RESOLUTION NO. _____

A RESOLUTION TO REQUEST THAT THE GOVERNOR AND THE ARKANSAS GENERAL ASSEMBLY REVIEW THE ISSUE OF AMENDMENTS TO ARKANSAS LAW TO REQUIRE THAT INTERNET VENDORS EITHER COLLECT AND REMIT ANY RELEVANT STATE OR LOCAL COMPENSATING USE TAX ON INTERNET SALES OR, THAT INTERNET VENDORS PROVIDE THE STATE AND ALL RELEVANT LOCALITIES SUFFICIENT INFORMATION REGARDING AN INTERNET PURCHASER TO ALLOW STATE OR LOCAL GOVERNMENT TO COLLECT SUCH LOCAL COMPENSATING USE TAX; AND FOR OTHER PURPOSES.

WHEREAS, in Arkansas there are very limited means for a local government to raise revenues in order to meet the requirements necessary to provide for the public health, safety, and welfare, and to purchase necessary equipment, or make capital expenditures, in order to carry out these important responsibilities; and,

WHEREAS, several decisions from the U.S. Supreme Court including, but not limited to, *Quill Corp. v. North Dakota,* 504 U.S. 298 (1992), *Complete Auto Transit, Inc. v. Brady,* 430 U.S. 274 (1977), and *National Bellas Hess, Inc. v. Department of Revenue,* 386 U.S. 753 (1967) stand for the proposition that Sales or Use Taxes cannot be imposed on an out-of-state seller whose only connection with a state is through a common carrier or the U.S. Mail; and,

WHEREAS, since the beginning of the digital age the U.S. Census Bureau in its February 17, 2017, report noted that 8.1% of all sales are now Internet based, and that this amount represents an increase of 15.1% in the amount of such sales since the same period for 2016; and,

WHEREAS, in this approximately 8.1% of Compensating Use Tax not paid from Internet sales was collected then for all Sales and Use Taxes collected by the City of Little Rock, Arkansas, in a given year would equal approximately Ten Million, Three Hundred Twenty-Nine Thousand Dollard ($10,329,000.00) available to the City to help provide necessary services to its citizens; and,

WHEREAS, the additional collection of such funds would also make it possible for local vendors to compete on an equal basis with out-of-state vendors; and,

WHEREAS, it has been determined that State Statutes are constitutional in cases such as *Direct Marketing Ass'n v. Brohl,* 814 F.3d 1129 (10th Cir. 2016), which the U.S. Supreme Court refused to hear,

1   if the Statutes require an out-of-state online vendor must provide identifying information so that State and

2   local governments may collect Compensating Use Tax from appropriate persons and places within a given

3   State; and,

4   **WHEREAS**, such a statutory scheme recognizes the modern day realities that internet vendors have a

5   presence at each computer located within the confines of a State, or the corporate limits of a City, and that

6   business is being done within these locations;

7   **NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY**

8   **OF LITTLE ROCK, ARKANSAS:**

9   **Section 1.**   The Mayor and Board of Directors jointly request that the Governor, as quickly as possible,

10 have placed on a call for the Arkansas General Assembly a statutory scheme similar to the one approved in

11 Colorado which provides the necessary information needed for the State of Arkansas, and local

12 governments within the State of Arkansas, to collect Compensating Use Taxes from persons who make

13 Internet and interstate purchases of goods and materials to be used within the respective jurisdictions.

14 **Section 2.** *Severability*.   In the event any title, section, paragraph, item, sentence, clause, phrase, or

15 word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or adju-

16 dication shall not affect the remaining portions of this resolution, which shall remain in full force and ef-

17 fect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the

18 resolution.

19 **Section 3.** *Repealer*.   All laws, ordinances and resolutions, or parts of the same, that are inconsistent

20 with the provisions of this resolution, are hereby repealed to the extent of such inconsistency.

21 **ADOPTED: April 18, 2017**

22 **ATTEST:**   **APPROVED:**

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25 **Susan Langley, City Clerk**   **Mark Stodola, Mayor**

26 **APPROVED AS TO LEGAL FORM:**

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29 **Thomas M. Carpenter, City Attorney**

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