

RESOLUTION NO. 24-3042

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALIFORNIA CITY, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, OF A MEASURE TO AMEND THE CALIFORNIA CITY MUNICIPAL CODE BY ADDING DIVISION 6 "TRANSACTIONS AND USE (SALES) TAX" TO ARTICLE 1 OF CHAPTER 2 OF TITLE 3 THEREOF; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AND SETTING PRIORITIES FOR BALLOT ARGUMENTS

WHEREAS, pursuant to the requirements of the laws of the State of California relating to general law cities, there has been called and ordered to be held in the City of California City on Tuesday, November 5, 2024, a General Municipal Election for the purposes of electing two (2) Members of the City Council for a four-year term and a Mayor for a two-year term, which is said to expire November 2028, and November 2026, respectively; and

WHEREAS, the proposed ballot measure would enact and impose a transactions and use tax on the storage, use, or other consumption in the city of tangible personal property purchased from any retailer within the City at the rate of one percent (1%) of the sales price of the property; and

WHEREAS, the measure requires strict accountability provisions, including independent citizen oversight with public disclosure of all spending, mandatory financial audits, and public reports to the community; and

WHEREAS, all funds raised by this measure will be deposited into the City's General Fund for use for any legal purpose; and

WHEREAS, the City of California City has authority, pursuant to Revenue and Tax Code section 7285.9 et seq. to propose the levy of a transactions and use tax to be adopted by a majority vote of qualified voters provided that it is first approved by at least two-thirds vote of all members of the City Council; and

WHEREAS, the City Council is authorized by Elections Code section 9222 to submit the proposed ordinance directly to the voters at the general election to be held on November 5, 2024.

WHEREAS, on July 17, 2024, the City published notice of the time and place of the hearing on the placement on the ballot of a City Transactions and Use Tax and a

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general explanation thereof in the Mojave Desert News, a newspaper of general circulation; and

WHEREAS, on July 23, 2024, the City Council held a duly noticed public hearing where all interested persons were heard on the matter of holding an election the City on the matter of amending the California City Municipal Code relating to the proposed Transactions and Use Tax.

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

SECTION 1. Pursuant to California Elections Code Sections 9222 and 10201, the City Council, pursuant to its right and authority, does hereby order that a ballot measure be submitted to the voters at the General Municipal Election to be held on Tuesday, November 5, 2024, in the form set forth herein.

SECTION 2. The City Council hereby orders that the question to be submitted to the qualified electors at the said General Municipal Election shall appear and be printed on the ballot as follows:

Shall the measure establishing a 1¢ sales tax for general government use to maintain the City of California City's vital services, such as maintaining neighborhood police patrols, fire protection, 911 emergency response times, maintaining crime suppression and investigation, city streets and pothole repair, parks and recreation, job creation and economic improvement programs, senior and youth services, and generating approximately \$700,000 annually, in perpetuity, with regular financial audits, independent citizens' oversight, and requiring funds be used locally, be adopted?	YES	
	NO	

SECTION 3. The text of the proposed ordinance to be submitted to the qualified electors, as attached hereto as Exhibit "A," is hereby approved and incorporated herein by reference. The measure shall not take effect unless and until approved by a vote of at least a majority of the voters voting on the question at the election.

SECTION 4. The ballots to be used at the election shall be in the form and content required by law.

SECTION 5. The City Clerk is authorized, instructed, and directed to coordinate with the County of Kern Elections Division 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.

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SECTION 6. The City Clerk is hereby directed to submit to the City Attorney a copy of the ordinance, and the City Attorney is hereby authorized and directed to prepare an impartial analysis of the ballot measure showing the effect of the measure on the existing law and operation of the measure. The impartial analysis shall be submitted by the City Attorney to the City Clerk as required by Elections Code Section 9280 and shall not exceed 500 words in length, and otherwise shall comply in all respects with the applicable provisions of the Elections Code of the State of California.

SECTION 7. The last day for filing direct arguments for or against the measure shall be as set by the County, based upon the consolidation of the election as contemplated in Elections Code Section 10400 and all such arguments shall be filed with the California City, City Clerk at 21000 Hacienda Boulevard, California City, California, 93505, and shall not exceed 300 words in length. The City Clerk, upon receipt of arguments and after the filing deadline, shall immediately transmit copies to any known opposing parties who may then submit rebuttals within the time period established by the County. The City Council authorizes any and all members of the City Council to file a written argument in favor or against the above referenced measure.

If more than one argument is submitted in favor or against the measure, the Clerk shall select the argument based upon the priorities set forth in Elections Code 9287, and if more than one argument shares the same highest priority, the City Clerk shall use a random selection methodology. Arguments received prior to the deadline shall be confidential until the deadline.

SECTION 8. That the last day for filing rebuttal arguments for or against the ballot measure shall be as set forth in Elections Code Section 9285 and all such arguments shall be filed with the California City, City Clerk, 21000 Hacienda Boulevard, California City, California, 93505, and shall not exceed 250 words in length. Arguments received prior to the deadline are confidential until the deadline.

SECTION 9. The ten (10) day public review period for all ballot materials shall open and close pursuant to Elections Code section 9295.

SECTION 10. That the polls (vote centers) for the election shall be open at seven o'clock a.m. on the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls (vote centers) shall be closed, pursuant to Election Code § 10242, except as provided in §§ 14212, 14401 of the Elections Code of the State of California.

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 notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form and manner as required by law.

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SECTION 13. The election on this measure shall be conducted on the same ballot as the General Municipal Election for candidates, and in all other particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 14. The City Clerk is authorized and directed to transmit a certified copy of this resolution to the Kern County Board of Supervisors and the Kern County Elections Division.

SECTION 15. The City Council, by separate resolution, shall request that the Kern County Board of Supervisors consolidate such California City Special Municipal Election with the Statewide General Election to be held on November 5, 2024.

SECTION 16. The City Manager and all other officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents that they may deem necessary or advisable in order to complete the process for placing the measure on the November 5, 2024, ballot.

SECTION 17. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of California City, California, on this 23rd day of July 2024.


KELLY KULIKOFF, MAYOR
CITY OF CALIFORNIA CITY

ATTEST:


DARYL A. BETANCUR, MPA, MMC,
CITY CLERK
CITY OF CALIFORNIA CITY

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STATE OF CALIFORNIA)
COUNTY OF KERN) ss.
CITY OF CALIFORNIA CITY)

I, DARYL A. BETANCUR, City Clerk of the City of California City, California, hereby certify that Resolution No. 24-3042 was adopted by the City Council of the City of California City at a Regular Meeting held on the 23rd day of July 2024, and that the same was adopted by the following vote:

AYES: Councilmembers Cooper, Creighton, Kulikoff, Mayor Pro Tem Smith, & Mayor Kulikoff

NOES: None

ABSTAIN: None

ABSENT: None


DARYL A. BETANCUR, MPA, MMC
CITY CLERK
CITY OF CALIFORNIA CITY

EXHIBIT "A"

ORDINANCE NO. 24-815

**AN ORDINANCE OF THE CITY OF CALIFORNIA CITY ADOPTING
DIVISION 6 "TRANSACTIONS AND USE (SALES) TAX" OF ARTICLE 1
OF CHAPTER 2 OF TITLE 3 OF THE CALIFORNIA CITY MUNICIPAL
CODE TO IMPOSE A ONE CENT TRANSACTIONS AND USE TAX**

WHEREAS, the City of California City has authority, pursuant to Article XIII C of the California Constitution and Revenue and Tax Code section 7285.9 et seq. to propose a transactions, and use tax to be adopted by a majority vote of qualified voters, and is authorized by Elections Code section 9222 to submit an ordinance directly to the voters at the general election to be held on November 5, 2024;

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF CALIFORNIA CITY
DO ORDAIN AS FOLLOWS:**

SECTION 1. Adoption. Division 6, "Transactions and Use (Sales) Tax" of Article 1 of Chapter 2 of Title 3 of the California City Municipal Code is hereby adopted to read in its entirety as follows:

Sec. 3-2.1.601 Short title.

This chapter shall be known as the City of California City Transactions and Use (Sales) Tax.

Sec. 3-2.1.602 Purpose.

Pursuant to the requirements of the California Department of Tax and Fee Administration, this chapter is adopted to achieve the following, among other purposes, and directs that the provisions of this chapter be interpreted in order to accomplish those purposes:

(a) To impose a retail transactions and use tax to be applied throughout the entire territory of the city to the fullest extent permitted by law and 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 of the Revenue and Taxation Code, which authorizes the city to adopt this chapter 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 therefor 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 chapter.

(e) To provide transactions and use tax revenue to the city to be used to fund city services, including, but not limited to: maintaining neighborhood police patrols, fire protection, 911 emergency response times, maintaining crime suppression and investigation, city streets and pothole repair, parks and recreation, job creation and economic improvement programs, senior and youth services, and with any transactions and use tax revenue received being placed into the city's general fund.

(f) To provide transaction and use tax revenue to the city that can be spent for unrestricted general revenue purposes.

Sec. 3-2.1.603 Operative date.

In accordance with Revenue and Tax Code section 7265, this chapter shall be operative on the first day of the first calendar quarter commencing at least 110 days after the adoption of the ordinance codified in this chapter by vote of the electorate.

Sec. 3-2.1.604 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 contract.

Sec. 3-2.1.605 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 of the gross receipts of any retailers for the sale of all tangible personal property sold at retail in said territory on and after the operative date of this chapter.

Sec. 3-2.1.606 Place of sale.

For the purposes of this chapter, 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 or her 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. 3-2.1.607 Use tax rate.

A use 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 chapter for storage, use, or other consumption in said territory at the rate of one percent 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. 3-2.1.608 Adoption of provisions of state law.

Except as otherwise provided in this chapter 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 chapter as though fully set forth herein.

Sec. 3-2.1.609 Limitation 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. The substitution, however, shall not be made when:

(1) The word "state" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, California Department of Tax and Fee Administration, 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 chapter.

(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 of the Revenue and Taxation Code.

(c) "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. 3-2.1.610 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 seller's permit shall not be required by this chapter.

Sec. 3-2.1.611 Exemptions and exclusions.

(a) There shall be excluded from the measure of the transactions 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 or her 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 the ordinance codified in this chapter.

(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 the ordinance codified in this chapter.

(5) For the purposes of subsections (b)(3) and (b)(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 chapter, 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 chapter.

(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 chapter.

(5) For the purposes of subsections (c)(3) and (c)(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 subsection (c)(7) of this section, 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 chapter 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.

(e) Nothing in this chapter shall be construed as imposing a tax upon any person or service when the imposition of such tax upon such person or service would be in violation of a federal or state statute, the Constitution of the United States, or the Constitution of the State of California.

Sec. 3-2.1.612 Amendments.

(a) All amendments subsequent to the effective date of this chapter 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 chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

(b) The city council may otherwise amend this chapter without submitting the amendment to the voters for approval in any manner which does not constitute a tax "increase" as that term is defined in Government Code section 53750(h). The city council may amend this chapter without voter approval provided such amendments do not increase the tax rate; extend the duration of the tax; revise the methodology for calculating the tax, such that a tax increase would result; impose the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of law); or terminate the tax.

(c) Notwithstanding any provision to the contrary, any proposed change to the tax rate imposed under this chapter shall be submitted to the vote of the people.

Sec. 3-2.1.613 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 chapter, 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. 3-2.1.614 Audit Requirements.

The proceeds resulting from these transactions and use tax shall be deposited into the city's general fund and become subject to the same audit requirements as other general fund revenue. Any auditor's report shall include an accounting of the revenues received from the transactions and use tax and shall be presented to the city council and made available for public review.

Sec. 3-2.1.615 Citizens' oversight committee.

Although not otherwise required by state law, the city council shall, by resolution adopted before the operative date of this chapter, establish a citizens' oversight committee to review the revenue and expenditure of funds from the tax imposed under this chapter. The members' terms and qualifications, and duties and scope of the committee, shall be as established by the resolution.

SECTION 2. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), under Section 15061(b)(3) of the CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.) because it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SECTION 4. Passage. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of California City, California, and cause the same to be published in accordance with State law.

SECTION 5. Effective Date. This Ordinance shall go into effect in accordance with Elections Code Section 9217, and shall be deemed adopted and become effective only if approved by a majority of the eligible voters of the City of California City voting thereon, at an election to be held on November 5, 2024, and shall take effect ten (10) days after the City Council has certified the results of that election by resolution. The levying and collection of the transaction and use tax shall be as specified in the Ordinance.

ADOPTED ON [date vote declared by the City Council] AND EFFECTIVE ON [10 days after declaration of vote].