County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE
713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
http://cao.co.la.ca.us

DAVID E. JANSSEN
Chief Administrative Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE BRATHWAITE BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

July 15, 2003

Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

AGREEMENT BETWEEN THE COUNTY OF LOS ANGELES AND THE CITY OF INDUSTRY FOR DISTRIBUTION OF STATE ADMINISTERED LOCAL SALES AND USE TAX REVENUES

(SUPERVISORIAL DISTRICT 1) (4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Adopt the attached Resolution approving and accepting the terms of the Agreement between the County of Los Angeles and the City of Industry.

2. Approve and instruct the Chair of the Board of Supervisors to sign the attached Agreement between the County of Los Angeles (County) and the City of Industry (City) for distribution of State administered local sales and use tax revenues generated by a business located on the common boundaries of the City of Industry and the County of Los Angeles.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Your Board, as the governing body of the County, must authorize the Agreement through the adoption of the attached Resolution, pursuant to Section 55704.5 (a) and (b) of the Government Code. The purpose of the Agreement is to authorize the State Board of Equalization (SBE) to equally apportion, between the County and the City, the sales and use tax revenues generated at 19430 San Jose Avenue, City of Industry. The building at this location, which houses the manufacturing business of Trident Consolidated Industry (TCI), lies on the common boundary of the County and the City.

Approval of the Agreement by your Board is necessary to ensure that the County receives its negotiated share of the sales and use tax generated at the site and eliminate the apportionment irregularities of the local sales and use tax revenues that currently exist between the City and the County.

FISCAL IMPACT/FINANCING

The Agreement will ensure that the County receives 50 percent of the 1 percent local sales and use tax generated at 19430 San Jose Avenue.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The County of Los Angeles and the City of Industry, by ordinance, have previously adopted individual 1 percent Local Retail Sales and Use Tax ordinances pursuant to the provision of the Bradley-Burns Uniform Sales and Use Tax Law (Bradley-Burns Law), Revenue and Taxation Code, Section 7200, et. seq., and have entered into agreements with the SBE for administration of their respective jurisdiction's local sales and use tax.

Pursuant to subdivision (b) of Section 29 of Article XIII of the California Constitution, counties and cities may enter into contracts to apportion between them revenue derived from any sales or use tax imposed by the parties pursuant to the Bradley-Burns Law if an ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract.

The City Council of the City of Industry adopted Resolution No. 1975 on April 10, 2003 (copy attached) and the Agreement for the joint exercise of the taxing power pursuant to its Bradley-Burns ordinance, which was originally adopted on June 27, 1957. Now it is appropriate that your Board, as the governing body of the County, adopt the attached Resolution and execute the Agreement, pursuant to the County's Bradley Burns ordinance initially adopted on February 28, 1956.

Adoption of the Resolution and execution of the Agreement will assist the SBE in its administration of the County and the City's respective sales and use tax agreement. Both the County and the City have made claims to the State that the local taxes generated by TCI have been incorrectly distributed, with each jurisdiction claiming entitlement to the sales and use tax generated at the location. The SBE conducted an investigation to resolve the dispute and to determine which jurisdiction was entitled to the sales and use tax revenues generated from the location.

The investigation concluded that the building which houses TCI straddles the common boundary between the County and the City and sales are generated throughout the building. The California Revenue and Taxation Code provides for the distribution of the 1 percent local sales and use tax based on the location where principal sale negotiations occur. The SBE, therefore, determined that each jurisdiction should receive a portion of the 1 percent local sales and use tax and recommended that the City and County enter into an agreement for the apportionment of the revenue generated at the location.

Both the Resolution and the Agreement have been approved as to form by County Counsel.

CONCLUSION

At such time as the recommendations are approved by your Board, please return one copy of this letter and its attachment, three executed originals of the Resolution and the Agreement to the Chief Administrative Office, Office of Unincorporated Area Services and Special Projects, and one copy of the letter and its attachment, Resolution and Agreement to the Auditor-Controller, Tax Division.

Respectfully submitted,

DAVID E. JANSSEN
Chief Administrative Officer

DEJ:LS
DD:MJS:os

Attachments

c: Auditor-Controller
County Counsel

RESOLUTION APPROVING AND ACCEPTING TERMS OF AGREEMENT

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES APPROVING AND ACCEPTING AN AGREEMENT BETWEEN THE CITY OF INDUSTRY AND THE COUNTY OF LOS ANGELES FOR APPORTIONMENT OF LOCAL SALES AND USE TAX REVENUES GENERATED AT 19430 SAN JOSE AVENUE.

The Board of Supervisors of the County of Los Angeles resolves as follows:

SECTION 1. The terms and conditions of the agreement entitled "Agreement Between the County of Los Angeles and the City of Industry for Distribution of State Administered Local Sales and Use Tax Revenues," a copy of which is attached hereto and by this reference incorporated herein, are approved and accepted, and the Chairperson of the Board of Supervisors and the Executive Officer, Clerk of the Board of Supervisors are hereby authorized to execute the same on behalf of the County of Los Angeles.

SECTION 2. One executed original counterpart of said agreement, together with a certified copy of this resolution, shall be transmitted forthwith to the City Council of the City of Industry; one original counterpart of said agreement, together with a certified copy of this resolution, shall be transmitted forthwith to the Board of Equalization of the State of California, whereupon said agreement shall be in full force and effect and shall be binding upon the parties as therein provided; and one executed original counterpart of said agreement shall be retained by the Executive Officer, Clerk of the Board of Supervisors of the County of Los Angeles.

SECTION 3. The Executive Officer of the Board of Supervisors shall certify to the adoption of this resolution and thereafter the same shall be in full force and effect.

The foregoing resolution was on the _____ day of _____ 2003, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

VIOLET VARONA-LUKENS, Executive Officer
Clerk of Board of Supervisors of
the County of Los Angeles

By _____
Deputy

APPROVED AS TO FORM
BY COUNTY COUNSEL

LLOYD W. PELLMAN

By A Ramseyer
Albert Ramseyer, Deputy

annex/city/jpa between co la & city of industry (sales tax)_resolution

AGREEMENT
BETWEEN THE COUNTY OF LOS ANGELES AND THE CITY OF INDUSTRY FOR DISTRIBUTION OF STATE ADMINISTERED LOCAL SALES AND USE TAX REVENUES

This Agreement made and entered into this _____ day of _____, 2002, by and between the City of Industry, a municipal corporation, and the County of Los Angeles.

WITNESSETH:

WHEREAS, the City of Industry and the County of Los Angeles have each heretofore, by ordinance, adopted a 1 percent Local Retail Sales and Use Tax pursuant to the provisions of the Bradley – Burns Uniform Local Sales and Use Tax Law, and have subsequently thereto entered into agreements with the Board of Equalization of the State of California for the administration thereof, and

WHEREAS, there is an area along the common boundary between the City of Industry and the unincorporated area of the County of Los Angeles which has been developed and used for the conduct of businesses subject to said local retail Sales and Use Taxes, and

WHEREAS, this development along the common boundary of the parties makes it extremely difficult or impossible to determine the exact location at which taxable sales occur, which determination is indispensable to the proper distribution of such Sales and Use Taxes by the Board of Equalization, and

WHEREAS, it is the intention of the parties hereto to avoid the practical difficulties experienced by other cities and counties in the distribution of Sales and Use Tax revenues from businesses located on their common boundaries and to avoid the necessity for litigation which would likely result from such boundary disputes, by providing for a formula which may be uniformly applied by the Board of Equalization to determine where retail sales made by businesses located along such common boundaries subject take place.

NOW, THEREFORE, the City of Industry and the County of Los Angeles each in consideration of the promises, covenants and conditions hereafter set forth, and of the mutual benefits to be derived therefrom, and pursuant to the provisions of Chapter 5 of Division 7, Title 1 of the Government Code of the State of California, do hereby enter into the following agreement for the joint exercise of the taxing power vested in each by the Bradley – Burns Uniform Local Sales and Use Tax Law.

1. For the purposes of this agreement only the "common boundary" shall mean that part of the common boundary line between the City of Industry and the County of Los Angeles which is shown in Book 8760, Page 007, Parcel, 044 of the Los Angeles County Assessors Roll, and includes only the building known as 19430 East San Jose Avenue, a copy of which is attached hereto, marked "Exhibit A", and is by this reference incorporated herein and agreed upon by the parties as accurately locating said common boundary.

2. For the purposes of this agreement only the "place of business" of any "retailer" as those terms are used in Parts 1 and 1.5 of the Revenue and Taxation Code of the State of California, Subchapter 4 of Chapter 2 of Title 18, of the California Administrative Code shall be deemed to include the building where the taxable business activity is carried on and in addition thereto, all other buildings or portions of buildings which may be located upon the same lot or parcel of land. It shall be immaterial that such building or land may not be under the sole ownership, occupancy or control of the retailer, but for the purposes of this agreement it shall be sufficient if such buildings or land are used jointly with others if the retailer or his customers enjoy the right to occupancy or use thereof in connection with the taxable business activity of the retailer.

3. For the purposes of this agreement only, "retailer" shall mean any person whose business activities are subject to the city or county Sales and Use Taxes under the Sales and Use Tax ordinances of the City of Industry or the County of Los Angeles.

4. The State Board of Equalization (hereinafter "Board") shall deem retail sales by any retailer doing business at 19430 East San Jose Avenue on the common boundary of the parties, as herein defined, to take place in either the City of Industry or the County of Los Angeles according to the following formula:

The City Council of the City of Industry and the Board of Supervisors of the County of Los Angeles agree that 50 percent of the local sales and use tax generated at this site shall be allocated to the City of Industry and 50 percent of the local sales and use tax generated at this site shall be allocated to the County of Los Angeles, as that percentage approximates the amount of tax generated by taxable sales activity in each jurisdiction.

Each of the parties hereto shall give prompt written notice to the Board of the existence of any business establishment which is presently located or hereafter established upon the common boundary, taxes from which are subject to distribution in accordance with this agreement, and shall state the percentage of the amount of tax generated by taxable sales activity in each jurisdiction.

5. In the event of a disagreement between the parties hereto as to which apportionment formula is to be applied in a given case, either party may file a Petition for Reallocation, at the party's discretion, with either the Board itself under Sales and Use Tax Regulation 1807 or with the Board's district office where the petitioner is located pursuant to the authority of Revenue and Taxation Code Section 6066.3, as both now read or are hereafter amended. The Petition shall comply with the requirements of the authority for the filing. The Board shall make an independent investigation of the facts, after which it shall reach a decision thereon and shall notify each of the parties hereto, in writing, of such decision. The decision, no matter whether filed under the authority of the regulation or the statute, may be appealed under the provisions of Regulation 1807. If neither party files such appeal within the time limits set by the regulation, the decision of the Board shall be binding upon the parties and apportionment may be made in accordance with such decision.

6. In the event of litigation regarding or in relation to any distribution made under this agreement or the implementation of the agreement, the Board shall not be made a party to the litigation. No recovery shall be had from the State of California or any of its constituent agencies, including the Board. The Board shall, however, comply with any final and non-appealable judgment, writ, or other adjudication of a court of competent jurisdiction regarding or in relation to implementation of this agreement or any distribution of revenues made thereunder. Any costs incurred by the Board as a result of, or in relation to, such litigation shall be borne by the jurisdictions, which are parties to the litigation.

7. This agreement shall continue in full force and effect until the occurrence of one or more of the following events:

a) A substantial change in the Bradley – Burns Uniform Sales and Use Tax which provides a different basis from that provided herein for apportionment of Sales and Use Taxes collected from retailers doing business on the common boundary.

b) A final determination by a Court of Appellate jurisdiction which provides a different basis from that provided herein for apportionment of Sales and Use Taxes collected from retailers doing business on the common boundary.

c) Amendment or repeal of either the City or County Sales and Use Tax ordinance of either of the parties hereto.

d) Mutual agreement of the parties.

8. Promptly upon its execution by the parties hereto, a fully executed copy of this agreement shall be filed with the Board.

IN WITNESS WHEREOF, each of the parties hereto has caused three original counterparts of these presents to be executed by its duly authorized representative and Clerk, as of the day and date first written.

CITY OF INDUSTRY,
a Municipal Corporation

By _____
Mayor

Attest:

_____
City Clerk
City of Industry

County of Los Angeles

By _____
Chairman, Board of Supervisors

Attest:

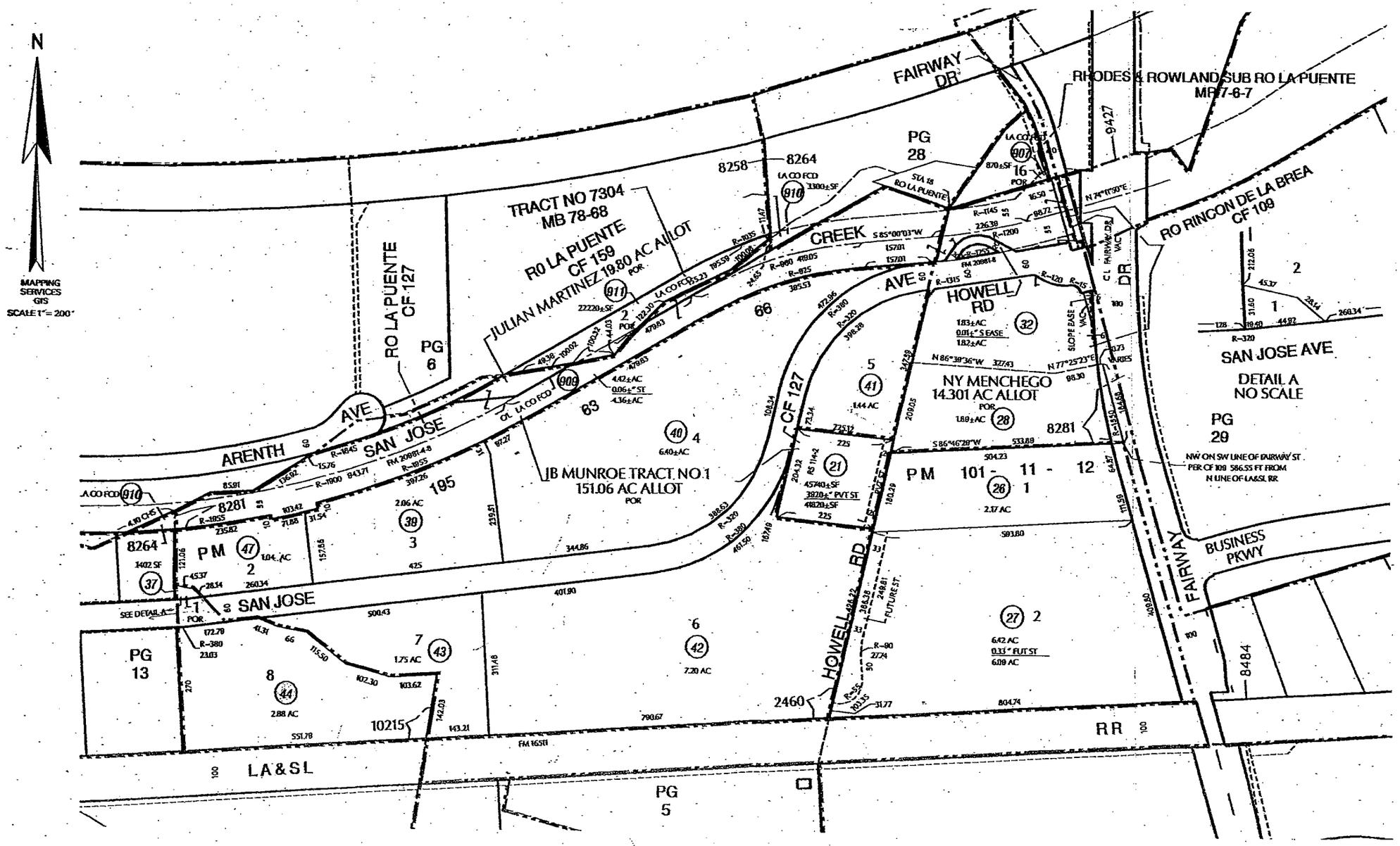
VIOLET VARONA-LUKENS, Executive Officer
Clerk of the Board of Supervisors
of the County of Los Angeles

By _____
Deputy

APPROVED AS TO FORM
BY COUNTY COUNSEL

LLOYD W. PELLMAN

By _____
Albert Ramseyer, Deputy


N
MAPPING SERVICES GIS
SCALE 1" = 200'
FAIRWAY DR
RHODES & ROWLAND SUB RO LA PUENTE MR 7-6-7
PG 28
TRACT NO 7304 MB 78-68
RO LA PUENTE CF 159
JULIAN MARTINEZ 19.80 AC ALLOT
RO LA PUENTE CF 127
PG 6
CREEK
AVE
HOWELL RD
RO RINCON DE LA BREA CF 109
SAN JOSE AVE
DETAIL A NO SCALE
PG 29
NY MENCHEGO 14.301 AC ALLOT
CF 127
ARENTH AVE
SAN JOSE
JB MUNROE TRACT NO 1 151.06 AC ALLOT
PM 101 - 11 - 12
BUSINESS PKWY
FAIRWAY
PG 13
LA&SL
RR
PG 5
8258
8264
8281
8484
9427
2460
10215