

RESOLUTION NO. 24-102

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY, CALIFORNIA, SUBMITTING TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION HELD ON TUESDAY, NOVEMBER 5, 2024, AN ORDINANCE ADOPTING A TRANSACTION AND USE TAX

WHEREAS, the City Council of the City of Yuba City ("City") desires to submit to the voters a measure introducing a Transactions and Use Tax ("Sales Tax") of one percent (1%) on the sale of all tangible personal property sold at retail in the City; and

WHEREAS, the City Council desires to present such general Sales Tax to the qualified voters at the next regularly scheduled general election on November 5, 2024; and

WHEREAS, the City Council has passed Resolution No. 24-070 on June 18, 2024 calling a general municipal election for the purpose of electing two (2) members of the City Council, City Clerk, and City Treasurer, and requesting that the general municipal election be consolidated with the Statewide general election to be held on Tuesday, November 5, 2024, and requesting that the Board of Supervisors of the County of Sutter direct the Registrar of Voters/ Elections Division to take any and all necessary steps to conduct the consolidated election; and under the provisions of the laws relating to cities in the State of California, a General Municipal Election shall be held on November 5, 2024, for the election of Municipal Officers; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the Board of Supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order the consolidation; and

WHEREAS, the resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, various federal, district, county, state and other political subdivision elections may be or have been called to be held on November 5, 2024; and

WHEREAS, the City Council also desires the County to consolidate the Sales Tax ballot measure election with the Statewide general election to be held on November 5, 2024.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YUBA CITY DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. That the Recitals hereto are true and correct and incorporated herein by this reference.

10FS
CW

Section 2. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election to be held and consolidated with the Statewide general election on Tuesday, November 5, 2024, the following question:

Measure D To support vital city services such as: road repairs; increasing police and fire protection; protecting 911 emergency response times; addressing homelessness; and funding other general services and essential activity; shall an ordinance establishing a 1 percent sales tax in Yuba City, providing approximately \$17,500,000 annually until ended by voters, requiring accountability, citizens' oversight and annual audits, with all funds staying local, be adopted?	YES
	NO

Section 3. That the proposed complete text of the Ordinance related to the City of Yuba City Measure submitted to the voters is attached hereto as Exhibit A and is hereby approved and adopted and by this reference incorporated herein.

Section 4. That the Board of Supervisors of the County of Sutter is hereby requested to consent and agree to the consolidation of the election on these ballot measures and the City's general municipal elections for councilmembers with the Statewide general election to be held on November 5, 2024, and to direct the Sutter County Registrar of Voters/Election Official to take any and all necessary steps to conduct the consolidated election.

Section 5. That the Election Division of the County of Sutter and Board of Supervisors/Registrar of Voters/Elections Official is authorized to canvass the returns of the election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used pursuant to Elections Code Section 10411.

Section 6. That the City recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for its share of the costs.

Section 7. That the Registrar of Voters/ County Elections Official is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election in accordance with the Elections Code and the laws of the state of California.

Section 8. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and Election Division of the County of Sutter.

Section 9. That the deadline for filing arguments on the ballot measures with the Sutter County Elections Division shall be at 3:30 p.m. on August 16, 2024. That in accordance with the requirements of the California Elections Code, all written arguments for or against the foregoing measures: (1) shall not exceed three hundred (300) words in length; (2) shall be filed with the Sutter County Elections Division; (3) shall be accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name

20FS
IN

of the organization, and the printed name and signature of at least one of the principal officers who is the author of the argument; and (4) shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. All written arguments may be changed or withdrawn until and including the date fixed by the Sutter County Registrar of Voters/Election Official, being the close of business on August 19, 2024 at 3:30 p.m., after which time no arguments for or against the foregoing measure may be submitted to the Sutter County Registrar of Voters/Election Official. Pursuant to Elections Code 9285, the City Council is authorized file a written argument.

That in the event that more than one argument for or against any of the foregoing measures is timely submitted, the Sutter County Registrar of Voters/Election Official shall give preference and priority first, to arguments submitted by member(s) of the City Council, as authorized by this Resolution, and second, to individual voters, bona fide associations, or a combination thereof, in the order set forth at California Elections Code § 9287.

Section 10. That the deadline for filing of rebuttal arguments on the ballot measures with the Sutter County Registrar of Voters/Election Official shall be at 3:30 p.m. on August 23, 2024. Rebuttals shall not exceed 250 words in length. The rebuttal arguments shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

Section 11. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 12. That, pursuant to Elections Code Section 9280, the Sutter County Registrar of Voters/Election Official is hereby directed to transmit a copy of the measures to the City Attorney. The City Attorney shall prepare an impartial analysis of the measures, not to exceed 500 words in length, showing the effect of the measures on the existing law and the operation of the measure, and transmit such impartial analysis to the Sutter County Registrar of Voters/Election Official by 3:30 p.m. on August 16, 2024. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows: "The above statement is an impartial analysis of Ordinance or Measure D. If you desire a copy of the ordinance or measure, please call the Sutter County Clerk-Recorder/Registrar of Voters' office at (530) 822-7122 and a copy will be mailed at no cost to you."

Section 13. That City Council of Yuba City hereby orders an election be called and consolidated with any and all elections also called to be held on November 5, 2024 insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the requests the Board of Supervisors of the County of Sutter to order such consolidation under Elections Code Section 10401 and 10403.

Section 14. That the City Council hereby requests the Board of Supervisors to permit the Sutter County Elections Division to provide any and all services necessary for conducting the election and agrees to pay for said services.

30PS
W

Section 15. That the Sutter County Registrar of Voters/Election Official shall conduct the election for the measure delineated in Section 2 to be voted on at the election on November 5, 2024. Pursuant to Section Elections Code Section 10403, the consolidated election shall be held and conducted in the manner prescribed in Elections Code Section 10418.

Section 16. The Sutter County Registrar of Voters/Election Official is hereby requested not to print the attached full measure text of Exhibit A hereto in the Voter Guide, but send a copy to voters upon request at the cost of the City. The contact number to be printed in the Voter Guide is (530) 822-7122. In addition, the full text will be available at the following website address: www.yubacity.net.

Section 17. That the electorate vote requirement for the measure to pass is a majority (50%+1) of the votes cast on the measure at the November 5, 2024 consolidated election.

Section 18. The adoption of this Resolution is exempt from the California Environmental Quality Act, Public Resources Code §§ 21000 et seq. ("CEQA") and 14 Cal. Code Reg. §§ 15000 et seq. ("CEQA Guidelines"). The calling and noticing of a General Municipal Election for the submission of a ballot measure to voters is not a project within the meaning of CEQA Guidelines Section 15378. The transactions and use tax submitted to the voters is a general tax that can be used for any governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

Section 19. That the City Clerk and City Manager are hereby authorized to take all actions as necessary to effectuate the purposes of this resolution and the election.

Section 20. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions. This resolution shall be effective immediately.

I hereby certify that the foregoing Resolution No. 2024-___ is a full, true and correct copy of a resolution duly passed by the City Council of the City of Yuba City at a regular meeting thereof duly held on the 16th day of July 2024, by the vote recorded as follows:

AYES: Councilmembers Boomgaarden, Kirchner, Pasquale, Shaw, and Mayor Harris
NOES: None
ABSENT: None

ATTEST:


Ciara Wakefield, Deputy City Clerk



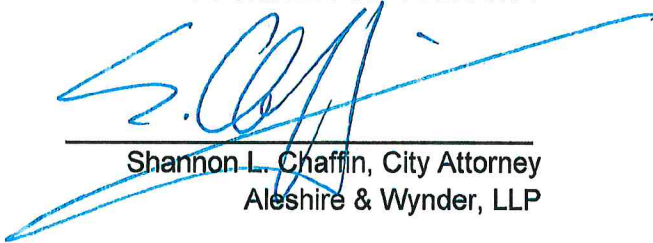
CITY OF YUBA CITY:



Shon Harris, Mayor

40P5
CW

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY



Shannon L. Chaffin, City Attorney
Aleshire & Wynder, LLP

The Forgoing Instrument is a correct copy
of Original on file in this Office.

CERTIFIED Wakelbold 7/17/2024
City Clerk of the City of Yuba City
State of California
By Deputy City Clerk
Wakelbold 7/17/2024 Deputy

5 OF 5
WV

EXHIBIT A TO RESOLUTION

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF YUBA CITY IMPOSING A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
CALIFORNIA DEPARTMENT OF TAX AND FEE
ADMINISTRATION**

Now Therefore, the People of Yuba City do ordain as follows:

Section 1. Title 3, Chapter 6, Article V is hereby added to the Yuba City Municipal Code to read as set for the below:

Article V-Transaction and Use Tax

Sec. 3-6-501. - Title.

This ordinance shall be known as the Yuba City Transactions and Use Tax Ordinance. The Yuba City hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Sec. 3-6-502. - Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

Sec. 3-6-503. - Purpose.

This ordinance 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 transactions 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 retail transactions and use tax ordinance that 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 retail transactions and use tax ordinance that imposes a tax and provides a measure therefore 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 retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the 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 ordinance.

Sec. 3-6-504. - 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.

Sec. 3-6-505. - Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Sec. 3-6-506. - Place of Sale.

For the purposes of this ordinance, 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.

Sec. 3-6-507. - Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one

percent (1%) 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.

Sec. 3-6-508. - Adoption of Provisions of State Law.

Except as otherwise provided in this ordinance 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 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Sec. 3-6-509. - Limitations on Adoption of State Law and Collection of Use Taxes.

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 this City shall be substituted therefor. However, the substitution shall not be made when:
 - (1) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;
 - (2) The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee 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 Ordinance.
 - (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:
 - (i) 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;
 - (ii) 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 said provision 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.

(1) "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

Sec. 3-6-510. - 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 transactor's permit shall not be required by this ordinance.

Sec. 3-6-511. - Exemptions and Exclusions.

(a) There shall be excluded from the measure of the transactions 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 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:

(i) 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

- (ii) 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 this ordinance.
 - (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 this ordinance.
 - (5) For the purposes of subparagraphs (3) and (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 ordinance, 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 ordinance.
 - (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 ordinance.

- (5) For the purposes of subparagraphs (3) and (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 subparagraph (7), 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 ordinance 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.

Sec. 3-6-512. - Amendments.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 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 ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Sec. 3-6-513. - 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 the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, 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.

Sec. 3-6-514. - Accountability: Annual Report to Council and Annual Audit.

The city manager shall report to council not less frequently annually on the amount of tax collected under this chapter, and any expenditures made, or proposed to be made with such collections. The tax shall be part of the City's annual audit.

Sec. 3-6-515. - Citizens' Oversight Committee.

Following the operative date, the city shall establish a citizens' oversight committee. The citizens' oversight committee's composition, tasks, and duties may be outlined by the City Council by resolution.

Sec. 3-6-516. - Revenue Expended for Unrestricted Uses.

Revenues from the transaction and use tax enacted under this chapter shall be expended by the city for unrestricted general revenue uses.

Sec. 3-6-517. - Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Sec. 3-6-518. - Effective Date.

This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect as provided by law.

Sec. 3-6-519. - Termination Date.

The authority to levy the tax imposed by this ordinance shall continue until ended by voters.

PASSED AND APPROVED by the City Council of the City of Yuba City, County of Sutter County, State of California, on the ___ day of July, 2024, by resolution, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

YUBA CITY

Shon Harris, Mayor

ATTEST:

By: _____
Ciara Wakefield, Deputy City Clerk

APPROVED AS TO LEGAL FORM:

By: _____
Shannon Chaffin, City Attorney