



CITY OF
FOLSOM
DISTINGUISHED BY NATURE

Folsom City Council Staff Report

MEETING DATE:	7/12/2022
AGENDA SECTION:	New Business
SUBJECT:	<p>General Municipal Election – November 8, 2022</p> <ol style="list-style-type: none">1. A. Resolution No. 10889 - A Resolution Authorizing the Submission of a Ballot Measure to the Qualified Voters of the City to Add a Transactions and Use Tax at the Rate of One-Half Percent (0.5%), Authorizing the Filing of Written Arguments Regarding the City’s Revenue Measure, and Directing the City Attorney to Prepare an Impartial Analysis for Said Measure; or B. Resolution No. 10890 - A Resolution Authorizing the Submission of a Ballot Measure to the Qualified Voters of the City to Add a Transactions and Use Tax at the Rate of One Percent (1%), Authorizing the Filing of Written Arguments Regarding the City’s Revenue Measure, and Directing the City Attorney to Prepare an Impartial Analysis for Said Measure2. A. Ordinance No. 1328 - An Ordinance of the People of the City of Folsom Imposing a One-Half Percent (0.5%) Transactions and Use Tax by Adding Chapter 3.140, “Folsom Essential City Services Maintenance and Investment Measure”, to the Folsom Municipal Code to be Administered by the California Department of Tax and Fee Administration (Approve Submission to Voters); or B. Ordinance No. 1329 - An Ordinance of the People of the City of Folsom Imposing a One Percent (1%) Transactions and Use Tax by Adding Chapter 3.140, “Folsom Essential City Services Maintenance and Investment Measure”, to the Folsom Municipal Code to

	be Administered by the California Department of Tax and Fee Administration (Approve Submission to Voters).
FROM:	City Attorney's Office

RECOMMENDATION / CITY COUNCIL ACTION

1. Staff recommends that the City Council pass and adopt either:

- A. Resolution No. 10889 - A Resolution Authorizing the Submission of a Ballot Measure to the Qualified Voters of the City to Add a Transactions and Use Tax at the Rate of One-Half Percent (0.5%), Authorizing the Filing of Written Arguments Regarding the City’s Revenue Measure, and Directing the City Attorney to Prepare an Impartial Analysis for Said Measure; or
- B. Resolution No. 10890 - A Resolution Authorizing the Submission of a Ballot Measure to the Qualified Voters of the City to Add a Transactions and Use Tax at the Rate of One Percent (1%), Authorizing the Filing of Written Arguments Regarding the City’s Revenue Measure, and Directing the City Attorney to Prepare an Impartial Analysis for Said Measure.

NOTE: To be effective, the Revenue Measure requires a 2/3 super-majority vote (**at least 4 of 5 affirmative votes of the City Council**) for placement on the November 8, 2022 ballot.

2. Staff recommends that the City Council **approve one of the following Ordinances** for submission to the voters of the City at the November 8, 2022 General Municipal Election:

- A. Ordinance No. 1328 – An Ordinance of the People of the City of Folsom Imposing a One-Half Percent (0.5%) Transactions and Use Tax by Adding Chapter 3.140, “Folsom Essential City Services Maintenance and Investment Measure”, to the Folsom Municipal Code to be Administered by the California Department of Tax and Fee Administration; or
- B. Ordinance No. 1329 – An Ordinance of the People of the City of Folsom Imposing a One Percent (1%) Transactions and Use Tax by Adding Chapter 3.140, “Folsom Essential City Services Maintenance and Investment Measure”, to the Folsom Municipal Code to be Administered by the California Department of Tax and Fee Administration.

BACKGROUND / ISSUE

A Statewide General Election is scheduled to be held in Sacramento County on November 8, 2022. A General Municipal Election for the City of Folsom may be consolidated with the Statewide General Election for the purpose of electing members of the City Council to fill openings due to the expiration of the current term of three Councilmembers this December, as well as submitting ballot measures to the voters as desired by the City Council.

While the election of three City Councilmembers will be by-district (i.e., only eligible voters in Council Districts 1, 3, and 5 will vote for a Councilmember in their respective Districts), all eligible voters throughout the City will be able to vote to approve or reject the proposed revenue measure.

POLICY / RULE

Revenue and Taxation Code Section 7285.9 authorizes all cities to levy, increase, or extend a transactions and use tax for general purposes, at a rate of 0.125% or a multiple thereof, subject to approval of two-thirds (2/3) of the City Council and a majority of qualified voters voting on the issue.

Elections Code Section 9222 provides that the legislative body of a city may submit to the voters a proposition for the repeal, amendment or enactment of any ordinance at a regular city election, and if the proposition submitted receives a majority of the votes cast on it at the election, the ordinance shall be repealed, amended or enacted accordingly.

ANALYSIS

At the November 8, 2022 General Municipal Election, the qualified voters of the City will be asked to elect three Councilmembers in Council Districts 1, 3, and 5 to fill the seats following the expiration of the current terms of three Councilmembers. The election will be by-district.

Additionally, the City Council may submit ballot measures to all voters of the City at said election for consideration. Staff has presented a proposed ballot measure to enact a new sales tax in the City in the amount of either ½ cent or 1 cent, as deemed appropriate and selected by the City Council.

A. Ballot Measure – City Revenue Measure (½ Cent or 1 Cent Transactions and Use Tax)

During the past several years, the State of California has reduced funding for infrastructure improvements to local jurisdictions, including the City of Folsom. While many local jurisdictions had to decrease or eliminate altogether certain levels, quality and frequency of services to their residents, under City Council direction and prudent fiscal management, Folsom has weathered through some of the toughest economic challenges in recent memory without any measurable or significant impact on Folsom residents.

Nevertheless, since State funding has declined, and maintenance costs have grown, additional funding is needed to address current and long-term needs. The City is pursuing dependable and local sources of revenue in order to continue to fund and support ongoing and future services, facilities and programs including, for example, capital improvement projects such as construction of transportation and traffic improvements, parks, trails, and bike paths; efforts to promote economic development and redevelopment to attract new businesses and employers to the City; augmentation of existing essential City services including but not limited to fire, paramedic, police emergency response and crime prevention programs; and expansion of the City's great tradition in parks and recreation, senior, library, school and education, arts, cultural and historical programs which our citizens enjoy and/or depend upon. In order to address the widest range of core service needs, the City is contemplating placing a potential general transaction and use tax on the November 8, 2022 ballot.

California Revenue and Taxation Code section 7285.9 authorizes the City Council to levy transactions and use (sales) tax via ordinance, provided that the ordinance establishing the general tax is approved by a majority (50% + 1) vote of the qualified voters of the city.

Currently, the cumulative tax rate on retail sales in Folsom is 7.75% of the purchase price. The tax revenue is allocated among the State, Sacramento County, the City of Folsom, and other public agencies. Folsom's share is 1.0% of the purchase price.

The City Council may submit a proposed revenue measure to the voters of the City to decide whether or not to enact a new sales tax on tangible personal property sold at retail in the City, at the rate of one-half cent for every dollar spent ($\frac{1}{2}\%$) or, alternatively, at the rate of one cent for every dollar spent (1%). **All revenue from the new local tax stays in the City without sharing with other agencies.** If passed, the proposed one-half cent revenue measure would increase the cumulative tax rate in Folsom to 8.25%, and Folsom's share of the purchase price would increase from 1.0% to 1.5%. The proposed one cent revenue measure, if passed, would increase the cumulative tax rate in Folsom to 8.75%, and Folsom's share of the purchase price would increase from 1.0% to 2.0%. Staff estimates that a one-half cent Measure would initially generate approximately \$11 million per year, while a one cent Measure would initially generate approximately \$22 million per year.

The proposed revenue measure proposes a "general" tax, from which the revenue would be deposited in the City's general fund for the City to use for all governmental purposes. There will be an annual audit on the proceeds and expenditure of the tax, as well as annual accounting to the City Council prior to adoption of the City budget.

If passed by a simple majority vote of the voters voting on the proposed revenue measure, the Folsom Municipal Code would be amended by the enactment of an ordinance imposing the new tax. The proposed tax would be administered by the California Department of Tax and Fee Administration, in the same manner that sales tax is currently administered, in order to reduce the cost of collecting the tax and to minimize the burden of record-keeping upon retailers subject to the tax.

Collection of the proposed tax would begin on April 1, 2023 and would continue until repealed by voters of the City in a future election.

A copy of the proposed text of the Revenue Measure can be found in Attachments 3 and 6 to this Staff Report.

To be effective, the Revenue Measure requires a 2/3 super-majority vote (at least 4 of 5 affirmative votes of the City Council) for placement on the November 8, 2022 ballot.

B. Written Ballot/Rebuttal Arguments

The proposed Resolution authorizes the filing of written arguments and rebuttals for the City Council-sponsored ballot measures, as well as directing the City Attorney to prepare an impartial analysis for each ballot measure.

Elections Code Section 9287 provides that, if more than one argument for or against any city measure is submitted to the city election official within the prescribed time frame, the city election official shall select one of the arguments for printing and distribution to the voters. In selecting the argument, the election official shall give preference and priority to the arguments as follows:

1. The legislative body, or member(s) of the legislative body authorized by that body.
2. The individual voter, or bona fide association of citizens, or combination of voters and associations, who are bona fide sponsors or proponents of the measure.
3. Bona fide associations of citizens.
4. Individual voters who are eligible to vote on the measure.

Accordingly, City Council has first priority to file and submit arguments for City Council-sponsored ballot measures, and the proposed Resolution designates the Mayor and/or others selected by the Mayor who are qualified to sign arguments under the Elections Code to file written arguments regarding the ballot measure sponsored by the City Council. Pursuant to the timeline set forth in Elections Code Sections 9286 and 9295, written ballot arguments for or against a ballot measure must be filed between July 13, 2022 and July 26, 2022. The public examination period for arguments would be July 27, 2022 to Aug 5, 2022.

Pursuant to Elections Code Section 9285, rebuttal arguments must be filed between July 27, 2022 and August 5, 2022. The public examination period would be August 6, 2022 to August 15, 2022.

The City Council may direct the City Attorney to prepare an impartial analysis on the proposed measures. The analysis would be due no later than July 26, 2022. The public examination period would be July 27, 2022 to August 5, 2022.

FINANCIAL IMPACT

The Sacramento County Registrar of Voters has estimated the election cost at approximately \$42,000 for the election of three City Council candidates. Adding an additional contest to the ballot will cost approximately an additional \$5,100, based on the County's fee schedule of

\$0.1035 per registered voter for “additional contests”. Funds have been budgeted within the FY 2022-23 budget to cover this expense.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines §15061(c)(3)), or are otherwise not considered a project as defined by Public Resources Code §21065 and CEQA Guidelines §15060(c)(3) and §15378. The Council’s approval of the attached Resolution and Ordinance meets the above criteria and is not subject to CEQA. No environmental review is required.

ATTACHMENTS

1. Resolution No. 10889 - A Resolution Authorizing the Submission of a Ballot Measure to the Qualified Voters of the City to Add a Transactions and Use Tax at the Rate of One-Half Percent (0.5%), Authorizing the Filing of Written Arguments Regarding the City’s Revenue Measure, and Directing the City Attorney to Prepare an Impartial Analysis for Said Measure
2. Ordinance No. 1328 - An Ordinance of the People of the City of Folsom Imposing a One-Half Percent (0.5%) Transactions and Use Tax by Adding Chapter 3.140, “Folsom Essential City Services Maintenance and Investment Measure”, to the Folsom Municipal Code to be Administered by the California Department of Tax and Fee Administration **(Approve Submission to Voters)**
3. Ballot Measure Language, One-Half Percent (0.5%)
4. Resolution No.10890 - A Resolution Authorizing the Submission of a Ballot Measure to the Qualified Voters of the City to Add a Transactions and Use Tax at the Rate of One Percent (1%), Authorizing the Filing of Written Arguments Regarding the City’s Revenue Measure, and Directing the City Attorney to Prepare an Impartial Analysis for Said Measure
5. Ordinance No. 1329 - An Ordinance of the People of the City of Folsom Imposing a One Percent (1%) Transactions and Use Tax by Adding Chapter 3.140, “Folsom Essential City Services Maintenance and Investment Measure”, to the Folsom Municipal Code to be Administered by the California Department of Tax and Fee Administration **(Approve Submission to Voters)**.
6. Ballot Measure Language, One Percent (1.0%)

Respectfully submitted,

Steven Wang, City Attorney

Attachment 1.

Resolution No. 10889 - A Resolution Authorizing the Submission of a Ballot Measure to the Qualified Voters of the City to Add a Transactions and Use Tax at the Rate of One-Half Percent (0.5%), Authorizing the Filing of Written Arguments Regarding the City's Revenue Measure, and Directing the City Attorney to Prepare an Impartial Analysis for Said Measure

RESOLUTION NO. 10889

A RESOLUTION AUTHORIZING THE SUBMISSION OF A BALLOT MEASURE TO THE QUALIFIED VOTERS OF THE CITY TO ADD A TRANSACTIONS AND USE TAX AT THE RATE OF ONE-HALF PERCENT (0.5%), AUTHORIZING THE FILING OF WRITTEN ARGUMENTS REGARDING THE CITY'S REVENUE MEASURE, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS FOR SAID MEASURE

WHEREAS, under the provisions of the Charter of the City of Folsom and the Folsom Municipal Code, a General Municipal Election shall be held on November 8, 2022 for the election of three City Councilmembers; and,

WHEREAS, Revenue and Taxation Code Section 7285.9 authorizes all cities to levy, increase, or extend a transactions and use tax for general purposes, at a rate of 0.125% or a multiple thereof, subject to approval of two-thirds (2/3) of the City Council and a majority of qualified voters voting on the issue; and,

WHEREAS, an election regarding the increase of a transactions and use tax for general purposes must be consolidated with a regularly scheduled general election for the City Council, except in cases of an emergency declared by a unanimous vote of the City Council; and,

WHEREAS, the City Council desires to submit a ballot measure on a transactions and use tax to the voters of the City of Folsom at a General Municipal Election to be held in the City on November 8, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Folsom as follows:

SECTION 1. Pursuant to Article XI, §5 and Article XIII C, §2 of the California Constitution, Elections Code Section 9222, Folsom Municipal Code Section 2.40.010 and Revenue and Taxation Code Section 7285.9, a General Municipal Election is called and ordered to be held in the City of Folsom, California, on Tuesday, November 8, 2022 for the purpose of submitting the following proposed Revenue Measure to the voters of the City:

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CITY OF FOLSOM

MEASURE “ ___ ”

FOLSOM ESSENTIAL CITY SERVICES MAINTENANCE AND INVESTMENT MEASURE

YES	
NO	

To maintain and enhance essential City of Folsom services/ facilities, such as: maintaining 9-1-1 emergency firefighter/ medical response times; enhancing and maintaining parks/ trails; repairing potholes/ city streets; enhancing wildfire prevention/ neighborhood fire protection; and maintaining neighborhood police patrols; shall the City of Folsom measure be adopted establishing a one-half cent sales tax, providing \$11,000,000 annually, for general government use, until ended by voters, requiring local control, citizen oversight and independent annual audits, and all funds staying in Folsom?

SECTION 2. The complete text of the proposed measure to be submitted to the voters in Section 1 hereof is attached hereto as Exhibit “A”. **The full text of the Ordinance will not be printed in its entirety in the County Voter Information Guide.** Relevant information will be provided within the Impartial Analysis, and a full copy of the text is on file in the Office of the City Clerk.

SECTION 3. The vote requirement for the measure, submitted to the voters in Section 1 hereof, to pass is a simple majority (50% + 1) of the votes cast.

SECTION 4. The City Council authorizes pursuant to Elections Code Section 9282(b) the following:

- The Mayor and/or Others Selected by the Mayor Who are Qualified to Sign Arguments under the Elections Code

to file a written argument not exceeding 300 words regarding the City measure as specified in Section 1, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with California Elections Code Section 9282. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Filer Statement Form to be filed by author(s) of argument.

SECTION 5. The City Council adopts Elections Code Section 9285 to accept rebuttal arguments. The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Filer Statement Form to be filed by author(s).

SECTION 6. The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the Office of the City Attorney are affected. The City Attorney shall prepare an impartial analysis of said measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of said measure. If any measure affects the organization or salaries of the Office of the City Attorney, the City Clerk shall prepare the impartial analysis. The analysis shall include a statement indicating whether any 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, the following: "The above statement is an impartial analysis of the measure. If you desire a copy of the measure, please call the election official's office at: 916-461-6035 or email CityClerkDept@folsom.ca.us and a copy will be provided at no cost to you." The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 7. The ballots to be used at the election shall be in form and content as required by law.

SECTION 8. Said General Municipal Election hereby called shall be held and conducted, and the votes there at received and canvassed, and the returned thereof made, and the result thereof ascertained and determined in accordance with the general election laws of the State of California, except as herein provided.

SECTION 9. All persons qualified to vote at municipal elections in the City of Folsom shall be qualified to vote at said General Municipal Election.

SECTION 7. The City Clerk is authorized, instructed, and directed to coordinate with the Clerk and Registrar of Voters of the County of Sacramento 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.

SECTION 10. Unless a longer period is provided by the County Elections Department, the polls shall be open at seven o'clock a.m. of 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 shall be closed, pursuant to California Elections Code §10242, except as provided in the California Elections Code §14401.

SECTION 11. 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. 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.

SECTION 13. The full text of the revenue measure Ordinance will not be printed in its entirety in the Sample Ballot. Relevant information will be provided within the Impartial Analysis for each measure and a full copy of the text is on file in the Office of the City Clerk.

SECTION 14. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 15. At the next regular meeting of this City Council occurring after the returns of said General Municipal Election have been canvassed, and the certification of the results thereof to this City Council, or at a special meeting called thereafter for such purpose, this City Council shall cause to be spread upon its minutes a statement of the results of said General Municipal Election as ascertained by said canvass.

SECTION 16. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions, and to take other appropriate actions necessary to ensure the placement of said proposition before the voters of the City of Folsom at said General Municipal Election.

PASSED AND ADOPTED this 12th day of July, 2022 by the following roll call vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):
ABSTAIN: Council Member(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

List of Exhibit:

Exhibit A – Folsom Essential City Services Maintenance and Investment Measure

Attachment 2.

Ordinance No. 1328 - An Ordinance of the People of the City of Folsom Imposing a One-Half Percent (0.5%) Transactions and Use Tax by Adding Chapter 3.140, "Folsom Essential City Services Maintenance and Investment Measure", to the Folsom Municipal Code to be Administered by the California Department of Tax and Fee Administration (Approve Submission to Voters)

**EXHIBIT A
TO
RESOLUTION NO. 10889**

Folsom Essential City Services Maintenance and Investment Measure

Measure to be Submitted Directly to the Voters

ORDINANCE NO. 1328

AN ORDINANCE OF THE PEOPLE OF CITY OF FOLSOM IMPOSING A ONE-HALF PERCENT (0.5%) TRANSACTIONS AND USE TAX BY ADDING CHAPTER 3.140, "FOLSOM ESSENTIAL CITY SERVICES MAINTENANCE AND INVESTMENT MEASURE", TO THE FOLSOM MUNICIPAL CODE TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, many residents live in the City of Folsom because the City offers a higher level of amenities, service, programs, and quality of life than in neighboring cities, and creating and preserving local revenue sources will ensure that the City can maintain and improve the quality of the amenities, services, and programs that residents desire and expect; and

WHEREAS, many businesses operate and thrive in the City due to the City's business-friendly environment, robust and year-round recreational activities and events, high-quality public facilities and amenities, as well as proactive economic development efforts, all leading to a higher level of shopping experience; and

WHEREAS, the City's unique geography, with its lakes, creeks, trails, bikeways and scenic hillsides, combined with the age of its infrastructures such as roads, sidewalks, public buildings and drainage systems, make it an expensive City to maintain.

WHEREAS, during each of the past several years, the State of California has reduced funding for infrastructure improvements to local jurisdictions, including the City of Folsom; and,

WHEREAS, the City needs dependable and local sources of revenue to fund and to support locally-controlled, strategically enhanced spending on services, facilities and programs including, for example, capital improvement projects such as construction of transportation and traffic improvements, parks, trails, and bike paths; efforts to promote economic development and redevelopment to attract new businesses and employers to the City; augmentation of existing essential City services including but not limited to fire, paramedic, police emergency response and crime prevention programs; and expansion of

the City's great tradition in parks and recreation, senior, library, school and education, arts, cultural and historical programs which our citizens enjoy and/or depend upon.

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF FOLSOM AS FOLLOWS:

SECTION 1. ADDITION TO CODE

Chapter 3.140, "Folsom Essential City Services Maintenance and Investment Measure", is hereby added to the Folsom Municipal Code to read as follows:

Chapter 3.140

**FOLSOM ESSENTIAL CITY SERVICES MAINTENANCE
AND INVESTMENT MEASURE
(General Transactions (Sales) and Use Tax)**

Sections:

- 3.140.010 Chapter Title.
- 3.140.020 Need for Chapter.
- 3.140.030 Operative Date.
- 3.140.040 Purpose.
- 3.140.050 Contract with State.
- 3.140.060 Transactions Tax Rate.
- 3.140.070 Place of Sale.
- 3.140.080 Use Tax Rate.
- 3.140.090 Adoption of Provisions of State Law.
- 3.140.100 Limitations on Adoption of State Law and Collection of Use Taxes.
- 3.140.110 Permit Not Required.
- 3.140.120 Exemptions and Exclusions.
- 3.140.130 Amendments.
- 3.140.140 Enjoining Collection Forbidden.
- 3.140.150 Citizens Oversight Committee.
- 3.140.160 Accounting and Report.
- 3.140.170 Independent Audit.
- 3.140.180 Authority to Amend.
- 3.140.190 Termination Date.

3.140.010 Chapter Title.

This Chapter shall be known as the "Folsom Essential City Services Maintenance and Investment Measure" (the "Measure"). This Chapter shall be applicable in the incorporated territory of the City.

3.140.020 Need for Chapter.

The People of the City of Folsom declare that this Chapter, pursuant to the Measure, is adopted as a general tax to provide funding for general governmental purposes, which are funded by the City's General Fund.

3.140.030 Operative Date.

The general transactions and use tax imposed hereunder shall be operative the first day of the first calendar quarter commencing more than 110 days after the adoption of this Chapter ("Operative Date"). Based on a November 8, 2022 election, the Operative Date for the general transactions and use tax imposed hereunder shall be April 1, 2023, and the revenue from said tax can be spent for unrestricted general revenue purposes.

3.140.040 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 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, and 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 Chapter.

3.140.050 Contract with State.

Prior to the Operative Date of this Chapter, 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 imposed under this Chapter; 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.

3.140.060 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-half of one percent (0.50%) 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 Chapter.

3.140.070 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.

3.140.080 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 Chapter for storage, use, or other consumption in the City at the rate of one-half of one percent (0.50%) of the sales price of the property. The sales price shall include

delivery charges when such charges are subject to the State sales or use tax regardless of the place to which delivery is made.

3.140.090 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.

3.140.100 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 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:

a. Provide an exemption from this use 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;

b. 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. A "retailer engaged in business in the State" 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.

3.140.110 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 Chapter.

3.140.120 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 the 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:

a. 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

b. 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 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 this Chapter.

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 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 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 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.

3.140.130 Amendments.

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.

3.140.140 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 hereunder.

3.140.150 Citizens Oversight Committee.

A Citizens Oversight Committee to review the revenues and the projected revenues for the funds generated by this Chapter shall be established by the City Council within six months of approval of this Ordinance by the voters.

3.140.160 Accounting and Report.

Prior to the adoption of the City budget each year, the City Manager and the Finance Director shall present to the City Council an accounting of the tax revenues received and expenditures made under this Chapter.

3.140.170 Independent Audit.

After the close of every fiscal year in which the tax imposed hereunder is levied, the City shall cause an independent audit to be conducted as to the revenue generated as a result of this Measure and to ensure the proper expenditure thereof consistent with the purposes of this Chapter.

3.140.180 Authority to Amend.

A. In order to further the purposes and intent of this Chapter, the City Council is authorized to amend this Chapter in the following areas without a further vote of the People:

1. The suspension or reactivation of this Chapter if the revenue generated under this Chapter is diverted by the State of California for purposes other than those specifically enumerated herein;
2. Any change required by the State of California as a precondition to the collection of the tax authorized hereunder.

B. 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.

3.140.190 Termination Date.

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

SECTION 2 EFFECTIVE DATE. This Ordinance relates to the levying and collecting of the City transactions and use tax shall be in full force and effect thirty (30) days after the certification by the City Council of the election returns indicating passage of the Ordinance by a majority of the voters casting votes in the election; however, the

collection of the transaction and use tax shall be in accordance with Section 3.140.030 of the Folsom Municipal Code as the Operative Date.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Folsom hereby declare that they would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a copy of this Ordinance to be published in full or in summary in the official newspaper at least once within twenty (20) days after its approval by the voters in a newspaper of general circulation in the City.

The foregoing Ordinance was approved by the voters of the City of Folsom at a General Municipal Election held on the 8th day of November 2022, by the following vote tally:

YES:

NOES:

OTHER:

APPROVED:

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

Attachment 3.

Ballot Measure Language, One-Half Percent (0.5%)

CITY OF FOLSOM

MEASURE “ _____ ”

FOLSOM ESSENTIAL CITY SERVICES MAINTENANCE AND INVESTMENT MEASURE

YES	
NO	

To maintain and enhance essential City of Folsom services/ facilities, such as: maintaining 9-1-1 emergency firefighter/ medical response times; enhancing and maintaining parks/ trails; repairing potholes/ city streets; enhancing wildfire prevention/ neighborhood fire protection; and maintaining neighborhood police patrols; shall the City of Folsom measure be adopted establishing a one-half cent sales tax, providing \$11,000,000 annually, for general government use, until ended by voters, requiring local control, citizen oversight and independent annual audits, and all funds staying in Folsom?

Attachment 4.

Resolution No.10890 - A Resolution Authorizing the Submission of a Ballot Measure to the Qualified Voters of the City to Add a Transactions and Use Tax at the Rate of One Percent (1%), Authorizing the Filing of Written Arguments Regarding the City's Revenue Measure, and Directing the City Attorney to Prepare an Impartial Analysis for Said Measure

RESOLUTION NO. 10890

A RESOLUTION AUTHORIZING THE SUBMISSION OF A BALLOT MEASURE TO THE QUALIFIED VOTERS OF THE CITY TO ADD A TRANSACTIONS AND USE TAX AT THE RATE OF ONE PERCENT (1%), AUTHORIZING THE FILING OF WRITTEN ARGUMENTS REGARDING THE CITY'S REVENUE MEASURE, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS FOR SAID MEASURE

WHEREAS, under the provisions of the Charter of the City of Folsom and the Folsom Municipal Code, a General Municipal Election shall be held on November 8, 2022 for the election of three City Councilmembers; and,

WHEREAS, Revenue and Taxation Code Section 7285.9 authorizes all cities to levy, increase, or extend a transactions and use tax for general purposes, at a rate of 0.125% or a multiple thereof, subject to approval of two-thirds (2/3) of the City Council and a majority of qualified voters voting on the issue; and,

WHEREAS, an election regarding the increase of a transactions and use tax for general purposes must be consolidated with a regularly scheduled general election for the City Council, except in cases of an emergency declared by a unanimous vote of the City Council; and,

WHEREAS, the City Council desires to submit a ballot measure on a transactions and use tax to the voters of the City of Folsom at a General Municipal Election to be held in the City on November 8, 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Folsom as follows:

SECTION 1. Pursuant to Article XI, §5 and Article XIII C, §2 of the California Constitution, Elections Code Section 9222, Folsom Municipal Code Section 2.40.010 and Revenue and Taxation Code Section 7285.9, a General Municipal Election is called and ordered to be held in the City of Folsom, California, on Tuesday, November 8, 2022 for the purpose of submitting the following proposed Revenue Measure to the voters of the City:

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CITY OF FOLSOM

MEASURE “__”

FOLSOM ESSENTIAL CITY SERVICES MAINTENANCE AND INVESTMENT MEASURE

YES	
NO	

To maintain and enhance essential City of Folsom services/ facilities, such as: maintaining 9-1-1 emergency firefighter/ medical response times; enhancing and maintaining parks/ trails; repairing potholes/ city streets; enhancing wildfire prevention/ neighborhood fire protection; and maintaining neighborhood police patrols; shall the City of Folsom measure be adopted establishing a one cent sales tax, providing \$22,000,000 annually, for general government use, until ended by voters, requiring local control, citizen oversight and independent annual audits, and all funds staying in Folsom?

SECTION 2. The complete text of the proposed measure to be submitted to the voters in Section 1 hereof is attached hereto as Exhibit “A”. **The full text of the Ordinance will not be printed in its entirety in the County Voter Information Guide.** Relevant information will be provided within the Impartial Analysis, and a full copy of the text is on file in the Office of the City Clerk.

SECTION 3. The vote requirement for the measure, submitted to the voters in Section 1 hereof, to pass is a simple majority (50% + 1) of the votes cast.

SECTION 4. The City Council authorizes pursuant to Elections Code Section 9282(b) the following:

- The Mayor and/or Others Selected by the Mayor Who are Qualified to Sign Arguments under the Elections Code

to file a written argument not exceeding 300 words regarding the City measure as specified in Section 1, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with California Elections Code Section 9282. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

The arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Filer Statement Form to be filed by author(s) of argument.

SECTION 5. The City Council adopts Elections Code Section 9285 to accept rebuttal arguments. The rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Filer Statement Form to be filed by author(s) of argument.

SECTION 6. The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the Office of the City Attorney are affected. The City Attorney shall prepare an impartial analysis of said measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of said measure. If any measure affects the organization or salaries of the Office of the City Attorney, the City Clerk shall prepare the impartial analysis. The analysis shall include a statement indicating whether any 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, the following: "The above statement is an impartial analysis of the measure. If you desire a copy of the measure, please call the election official's office at: 916-461-6035 or email CityClerkDept@folsom.ca.us and a copy will be provided at no cost to you." The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 7. The ballots to be used at the election shall be in form and content as required by law.

SECTION 8. Said General Municipal Election hereby called shall be held and conducted, and the votes thereat received and canvassed, and the returned thereof made, and the result thereof ascertained and determined in accordance with the general election laws of the State of California, except as herein provided.

SECTION 9. All persons qualified to vote at municipal elections in the City of Folsom shall be qualified to vote at said General Municipal Election.

SECTION 7. The City Clerk is authorized, instructed, and directed to coordinate with the Clerk and Registrar of Voters of the County of Sacramento 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.

SECTION 10. Unless a longer period is provided by the County Elections Department, the polls shall be open at seven o'clock a.m. of 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 shall be closed, pursuant to California Elections Code §10242, except as provided in the California Elections Code §14401.

SECTION 11. 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. 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.

SECTION 13. The full text of the revenue measure Ordinance will not be printed in its entirety in the Sample Ballot. Relevant information will be provided within the Impartial Analysis for each measure and a full copy of the text is on file in the Office of the City Clerk.

SECTION 14. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 15. At the next regular meeting of this City Council occurring after the returns of said General Municipal Election have been canvassed, and the certification of the results thereof to this City Council, or at a special meeting called thereafter for such purpose, this City Council shall cause to be spread upon its minutes a statement of the results of said General Municipal Election as ascertained by said canvass.

SECTION 16. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions, and to take other appropriate actions necessary to ensure the placement of said proposition before the voters of the City of Folsom at said General Municipal Election.

PASSED AND ADOPTED this 12th day of July, 2022 by the following roll call vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):
ABSTAIN: Council Member(s):

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

List of Exhibit:

Exhibit A – Folsom Essential City Services Maintenance and Investment Measure

Attachment 5.

Ordinance No. 1329 - An Ordinance of the People of the City of Folsom Imposing a One Percent (1%) Transactions and Use Tax by Adding Chapter 3.140, "Folsom Essential City Services Maintenance and Investment Measure", to the Folsom Municipal Code to be Administered by the California Department of Tax and Fee Administration (Approve Submission to Voters).

**EXHIBIT A
TO
RESOLUTION NO. 10890**

Folsom Essential City Services Maintenance and Investment Measure

Measure to be Submitted Directly to the Voters

ORDINANCE NO. 1329

AN ORDINANCE OF THE PEOPLE OF CITY OF FOLSOM IMPOSING A ONE PERCENT TRANSACTIONS AND USE TAX BY ADDING CHAPTER 3.140, “FOLSOM ESSENTIAL CITY SERVICES MAINTENANCE AND INVESTMENT MEASURE”, TO THE FOLSOM MUNICIPAL CODE TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, many residents live in the City of Folsom because the City offers a higher level of amenities, service, programs, and quality of life than in neighboring cities, and creating and preserving local revenue sources will ensure that the City can maintain and improve the quality of the amenities, services, and programs that residents desire and expect; and

WHEREAS, many businesses operate and thrive in the City due to the City’s business-friendly environment, robust and year-round recreational activities and events, high-quality public facilities and amenities, as well as proactive economic development efforts, all leading to a higher level of shopping experience; and

WHEREAS, the City’s unique geography, with its lakes, creeks, trails, bikeways and scenic hillsides, combined with the age of its infrastructures such as roads, sidewalks, public buildings and drainage systems, make it an expensive City to maintain.

WHEREAS, during each of the past several years, the State of California has reduced funding for infrastructure improvements to local jurisdictions, including the City of Folsom; and,

WHEREAS, the City needs dependable and local sources of revenue to fund and to support locally-controlled, strategically enhanced spending on services, facilities and programs including, for example, capital improvement projects such as construction of transportation and traffic improvements, parks, trails, and bike paths; efforts to promote economic development and redevelopment to attract new businesses and employers to the City; augmentation of existing essential City services including but not limited to fire, paramedic, police emergency response and crime prevention programs; and expansion of

the City's great tradition in parks and recreation, senior, library, school and education, arts, cultural and historical programs which our citizens enjoy and/or depend upon.

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF FOLSOM AS FOLLOWS:

SECTION 1. ADDITION TO CODE

Chapter 3.140, "Folsom Essential City Services Maintenance and Investment Measure", is hereby added to the Folsom Municipal Code to read as follows:

Chapter 3.140

**FOLSOM ESSENTIAL CITY SERVICES MAINTENANCE
AND INVESTMENT MEASURE**

(General Transactions (Sales) and Use Tax)

Sections:

- 3.140.010 Chapter Title.
- 3.140.020 Need for Chapter.
- 3.140.030 Operative Date.
- 3.140.040 Purpose.
- 3.140.050 Contract with State.
- 3.140.060 Transactions Tax Rate.
- 3.140.070 Place of Sale.
- 3.140.080 Use Tax Rate.
- 3.140.090 Adoption of Provisions of State Law.
- 3.140.100 Limitations on Adoption of State Law and Collection of Use Taxes.
- 3.140.110 Permit Not Required.
- 3.140.120 Exemptions and Exclusions.
- 3.140.130 Amendments.
- 3.140.140 Enjoining Collection Forbidden.
- 3.140.150 Citizens Oversight Committee.
- 3.140.160 Accounting and Report.
- 3.140.170 Independent Audit.
- 3.140.180 Authority to Amend.
- 3.140.190 Termination Date.

3.140.010 Chapter Title.

This Chapter shall be known as the "Folsom Essential City Services Maintenance and Investment Measure" (the "Measure"). This Chapter shall be applicable in the incorporated territory of the City.

3.140.020 Need for Chapter.

The People of the City of Folsom declare that this Chapter, pursuant to the Measure, is adopted as a general tax to provide funding for general governmental purposes, which are funded by the City's General Fund.

3.140.030 Operative Date.

The general transactions and use tax imposed hereunder shall be operative the first day of the first calendar quarter commencing more than 110 days after the adoption of this Chapter ("Operative Date"). Based on a November 8, 2022 election, the Operative Date for the general transactions and use tax imposed hereunder shall be April 1, 2023, and the revenue from said tax can be spent for unrestricted general revenue purposes.

3.140.040 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 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, and 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 Chapter.

3.140.050 Contract with State.

Prior to the Operative Date of this Chapter, 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 imposed under this Chapter; 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.

3.140.060 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 Chapter.

3.140.070 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.

3.140.080 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 Chapter for storage, use, or other consumption in the City 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 the State sales or use tax regardless of the place to which delivery is made.

3.140.090 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.

3.140.100 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 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:
 - a. Provide an exemption from this use 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;
 - b. 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. A “retailer engaged in business in the State” 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.

3.140.110 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 Chapter.

3.140.120 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 the 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:

a. 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

b. 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 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 this Chapter.

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 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 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 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.

3.140.130 Amendments.

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.

3.140.140 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 hereunder.

3.140.150 Citizens Oversight Committee.

A Citizens Oversight Committee to review the revenues and the projected revenues for the funds generated by this Chapter shall be established by the City Council within six months of approval of this Ordinance by the voters.

3.140.160 Accounting and Report.

Prior to the adoption of the City budget each year, the City Manager and the Finance Director shall present to the City Council an accounting of the tax revenues received and expenditures made under this Chapter.

3.140.170 Independent Audit.

After the close of every fiscal year in which the tax imposed hereunder is levied, the City shall cause an independent audit to be conducted as to the revenue generated as a result of this Measure and to ensure the proper expenditure thereof consistent with the purposes of this Chapter.

3.140.180 Authority to Amend.

A. In order to further the purposes and intent of this Chapter, the City Council is authorized to amend this Chapter in the following areas without a further vote of the People:

1. The suspension or reactivation of this Chapter if the revenue generated under this Chapter is diverted by the State of California for purposes other than those specifically enumerated herein;
2. Any change required by the State of California as a precondition to the collection of the tax authorized hereunder.

B. 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.

3.140.190 Termination Date.

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

SECTION 2 EFFECTIVE DATE. This Ordinance relates to the levying and collecting of the City transactions and use tax shall be in full force and effect thirty (30) days after the certification by the City Council of the election returns indicating passage

of the Ordinance by a majority of the voters casting votes in the election; however, the collection of the transaction and use tax shall be in accordance with Section 3.140.030 of the Folsom Municipal Code as the Operative Date.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Folsom hereby declare that they would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk is directed to cause a copy of this Ordinance to be published in full or in summary in the official newspaper at least once within twenty (20) days after its approval by the voters in a newspaper of general circulation in the City.

The foregoing Ordinance was approved by the voters of the City of Folsom at a General Municipal Election held on the 8th day of November 2022, by the following vote tally:

YES:

NOES:

OTHER:

APPROVED:

Kerri M. Howell, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK

Attachment 6.

Ballot Measure Language, One Percent (1.0%)

CITY OF FOLSOM

MEASURE “ ____ ”

FOLSOM ESSENTIAL CITY SERVICES MAINTENANCE AND INVESTMENT MEASURE

YES	
NO	

To maintain and enhance essential City of Folsom services/ facilities, such as: maintaining 9-1-1 emergency firefighter/ medical response times; enhancing and maintaining parks/ trails; repairing potholes/ city streets; enhancing wildfire prevention/ neighborhood fire protection; and maintaining neighborhood police patrols; shall the City of Folsom measure be adopted establishing a one cent sales tax, providing \$22,000,000 annually, for general government use, until ended by voters, requiring local control, citizen oversight and independent annual audits, and all funds staying in Folsom?