in the definitions contained in the Idaho Sales Tax Act or the Idaho Sales and Use Tax Regulations, reference is made to the "State of Idaho," "Tax Collector," "Idaho Sales Tax Act" or "Tax Commission," such reference shall be deemed to be to the City of Sun Valley, City Clerk, this Ordinance, City of Sun Valley, respectively, unless the context of the reference clearly demonstrates that such interpretation is unreasonable.

c. Certain definitions instructive to this Ordinance currently include but are not limited to the following:

(1) Building and Construction Materials: "Building and Construction Materials" are defined generally as all tangible personal property used in constructing, altering, repairing or improving real property. They include, but are not limited to: all structural, electrical, plumbing, and mechanical components necessary to make a structure suitable for all occupancies; such building materials shall also include any materials used in the finish of a structure, including, but not limited to, design elements and attached fixtures, such as: floor coverings, attached television antennae, attached plumbing, bathroom and lighting fixtures, window screens, window coverings, screen doors, storm doors, garage door openers and transmitters, exterior trees, plants, shrubbery, water heating apparatus and fixtures, cabinetry, attached fireplaces and free-standing fireplaces, awnings, ventilating, cooling and heating systems, built-in and drop-in ranges (but excepting all other ranges) and barbeques, hardscape and patio features, any alarms (burglar, fire, *etc.*), fences and gates, fuel tanks, irrigation fixtures, and irrigation equipment.

(2) Hotel-Motel: The term "hotel-motel" means and includes any business including hotels, motels, condominiums, tourist homes, vacation rentals and any other business which in the regular course of business rents or leases for occupancy temporary lodging and sleeping accommodations to individuals with or without meals, for a period of thirty (30) days or less.

(3) Liquor by-the-drink: The term "liquor by-the-drink" includes without limitation:

(a) "Alcohol," meaning the product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, or synthetic ethyl alcohol.

(b) "Spirits," meaning any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, among other things, brandy, rum, gin, and whiskey.

(c) "Wine," meaning any alcohol beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, *etc.*) or other agricultural products containing sugar (honey, milk, *etc.*).

(d) "Beer," meaning any alcohol beverage obtained from the fermentation of sugar, barley, hops, malt, yeast, and similar ingredients.

(e) Any liquid or solid, patented or not, containing alcohol, spirits, or wine and susceptible of being consumed by a human being, for beverage purposes.

(4) Sale of Liquor by-the-drink: The term "sale of liquor by-the-drink" means and includes the sale at retail of liquor by-the-drink for consumption on the premises, as defined in I.C. § 23-902, or at any event or activity within the City and includes any transfer of money, title, exchange, barter, or credit, conditional or otherwise, in any manner or by any means whatsoever as consideration.

(5) Room Occupancy Charge: The term "room occupancy charge" means and includes the total amount charged for, or allocated to, the rental, use or temporary occupancy of a room, hotel, motel, condominium or other sleeping accommodation or living unit, valued in money, whether paid in money or otherwise, without any deduction.

(6) Person: The term "person" means and includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit.

(7) Purchase: The term "purchase" means and includes any transfer, rental, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price is a purchase. A transfer for consideration of any publication or of tangible personal property which has been produced, fabricated, or printed to the special order of the customer is also a purchase.

(8) Retail Sale - Sale at Retail: The terms "retail sale or sale at retail" mean a sale of tangible personal property for any purpose other than resale of that property in the regular course of business, or lease or rental of that property in the regular course of business where such rental or lease is taxable under Section 63-3612(h), Idaho Code.

(a) All persons engaged in constructing, altering, repairing, or improving real estate, which includes construction of prefabricated buildings as defined in Idaho Code Section 63-3606A, are consumers of the material used by them.

(b) The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State, is a retail sale in this State by the person making the delivery. He or she shall include the retail selling price of the property in historical sales subject to tax under this Ordinance.

(c) For the purposes of this Ordinance as enacted, the sale or purchase of personal property incidental to the sale of real property or used mobile homes is deemed a sale of real property.

(9) Retailer: The term "retailer" means and includes:

(a) Every seller who makes any retail sale or sales of tangible personal property and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

(c) Every person making more than two (2) retail sales of tangible personal property during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy, or every person making fewer sales who holds himself out as engaging in the business of selling such tangible personal property at retail or who sells a self propelled motor vehicle.

(d) When the City Clerk determines that it is necessary for the efficient administration of this Ordinance to regard any salesmen, representatives, peddlers, or canvassers as agents of the dealers, distributors, supervisor, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, or employers, the City Clerk may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for the purpose of this Ordinance.

(e) Persons conducting both contracting and retailing activities. Such persons must keep separate accounts for the retail portion of their business and pay tax in the usual fashion on this portion.

(10) Sale:

(a) The term "Sale" means any transfer of title, exchange or barter, conditional or otherwise, of tangible personal property for a consideration and shall include any

similar transfer of possession found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, exchange or barter.

(b) "Sale" shall also include the following transactions when a consideration is transferred, exchanged or bartered in connection with or related to an activity conducted in the City of Sun Valley:

i) Producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers who furnish, either directly or indirectly the tangible personal property used in the producing, fabricating, processing, printing, or imprinting.

ii) Furnishing, preparing, or serving food, meals, or drinks and nondepreciable goods and services directly consumed by customers included in the charge thereof.

iii) A transfer of possession of property where the seller retains the title as security of the payment of the sales price.

iv) A transfer of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

v) Admission to a place or for an event in the City of Sun Valley.

vi) The use of or the privilege of using tangible personal property or facilities for recreation.

vii) Providing hotel, motel, campground, or trailer court accommodations, nondepreciable goods directly consumed by customers and included services, except where residence is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days.

viii) The lease or rental of tangible personal property.

ix) The intrastate transportation for hire by air of freight or passengers, except (1) as part of a regularly scheduled flight by a certified air carrier, under authority of the United States, or (2) when providing air ambulance services.

x) Any Sale at retail within the City of Sun Valley, including the Sale of liquor by-the-drink.

xi) Any Sale, regardless where generated, for admission to a place or for an event taking place within the City of Sun Valley.

xii) Any Sale, regardless where generated, for the use of or the privilege of using tangible personal property or facilities for recreation within the City of Sun Valley;

xiii) Providing hotel, motel, vacation rental and other sleeping accommodations rented or leased for a period of thirty (30) days or less.

xiv) The transfer of title, exchange or barter, conditional or otherwise, of tangible personal property for a consideration of "building and construction materials" as defined in Section 2(c)(1).

(c) As used in subsections (b)(ii) and (b)(vii) of this Section, goods "directly consumed by customers" shall not be interpreted to mean any linens, bedding, cloth napkins or similar nondisposable property.

(11) Sales Price:

(a) The term "sales price" means and includes the total amount for which tangible personal property including services agreed to be rendered as a part of the sale, is sold, rented, or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

i) The cost of the property sold. However, in accordance with such rules and regulations as the State Tax Commission may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale or rental, has reimbursed his or her vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his or her vendor with respect to the sale of the property.

ii) The cost of materials used, labor or service cost, losses, or any other expense.

iii) The cost of transportation of the property prior to its sale.

(b) The term "sales price" does not include those items defined in I.C. § 63-3613 (b) 1-10.

(c) The sales price of a "new manufactured home" or a "modular building" as defined in this act shall be limited to and include only fifty-five percent (55%) of the sales price as otherwise defined herein.

(d) Tangible personal property when sold at retail for more than eleven cents ($.11) but less than one dollar and one cent ($1.01) through a vending machine shall be deemed to have sold at a sales price equal to one hundred seventeen percent (117%) of the price which is paid for such tangible personal property and/or its component parts including packaging by the owner or operator of the vending machines.

(12) Sales Tax Act: shall mean the Idaho Sales Tax Act, Idaho Code 63-3601, *et. seq.*, including subsequent amendments thereto, which is hereby adopted by reference.

(13) Seller: The term "seller" means every person making sales at retail or retail sales to a buyer or consumer, whether as agent, broker, or principal.

(14) Tangible Personal Property: The term "tangible personal property" means personal property which may be seen, weighted, measured, felt, or touched, or which is in any other manner perceptible to the senses.

(15) Taxpayer: Any person subject to or liable for any taxes imposed by this Ordinance.

(16) Tax: Any nonproperty sales tax imposed by this Ordinance.

SECTION 3. IMPOSITION AND RATE OF CERTAIN LOCAL-OPTION NONPROPERTY SALES TAXES.

Except as to building and construction materials, the City of Sun Valley hereby imposes and shall collect certain local-option nonproperty taxes to wit:

a. A municipal sales tax on the sales price of all sales subject to taxation under this Ordinance and Idaho Code 63-3601, *et. seq.*, Idaho Sales Tax Act, including subsequent amendments thereto as follows:

(1) **a three percent (3%) tax** on the sales price of all sales transactions described as furnishing, preparing, or serving food, meals, or drinks and nondepreciable goods and services directly consumed by customers included in the charge thereof;

(2) **a three percent (3%) tax** on the sales price of all sales transactions described as:

(a) admission to a place or for an event in the City of Sun Valley;

(b) the use of or the privilege of using tangible personal property or facilities for recreation, including golf membership and fees, but not ski lift facilities;

(c) providing hotel, motel, vacation rentals, campground, or trailer court accommodations, nondepreciable goods directly consumed by customers and included services, except where residence is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days;

(d) the lease or rental of tangible personal property;

(e) the intrastate transportation for hire by air of freight or passengers, except (1) as part of a regularly scheduled flight by a certified air carrier, under authority of the United States, or (2) when providing air ambulance services;

(f) any Sale, regardless where generated, for admission to a place or for an event taking place within the City of Sun Valley;

(g) any Sale, regardless where generated, for the use of or the privilege of using tangible personal property or facilities for recreation within the City of Sun Valley;

(3) **a two percent (2%) tax** on the sales price of all tangible personal property including:

(a) producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers who furnish, either directly or indirectly the tangible personal property used in producing, fabricating, processing, printing, or imprinting;

(b) a transfer of possession of property where the seller retains the title as security of the payment of the sales prices;

(c) a transfer of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;

(4) **a one percent (1%) tax** on the sales price of sales of ski lift tickets and season ski lift passes;

(5) **a three percent (3%)** room occupancy charge on receipts from all short-term rental (30 days or less) charges for hotel-motel rooms, condominium units, tourist homes, vacation rentals or other sleeping accommodations;

(6) **a one percent (1%)** tax on the sales price of all "building and construction materials," as defined in Section 2(c)(1); and

(7) **a three percent (3%)** liquor by-the-drink sales tax on all sales at retail of liquor by-the-drink including liquor, beer, wine, and all other alcoholic beverages, for consumption on the premises, or at any event or activity in the City of Sun Valley.

SECTION 4. CALCULATION AND COLLECTION OF TAX.

a. The municipal sales tax shall apply to, be computed on, and collected for all credit, installment, conditional or similar sales at the time of the sale, or, in the case of rentals, at the time the rental is charged.

b. The tax hereby imposed shall be collected by the retailer from the consumer.

c. The retailer shall calculate the tax upon the entire amount of the purchases of the consumer made at a particular time and not separately upon each item purchased. The retailer may retain any amount collected under the bracket system prescribed herein which is in excess of the amount of tax for which he is liable to the City of Sun Valley during the period as compensation for the work of collecting the tax.

d. When the sales price involves a fraction of a dollar, the municipal sales tax shall be collected on that fractional portion of the price by adding thereto the tax based upon a bracket system. The bracket system for the collection of the municipal sales tax shall be as set forth in **Exhibit A**, attached hereto and incorporated herein.

e. All monies collected and/or retained under the provisions of this Ordinance shall be held in trust for the City of Sun Valley and for payment thereof to the City Clerk in the manner and at the times in this ordinance provided.

SECTION 5. DURATION OF TAXES.

The municipal nonproperty taxes authorized and collected under this ordinance are hereby imposed for a duration of ten (10) years from the effective date of this ordinance.

SECTION 6. PURPOSES FOR WHICH THE REVENUES DERIVED FROM THE NONPROPERTY SALES TAXES SHALL BE USED.

The nonproperty sales tax revenue derived from and collected under this Ordinance shall be used for the following purposes:

a. Administration and legal expenses

b. Economic Development activity

c. Fire protection

d. Land acquisition

e. Law enforcement

f. Municipal transportation

g. Parks, trails, and recreation

h. Property tax relief

i. Public information and education

j. Roads, buildings and grounds

SECTION 7. CREATION OF PROPERTY TAX RELIEF FUND.

In the office of the City Clerk, a fund is created to be designated as the "Municipal Nonproperty Tax Relief Fund." All monies collected under this Ordinance, and not otherwise budgeted by the City Council of the City of Sun Valley, shall be placed by the City Clerk into the Municipal Nonproperty Tax Relief Fund. All monies collected and placed into that fund shall be used to replace city property taxes in the ensuing fiscal year.

SECTION 8. AUTHORIZATION TO ADMINISTER, REGULATE AND COLLECT SALES TAX.

a. Every person desiring to engage in or conduct a business of retail sales, including building and construction materials, and/or renting a hotel-motel room as defined, and/or selling liquor by-the-drink, and/or the business of Sales as defined in this Ordinance within the City of Sun Valley, irrespective of where the Sale occurs, shall file with the City Clerk an application for Municipal Sales Tax permit ("Permit") for each place of business. A separate Permit is required for each place of business within the City of Sun Valley. Every application for a Permit shall be made upon a form prescribed by the City Clerk and shall set forth the name under which the applicant transacts or intends to transact business, the location of the business or places of business, and such other information as the City Clerk may reasonably require. The application shall be signed by the owner, if he is a natural person; or in the case of an association or partnership, by a member or partner; or in the case of a corporation, by an executive officer or other person authorized by the corporation to sign the application. The initial Permit shall be issued upon completion of the application and payment of a ten dollar ($10.00) application fee for each Permit sought. By resolution duly adopted by the City Council, the amount of the application fee may be changed from time to time as may be reasonably required.

b. Upon filing an application meeting the requirements set out above, the City Clerk shall issue to each applicant a Permit for each place of business. A Permit shall not be assignable, and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the location for which it was issued. Issuance of a Permit may be subject to additional requirements as set forth in this Ordinance.

c. On the face of the Permit shall be fixed the municipal sales tax number which shall be used by the applicant as an identifying number on all filing, payment and correspondence with regard to the nonproperty tax imposed under this Ordinance.

e. The City Clerk may provide by rule of the temporary suspension of permits held by persons engaged in seasonal business or who may otherwise temporarily not be actively engaged in the business of making sales subject to tax under this chapter.

SECTION 9. METHOD FOR PAYMENT OF TAXES.

a. The taxes imposed by this Ordinance shall be computed and paid for each calendar month, quarterly, or annually, as selected by the tax payer in its Municipal Sales Tax Permit Application. The taxes are due and payable to the City Clerk on or before the twentieth (20th) day of the succeeding month. The amount of tax paid shall be computed on the total dollar value of all sales subject to taxation under this Ordinance. Each person required to hold a Permit and number shall file a Municipal Nonproperty Sales Tax Return ("Return") and copy of their Idaho State Sales Tax return for the relevant time period at the same time said taxes are paid to the City Clerk.

b. The first payment of taxes under this Ordinance shall be due and payable on the twentieth (20th) day of November, 2017.

c. A Return shall be filed for each selected tax period (monthly, quarterly, or annually) by every person engaging in sales subject to taxation under this Ordinance regardless of whether or not any tax is due. Returns shall be signed by the person required to file the return or by a duly authorized agent.

d. A late payment fee of five percent (5%) of the amount owed shall be assessed for each delinquent Return. In addition, an interest payment at the rate of twelve percent (12%) per annum from the due date from whom such deficiency amount is due shall be paid.

e. No officer, agent or employee of the City shall divulge or make known to any persons, in any manner except pursuant to the order of a court of competent jurisdiction, any information whatsoever submitted or obtained directly or indirectly pursuant to this Ordinance, or permit any Return or information supplied with regard thereto, or any copy thereof or any note, paper or book submitted to be seen or examined by any person except as provided by law; provided that in any action or proceeding brought for the collection, remission, cancellation, or refund of the whole or any part of a tax imposed under this Ordinance, or for enforcing the penalties prescribed for making false or fraudulent Returns, any and all information contained in or provided with said Return may be made accessible to the elected and appointed officials, officers and representatives of the City charged with enforcing or defending same. All such Returns, information, statements and correspondence relating thereto may be produced into evidence in any action, civil or criminal, directly pertaining to such Returns or the tax imposed on the basis of such Returns.

f. The City Council, under such rules and provisions as it may prescribe, may permit the commissioner of the Internal Revenue Service of the United States or his authorized representative or the proper officer of any state imposing a tax to inspect the Returns or information provided or obtained in connection therewith, or may furnish to such officer, or his authorized agent, copies or an abstract thereof.

g. Nothing in this Ordinance shall prohibit a taxpayer or his authorized representative, upon proper identification, from inspecting and copying his own Returns and information supplied therewith.

SECTION 10. AUDITS — DEFICIENCY DETERMINATIONS.

a. The City Clerk may demand any relevant information be delivered within ten (10) days of demand, or may order an audit of any taxpayer under this Ordinance for the purpose of ascertaining the correctness or completeness of any Return or payment.

b. If any error or omission is discovered in such audits or in any other way, the City Clerk may compute and determine the amount of tax due upon the basis of facts obtained from such information within its possession and assess a deficiency. One or more deficiency determinations may be made for the amount due for one or more than one period. In making such a determination, the City Clerk may offset any overpayment against amounts due. Further, said determination shall be made for the period or periods in respect to which the person fails to make a return and shall be based upon any information which is in the City Clerk's possession.

c. The City Clerk shall give written notice of its determination and the amount of the deficiency together with the costs of any required examinations, investigations and/or audits, including interest (in the amount provided by law), from the date due, to the person from whom such deficiency amount is due. Service of such notice may be given personally or mailed to the person at the address furnished to the City Clerk in the Permit application. Interest upon any deficiency (in the amount provided by law), together with all costs of determination and collection of such deficiency, shall become due and payable upon notice and demand from the City Clerk and shall be collected as part of the tax from the date prescribed for payment of the tax.

SECTION 11. REDETERMINATION OF DEFICIENCY.

a. Any person against whom a deficiency determination is made under this Ordinance, or any person directly interested, may petition in writing for a redetermination within thirty (30) days after service upon the person of notice thereof. If the petition for redetermination is not filed within the thirty (30) day period, the determination shall be deemed final at the expiration of the period.

b. If a petition for redetermination is filed within the thirty (30) day period, the City Clerk shall reconsider the determination and, if the person so requests in the petition, grant the person an oral hearing and give said person ten (10) days' notice of the time and place of the hearing by mail, addressed to the person at the address furnished to the City Clerk in the Permit application.

SECTION 12. APPEALS, INTEREST ON DEFICIENCY.

a. When a redetermination is made, the City Clerk shall give notice to the taxpayer against whom the redetermination is made. Within thirty (30) days of the date upon which notice of redetermination is mailed or served, the taxpayer may file an appeal with the City Council or may file a complaint with the District Court for review of the City Clerk's redetermination. There shall be no right to appeal to the City Council nor to file a complaint with the District Court on the redetermination of taxes due made by the City Clerk unless a petition for redetermination was timely filed. No assessment of a deficiency in respect to the tax imposed by this Ordinance or a proceeding for its collection shall be made, begun or prosecuted until such notice of redetermination has been mailed to the taxpayer and expiration of such thirty (30) day period after notice of redetermination, or if an appeal/complaint is filed until a decision on the appeal/complaint becomes final. If the taxpayer does not file an appeal with the City Council or file a complaint in District Court within the time prescribed in this Section 12, the deficiency shall be assessed and shall become due and payable upon notice and demand from the City Clerk.

b. Interest upon any deficiency (in the amount provided by law) shall be assessed at the same time as the deficiency and shall become due and payable upon notice and demand from the City Clerk and shall be collected as part of the tax from the date prescribed for payment of the tax.

SECTION 13. COLLECTIONS AND ENFORCEMENT.

a. As soon as practical after the monthly Return and payment is filed, the City Clerk shall examine the same and determine the correct amount of the tax. For the purpose of

ascertaining the correctness of any payment determining the amount of tax due when none has been made, determining liability of any person for any tax payable under this Ordinance, or the liability at law or in equity of any person in respect to any tax provided by this Ordinance or collecting any such liability, the City Clerk, or duly authorized deputy, is authorized (1) to examine the books, papers, records, or other data which may be relevant or material to the inquiry; (2) to summon the person liable for the tax or any officer, agent, or employee of such person, or any person having possession, custody, or care of books of accounting containing entries relating to the business of the person liable for the tax, to appear before the City Clerk, or designee, at a time and place named in its summons and to there produce such books, papers, records, or other data and/or give such testimony under oath as may be relevant or material to such inquiry.

SECTION 14. REFUNDS, LIMITATIONS, AND INTEREST.

a. If the City Clerk determines that any amount due under this Ordinance has been paid more than once, or has been erroneously or illegally collected or computed, the City Clerk shall set forth that fact in its records and the excess amount paid or collected may be credited on any amount due or payable to the City Clerk for taxes from that person, and any balance refunded to the person by whom it was paid or to his successors, administrators, or executors.

b. No such credit or refund shall be allowed or made after one (1) year from the time the payment was made unless before the expiration of such period a claim therefore is filed by the taxpayer.

c. Interest (in the amount provided by law) shall be allowed on that amount of such credits or refunds, from the date which such was paid.

d. Any appeal from the City Clerk's decision denying in part or in whole a claim for refund shall be made in accordance with the laws of the State of Idaho with regard to claims against municipalities.

SECTION 15. RESPONSIBILITY FOR PAYMENT OF TAXES.

Every person with a duty to account for or pay over any tax imposed by this Ordinance on behalf of a corporation, partnership or limited liability company as an officer, member or employee of such corporation, partnership or limited liability company shall be personally liable for payment of such tax, plus penalties and interest if he fails to carry out his duty.

SECTION 16. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.

a. The amount of taxes imposed under this Ordinance shall be assessed within three (3) years of the time the return upon which the tax asserted to be due was or should have been filed, whichever is later, unless the unpaid taxes shall have been the result of any improper or illegal exemption, in which case there shall be no limitation of time upon collection of such taxes; provided, however, if a deficiency determination or assessment has been made within the prescribed time, such tax may be collected within a period of six (6) years after assessment. The running of limitations provided by this Section 16 shall be suspended for the period during which

the City Clerk is prohibited from making the assessment or from collecting or proceeding in court due to a petition for redetermination or an appeal therefrom, and for thirty (30) days thereafter.

b. In the cases of taxes due during the lifetime of a decedent, the tax shall be assessed in any proceedings for collection begun within six (6) months after written request therefore (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent unless the assessment is stayed by a petition for redetermination or any appeal therefrom.

c. In the case of a false or fraudulent Return with intent to evade tax, or of a failure to file a return, the tax may be assessed, or a proceeding in the court for collection of such tax may be begun without assessment, at any time within three (3) years after the date of the discovery of the facts constituting the fraud.

SECTION 17. SUCCESSORS LIABILITY.

a. If a person liable for any amount of tax under this Ordinance sells its business or stock of goods, the buyer shall make an inquiry to the City Clerk and withhold from the purchase price any amount of tax that may be due under this Ordinance until such time as said person produces a receipt stating that no amount is due.

b. If the buyer of such business or stock of goods fails to withhold from the purchase price as above required, he shall be personally liable for the payment of the amount required to be withheld by him.

SECTION 18. GENERAL ADMINISTRATION BY THE CITY CLERK.

a. The City Clerk shall enforce the provisions of this Ordinance and may prescribe, adopt, and enforce rules and regulations relating to its administration and enforcement. The City Clerk may employ qualified auditors for examination of taxpayers' books and records, and shall also employ such accountant, investigators, assistants, clerks, and other personnel as are necessary for the efficient administration of this Ordinance, and may delegate authority to its representatives to conduct hearings, or perform other duties imposed by this Ordinance. The total cost of any examination, investigation, and/or audit shall be and become a part of any tax obligation due and owing to the City.

b. Every taxpayer shall keep such records, receipts, invoices, and other pertinent papers as the City Clerk may require. Every such taxpayer who files tax payments required under this Ordinance shall keep all such records for not less than four (4) years after making such payment unless the City Clerk in writing authorizes their destruction.

c. The City Clerk, or any person authorized in writing by the Clerk, may examine the books, papers, records, and equipment of any taxpayer and may investigate the character of the business of the person in order to verify the accuracy of any return made, or if no return is made by the person, to ascertain and determine the amount required to be paid. Any taxpayer whose records are kept outside of the City must bring the records to the City for examination by the City Clerk upon request of the latter, or by agreement with the City Clerk

permit an auditor designated by the City Clerk to visit the place where the records are kept, and there audit such records.

SECTION 19. PENALTIES.

a. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, punishable by up to one (1) year in the county jail, and/or a Three Hundred Dollars ($300.00) fine, or both. Furthermore, each month in which a person fails to report, or intentionally fails to accurately compute, or intentionally fails to accurately disclose, or intentionally fails to pay over the total amount of sales or rentals or the amount of tax to be paid, as imposed under this Ordinance, shall be considered a separate offense.

b. Any person who violates any provision of this Ordinance shall have his Permit and tax number revoked. The City Clerk shall send written notice of revocation of said Permit and tax number to the Permit holder by mailing the same certified mail to the address stated in the Permit application. The Permit holder shall have ten (10) days from the date said notice is mailed to file a written request of appeal with the City Council challenging said revocation. If no appeal is timely made, said revocation shall be deemed final. Whenever a person subject to this Ordinance has had a Permit and tax number revoked, the City Clerk shall not reissue said Permit, nor issue a new Permit to said person, until said person places with the City Clerk a bond or other sufficient security in the amount equal to three (3) times the actual, determined, or estimated average monthly amount of tax payable by such person pursuant to this Ordinance.

c. The City Clerk, whenever it is deemed necessary to insure compliance with this Ordinance, may require any person subject to this Ordinance to place with it such security as it may determine. The amount of said security shall not be greater than three (3) times the estimated average monthly amount payable by such persons pursuant to this Ordinance. The amount of the security may be increased or decreased by the City Clerk at any time, subject to the limitations as set forth above.

d. Any person who violates any provision of this Ordinance shall have all municipal beer license(s), and wine license(s), and retail liquor-by-the-drink license(s) revoked.

e. Any amount of tax due under this Ordinance for which a person fails to report or accurately compute or remit, as well as all penalties and interest due, shall become a lien upon the property of said taxpayer on the date that the same becomes due, and the City may seek to enforce said lien and collect all taxes and interest due together with the reasonable costs of collection, including attorney's fees, in a court of competent jurisdiction.

f. For the purposes of proper administration of this Ordinance, and to prevent evasion of said municipal sales taxes, the burden of proving that a Sale is not a Sale under this Ordinance is upon the person who makes the sale in question.

SECTION 20. PENALTY CHARGE.

Any person who is required to collect, truthfully account for, and pay over any tax imposed by this Ordinance and who willfully fails to collect such a tax, truthfully account for or pay over

such a tax, or willfully attempts in any manner to evade or defeat such a tax or payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the amount of the tax evaded, or not collected, or not accounted for and paid over. The City Clerk shall determine and assess such penalties, together with any and all costs required to be paid by the City to determine such tax, payment, and penalties, and the same shall become due and payable upon notice and demand from the City Clerk. The City Clerk shall send written notice of such penalty charge to the permit holder by mailing same certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date said notice is mailed to file a written request of appeal with the City Council challenging said penalty charge determination. If no appeal is timely made, said penalty charge determination shall be deemed final.

SECTION 21. EXEMPTIONS.

Only those transactions which are exempted from the taxes imposed by the State of Idaho pursuant to the Idaho Sales Tax Act, as that Act may be amended, are also exempt from the provisions of this Ordinance.

SECTION 22. IDAHO SALES TAX ACT.

This Ordinance hereby adopts and incorporates by reference all sections of the Idaho Sales Tax Act which are not otherwise inconsistent with this Ordinance.

SECTION 23. SEVERABILITY.

It is hereby declared to be the legislative intent of the Sun Valley City Council that the provisions, and parts thereof, of this Ordinance shall be severable. Should any section, subsection, paragraph, clause, or phrase of this Ordinance, or any particular application thereof, by declared invalid or unconstitutional for any reason by a court of competent jurisdiction, such decision shall not affect the remaining portions of said section, subsection, paragraph, clause, or phrase of this Ordinance.

SECTION 24. REPEALER.
Ordinance 389, enacted October 1, 2007, is repealed.

SECTION 25. SAVINGS CLAUSE.

Ordinance No. 389 repealed by this ordinance, shall remain in force to authorize the arrest, prosecution, conviction and punishment of a person who violates Ordinance No. 389 prior to the effective date of this ordinance.

SECTION 26. EFFECTIVE DATE.

Upon voter approval, passage by the City Council, and publication according to law, this Ordinance shall be effective on October 1, 2017.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS _____ DAY OF June, 2016.

Peter Hendricks, Mayor

ATTEST:

Alissa Weber, City Clerk

EXHIBIT A

CITY OF SUN VALLEY
SALES TAX SCHEDULE
BRACKET SYSTEM
(Dollars)

	-------Tax Percentage Rate--------		
Sale Amount	**1%**	**2%**	**3%**
0.01-0.16	.00	.00	.00
0.17-0.49	.00	.01	.01
0.05- 0.83	.01	.02	.02
0.84- 1.16	.01	.02	.03
1.17-1.49	.01	.03	.04
1.50-1.83	.02	.04	.05
1.84 - 2.16	.02	.04	.06
2.17 - 2.49	.02	.05	.07
2.50 - 2.83	.03	.06	.08
2.84 - 3.16	.03	.06	.09
3.17 - 3.49	.03	.07	.10
3.50 - 3.83	.04	.08	.11
3.84 - 4.16	.04	.08	.12
4.17 - 4.49	.04	.09	.13
4.50 - 4.83	.05	.10	.14
4.84 - 5.16	.05	.10	.15
5.17 - 5.49	.05	.11	.16
5.50 - 5.83	.06	.12	.17
5.84 - 6.16	.06	.12	.18
6.17 - 6.49	.06	.13	.19
6.50 - 6.83	.07	.14	.20
6.84 - 7.16	.07	.14	.21
7.17- 7.49	.07	.15	.22
7.50 - 7.83	.08	.16	.23
7.84 - 8.16	.08	.16	.24
8.17 - 8.49	.08	.17	.25
8.50 - 8.83	.09	.18	.26
8.84 - 9.16	.09	.18	.27
9.17 - 9.49	.09	.19	.28
9.50 - 9.83	.10	.20	.29
9.84 -10.16	.10	.20	.30