



Council Agenda Report

From: Iris Yang, City Attorney
Tom Frutchey, City Manager

Subject: Consideration of a City-Proposed Sales Tax Ballot Measure; Setting Priorities for the Filing of Written Arguments and Rebuttals; and Directing the City Attorney to Prepare an Impartial Analysis

Date: July 18, 2018

Facts

1. The City Council approved, at its meeting of June 20, 2018, the placement of the following ballot measures on the November 6, 2018 ballot for the citizens of Paso Robles to vote on:
 - Whether the office of City Clerk should be appointive
 - Whether a tax should be imposed on cannabis businesses if any are, at some point in the future, approved within the City
2. The City Council directed staff to conduct further research, inform the general public, and request input from the public, to determine if a supplemental sales tax ballot measure should be submitted to the voters to help pay for city infrastructure maintenance, repair, and improvements, subject to citizen oversight.
3. As of the posting of this report, the Mayor and numerous members of the City Council attended 10 presentations from city staff to various business and community service organizations. In addition, there will be a community forum held Monday July 16th at Flamson Middle School and 3 additional presentations to community organizations, prior Council consideration.
4. Staff provided presentation attendees with a form for providing feedback and an informational handout (Attachment 1).
5. In accordance with the Elections Code, the ballot measure resolution sets forth the rules for how the City Clerk will determine whose arguments for and against a measure will be distributed with election materials. The City Council and City Council members have priority.
6. The Elections Code sets a 300-word limit on arguments for and against a measure, which must be submitted by July 30, 2018. Any rebuttal arguments have a 250-word limit, and must be submitted by August 9, 2018. These time limits will be posted by the City Clerk on the City's website.
7. The City Attorney is required to prepare an impartial analysis for any such ballot measure.

Tax Measure Facts

1. The FY 2018-19 2019-20 Budget identifies certain underfunded City service liabilities.
2. City Staff has been exploring the possibility of asking voters for additional resources in the form of an increase in sales tax or general obligation bond measure.
3. The two types of measures carry different voter approval thresholds. A parcel tax requires two-thirds voter approval while a sales tax measure currently requires a simple majority approval.
4. In order to provide the City Council with the most accurate information possible as to the likelihood of voters supporting additional revenue-generating measures, staff engaged the services of a polling firm.
5. The City hired FM3 to survey likely voters regarding community funding priorities, among known underfunded liabilities and common community concerns, for a potential revenue measure. The survey included the possibility of two different revenue sources, an additional one quarter to full cent sales tax or an additional general obligation bond paid for by an increase in property taxes.

6. Initial results of the survey show that voters prioritize spending in a number of areas: fixing streets and bridges, job creation, firefighting services, improving law enforcement, 911 response, and disaster preparedness. The survey shows higher support for a sales tax measure.
7. According to the survey, voters value the citizen oversight practices enacted by the City Council for the revenues generated by the 2012 measure and would expect similar oversight practices for any additional revenue.
8. Voters also expect assurances that all proceeds be spent in Paso Robles and that there not be any risk of the state accessing for purposes outside of the city.
9. Staff conducted a public forum on July 16, 2018 and has undertaken significant outreach to organizations throughout the City to help Council make an informed decision whether to place a sales tax measure on the November ballot.

Options

1. Take no action;
2. Approve a resolution placing a sales tax for general unrestricted purposes focused on but not limited to, street/road improvements, public safety readiness, and disaster preparedness on the November 6, 2018 ballot and directing city staff to draft the impartial analysis for the sales tax measure allowing for arguments and rebuttals;
3. Provide alternative direction to staff.

Analysis and Conclusions

Community Feedback. While recommendations for focus varied from group to group (infrastructure vs. public safety), the priorities for funding are consistent with those identified in the survey. Groups have consistently voiced appreciation for the city's outreach regarding the need for additional funding. Without exception or variation, groups have expressed that it is paramount that any measure include assurances of funding remaining in Paso Robles and that the existing citizen oversight requirements remain in place.

Key decisions for the Council:

1. Whether to (a) place a measure on the ballot or (b) not
2. If placing a measure on the ballot:
 - Purpose: On what to focus
 - Options provided: (1) public safety; (2) roads and bridges
 - Amount: The size of the sales tax increase to ask for
 - Options provided: (1) 1 percent total ; (2) 1 percent addition
 - Term: Whether to term limit the sales tax or make it open-ended
 - Options provided: (1) 25 years; (2) until ended by voters

Attachment 2 provides sample wording for several different possible measures, based on the Council's decisions in the above key areas. Once the Council decides how to proceed, the wording of the options can be mixed and matched to fully address the selected approach.

Once the wording is finalized, one of the attached three resolutions (Attachment 3) can be selected. The resolutions provide the necessary legal and administrative framework for placing a City-initiated ballot measure on the November ballot, to accompany the two previously approved ballot measures.

As required by law, the City Attorney will prepare an impartial analysis to be placed on the November 6 ballot. Arguments for and against any ballot measure, as well as rebuttal arguments, may be submitted, subject to the priorities and limitations set by law and the City Council's resolution.

Fiscal Impact

The Deputy City Clerk's estimate to conduct the Consolidated General Election for the City of Paso Robles is approximately \$25,000. The Deputy City Clerk's estimate for the impartial analysis and the County charges for the addition of three ballot measures (including the two measures approved by the Council at its June 19-

20 meeting), is approximately \$30,000. Therefore, the total estimate for the 2018 election including ballot measures is approximately \$55,000.

The revenues that could be generated by a sales tax measure depend on the range of factors the Council will choose among in making its decisions. At the most basic, a one-percent sales tax measure would generate approximately \$10 million per year, 40% of which would be paid by visitors.

Recommendation

1. Approve Resolution No. 18-XXX calling and giving notice of a measure to be place on the November 6, 2018 ballot to enact an additional sales tax for general unrestricted purposes, with priorities for the use of revenues generated by the sale tax measure, including but not limited to, street/road improvements, public safety readiness, and disaster preparedness.
2. Direct the City Attorney to draft the impartial analysis for the sales tax measure; and allowing for arguments and rebuttals.

Attachments

1. Informational handout
2. Sample wording for sales tax measure
3. Sample Resolution No. 18-XXX



CITY OF PASO ROBLES

Information about an Essential City Infrastructure Sales Tax Ballot Measure

QUALITY OF LIFE IN PASO ROBLES

Paso Robles is a great place to live, do business, raise a family, and retire. We are proud that a recent survey of Paso Robles residents showed very high favorability for the quality of life and the quality of city services. The City of Paso Robles has identified urgent infrastructure needs that must be met to help make our community even better.

PROTECTING OUR CITY AND OUR RESIDENTS

Public safety costs are increasing every year; Paso Robles does not receive State funding for public safety. The City needs additional resources to maintain safety and our level of police officers and firefighter/paramedics.



REPAIRING/MAINTAINING NEIGHBORHOOD STREETS

Improving local streets, sidewalks, and essential infrastructure will help keep Paso Robles safe. Even with the existing half-cent measure, we are falling further behind. Making necessary improvements to our streets and repairing potholes also ensures that our streets and sidewalks enhance and complement rather than detract from our beautiful natural environment.

LOCAL FUNDING FOR LOCAL SERVICES

Our City's first priority is protecting the safety of our citizens and maintaining a quality of life we all value in our community. To provide stable, local funding to meet these needs, the City of Paso Robles is considering placing a one-half to one percent sales tax measure for the November 2018 ballot, to:

- Repair, maintain and enhance public infrastructure including a third fire station and a satellite police station on the East side of the City.
- Ensure that we have enough police officers to respond quickly to 9-1-1 emergencies, reduce gang activity and drug-related crimes, increase SRO, homeless and mental health services
- Ensure we have enough firefighter/paramedics to respond quickly to 9-1-1 emergencies
- Repair potholes and maintain local streets
- Ensure we are prepared for the next disaster—whether it be a wildfire or another earthquake
- Provide fire protection and emergency medical services



AFFORDABILITY

- The average Paso household pays less in property and sales taxes than it did a decade ago
- A half percent measure would cost the average Paso household 26¢ per day.
- 40% will be paid by visitors
- This will not impact the sales of autos and other big-ticket items

STRICT FISCAL ACCOUNTABILITY

- All money raised by the measure would remain here in Paso Robles and could not be taken away by the State
- The measure would require independent citizens' oversight and public audits



Sample Sales Tax Ballot Measures

Sample 1: Emphasis on roads; 1% total; open-ended

| | |
|---|-----|
| <p><u>MEASURE # : PASO ROBLES STREETS, PUBLIC SAFETY, ESSENTIAL CITY SERVICES MEASURE</u></p> | Yes |
| <p>To upgrade deteriorating streets, improve fire/police protection and emergency response, and address unrestricted general revenue purposes; shall a measure be adopted approving an ordinance terminating Measure E’s one-half percent sales tax approved in 2012 and establishing a one percent sales tax providing approximately \$9,500,000 annually until ended by voters, requiring quarterly reports to the public by a citizens oversight committee, annual audits, and using all funds for Paso Robles only?</p> | No |

70 words

Sample 2: Emphasis on public safety; 1% additional tax; 25-year term

| | |
|--|-----|
| <p><u>MEASURE # : PASO ROBLES PUBLIC SAFETY, STREETS, ESSENTIAL CITY SERVICES MEASURE</u></p> | Yes |
| <p>To improve fire/police protection, upgrade deteriorating streets, improve disaster preparedness and emergency response, and address unrestricted general revenue purposes; shall a measure be adopted establishing a one percent sales tax providing approximately \$9,500,000 annually until 2043, requiring quarterly reports to the public by a citizens oversight committee, annual audits, and using all funds for Paso Robles only?</p> | No |

57 words

Option 3: Emphasis on public safety; 1% additional tax; until ended by voters

| | |
|---|------------|
| <p><u>MEASURE # : PASO ROBLES PUBLIC SAFETY, STREETS, ESSENTIAL CITY SERVICES MEASURE</u></p> | <p>Yes</p> |
| <p>To improve fire/police protection, upgrade deteriorating streets; improve disaster preparedness and emergency response; and address unrestricted general revenue purposes; shall a measure be adopted establishing a one percent sales tax providing approximately \$9,500,000 annually until ended by voters, requiring quarterly reports to the public by a citizens oversight committee, annual audits, and using all funds for Paso Robles only?</p> | <p>No</p> |

59 words

Note: The Elections Code limits ballot measures to a maximum of 70 words

RESOLUTION NO. 18-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
CALLING FOR THE PLACEMENT ON THE BALLOT OF A MEASURE
FOR THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO
THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE
REGARDING GENERAL SALES TAX MEASURE

WHEREAS, pursuant to California Elections Code section 9222, the City Council has authority to place measures on the ballot to be considered at a General Municipal Election; and

WHEREAS, pursuant to the law of the State of California, the City Council has called and ordered to be held in the City of El Paso de Robles, California, on Tuesday, November 6, 2018, a General Municipal Election; and

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City of El Paso de Robles (“City”), subject to approval by a majority vote of the qualified voters of the City voting in an election on the issue, to levy a transactions and use tax pursuant to the Transactions and Use Tax Law at a rate of 0.125% or any multiple thereof for general purposes and projects; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218 effective November, 1996, requires that the measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, pursuant to California Constitution Article XIII C, section 2 and Elections Code section 10201, the City has determined to submit a proposition to enact an ordinance establishing a transactions and use tax to the voters at the City’s next regular election; and

WHEREAS, if the measure is approved, the City Council also desires to continue its practice of receiving community input on the use of additional revenues generated by the additional sales tax revenues;

NOW, THEREFORE the City Council of the City of El Paso de Robles does hereby resolve as follows:

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Under the provisions of the California Elections Code, the following proposed amendment to the Paso Robles Municipal Code shall be submitted to the voters at the General Municipal Election to be held on November 6, 2018:

| | |
|---------------------------------|-----|
| <u>MEASURE #</u> _____ : | Yes |
| | No |

Section 3. Should said measure be approved by the requisite vote, the ordinance attached hereto as Exhibit A and incorporated by this reference shall be enacted.

Section 4. That pursuant to Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the Ordinance to the City Attorney to prepare an impartial analysis of the Ordinance which shall not exceed 500 words in length.

Section 5. That pursuant to Elections Code Section 9282, the City Council may file a written argument in favor of the Ordinance in accordance with Article 4, Chapter 3, Division 9 of the Elections Code and may change the argument as allowed by law.

Section 6. That pursuant to Elections Code Section 9287, if more than one argument for or more than one argument against the Ordinance is submitted to the City Clerk within the time prescribed by law, he or she shall select one of the arguments in favor and one of the arguments against the Ordinance for printing and distribution to the voters, giving preference in such selection in the following order:

1. The City Council, or a member or members of the City Council authorized by the City Council.
2. Bona fide associations of citizens.
3. Individual voters who are eligible to vote on the Ordinance.

Section 7. That pursuant to Elections Code Sections 9220 and 9285, when the City Clerk has selected the arguments for and against the Ordinance which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the Ordinance to the author or authors of the argument against, and copies of the argument against the Ordinance to the author or authors of the argument in favor. The author or authors may submit a rebuttal argument to the direct argument not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments and shall immediately follow the direct argument it seeks to rebut. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed, and this Section shall only apply to the election on the Ordinance to be held on November 6, 2018.

Section 8. In accordance with Section 10002 of the Elections Code, the Board of Supervisors of San Luis Obispo County is hereby requested to consent to the Registrar of Voters rendering election services to the City as may be requested by the City Clerk of said City, the County of San Luis Obispo to be reimbursed in full for such services as are performed. The Board of Supervisors of San Luis Obispo County is also requested to consent and agree to the consolidation of the General Election with any other election occurring on November 6, 2018, and the City hereby consents to any such consolidation.

Section 9. The election services which the City requests of the Registrar of Voters, or such other official as may be appropriate to perform, and which such officer is hereby authorized and directed to perform if the said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards, the establishment or appointment of precincts, polling places, and election officers, opening and closing of polling places, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places, the canvassing

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of the returns of the election and the furnishing of the results of such canvassing to the City Clerk, and the performance of such other election services as may be requested by said City Clerk.

Section 10. That the polls for the election 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 Section 10242 and Section 14212, except as provided in California Elections Code Section 14401 or any other provision of law.

Section 11. All persons qualified to vote at municipal elections in the City on the day of the election herein provided for shall be qualified to vote on the Ordinance hereby submitted at the General Municipal Election.

Section 12. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding general municipal elections in the City.

Section 13. Notice of the time and place of holding the General Municipal Election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner as required by law.

Section 14. The City Clerk shall receive the canvass as it pertains to the General Municipal Election, and shall certify the results to this City Council, as required by law.

Section 15. If any section, subsection, sentence, clause, phrase or provision of this Resolution or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other provision or applications, and to this end the provisions of this Resolution are declared to be severable. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, phrase or provision thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions thereof be declared invalid or unconstitutional.

Section 16. Pursuant to California Elections Code section 9295, this Resolution and the attached Ordinance will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election.

Section 17. This Resolution shall take effect immediately upon its adoption by the City Council.

Section 18. The City Clerk of the City of El Paso de Robles is hereby directed to certify to the passage and adoption of this Resolution and to file a certified copy of this Resolution with the Board of Supervisors of San Luis Obispo County and the Registrar of Voters of San Luis Obispo County at least eighty-eight (88) days before the date of the election.

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PASSED, APPROVED, AND ADOPTED by the City Council of the City of El Paso de Robles, California, at its regular meeting held on the 17th day of July, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

Attest:

Kristen L. Buxkemper, Deputy City Clerk

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EL PASO
DE ROBLES DELETING CHAPTER 3.10 OF TITLE 3 AND
ADDING CHAPTER 3.11 TO TITLE 3 OF THE EL PASO
DE ROBLES MUNICIPAL CODE RELATED TO A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE
BOARD OF EQUALIZATION

THE PEOPLE OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA DO HEREBY
ORDAIN AS FOLLOWS:

SECTION 1. Deletion of Chapter 3.10. Chapter 3.10 is hereby deleted from Title 3 of the El Paso de Robles Municipal Code.

SECTION 2. Addition of Chapter 3.11. Chapter 3.11 is hereby added to Title 3 of the El Paso de Robles Municipal Code to read as follows:

Chapter 3.11 - TRANSACTIONS AND USE TAX.

3.11.010 - Short title.

This chapter shall be known as the “Transactions and Use Tax” and shall be applicable in the incorporated territory of the City of El Paso de Robles (“city”). This chapter shall complement, and not replace or supersede, the city’s existing sales and use tax, as such tax is described in Chapter 3.08 of Title 3 of the El Paso de Robles Municipal Code.

3.11.020 - Definitions.

For the purpose of this chapter the following words terms shall have the meaning given in this section:

“In the city” means and includes all territory within the city limits.

“Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the later of the adoption of this chapter and the approval by the voters of the city of a measure approving the imposition of an increased transactions and use tax; provided that, if the city shall not have entered into a contract with the State Board of Equalization as required by section 3.11.040 prior to such date, the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.11.030 - Purpose.

This chapter of the El Paso de Robles Municipal Code has been adopted for the following purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(1) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2, which authorizes the city to adopt this tax. This

chapter 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.

(2) To adopt a retail transactions and use tax 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.

(3) To adopt a retail transactions and use tax that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization 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 State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

(4) To adopt a retail transactions and use tax that can be administered in a manner that will, to the greatest degree possible, be consistent with the provisions of Parts 1.6 of Division 2 of the said Revenue and Taxation Code, and thereby minimize the cost of collecting city transactions and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

3.11.040 - Contract with state.

Prior to the operative date, the city shall contract with the State Board of Equalization to perform all functions incidental to the administration and operation of this transactions and use tax ordinance. If the city has not contracted with the State Board of Equalization 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. The city council may make any technical amendments to this chapter required by the State Board of Equalization, except for any changes affecting the tax rate, tax methodology, or its manner of collection.

3.11.050 - Imposition of transactions and use 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 any gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of this chapter.

3.11.060 - 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 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 Board of Equalization.

3.11.070 - Imposition of use tax – 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 or after the operative date of this chapter, at the rate of one percent (1%) of the sales price of the property subject to the tax. 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.

3.11.080 - Adoption of provisions of state law – Generally.

Except as otherwise provided in the 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 § 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.

3.11.090 - Adoption of provisions of state law – Limitations; Limitations on collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(1) 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:

(A) The word “State” is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(B) 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 State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.

(C) 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 not subject to tax by the state under the said provision of that code.

(D) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

(2) 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.

3.11.100 - 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.

3.11.110 - Exemptions and exclusions.

(1) Measure of Tax. There shall be excluded from the measure of the transactions and 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.

(2) Transactions Tax Exemptions. There are exempted from the computation of the amount of transactions tax the gross receipts from:

(A) 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.

(B) Sales of property to be used outside the city which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the city shall be satisfied:

(i) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-city address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(ii) With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(C) 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.

(D) 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.

For the purposes of subsections (2)(C) and (2)(D) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease

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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.

(3) Use Tax Exemptions. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:

(A) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(B) 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.

(C) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date.

(D) 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.

For the purposes of subsections (3)(C) and (3)(D) 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.

(4) Exemption from Collection of Use Tax. Except as provided in subsection (5), 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.

(5) Retailer Not Exempt from Collection of Use Tax. “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.

(6) Credit Against Use Tax for Transactions Tax Paid Elsewhere. 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.

3.11.120 - Adoption of amendments to state law.

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.

3.11.130 - Enjoining collection prohibited.

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 hereunder, or Parts 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.11.140 – Termination

The authority set forth in this Chapter 3.11 to impose a retail transactions and use tax shall continue until such authority is terminated by the voters of the City in the manner provided by law.

SECTION 3. Effective Date. Pursuant to the California Constitution Article XIII C(2)(b) and California Elections Code 9217, if the requisite number of qualified voters voting in the election on Measure “___” vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The People of the City of El Paso de Robles hereby declare that they would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 5. Certification/Summary. Following the City Clerk’s certification that the citizens of El Paso de Robles have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.

Version A – repeal Measure E, establish 1%

PASSED, APPROVED, and ADOPTED by the People of the City of El Paso de Robles this 6th day of November, 2018.

Steve W. Martin
Mayor

ATTEST:

Kristen L. Buxkemper
Deputy City Clerk

RESOLUTION NO. 18-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
CALLING FOR THE PLACEMENT ON THE BALLOT OF A MEASURE
FOR THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO
THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE
REGARDING GENERAL SALES TAX MEASURE

WHEREAS, pursuant to California Elections Code section 9222, the City Council has authority to place measures on the ballot to be considered at a General Municipal Election; and

WHEREAS, pursuant to the law of the State of California, the City Council has called and ordered to be held in the City of El Paso de Robles, California, on Tuesday, November 6, 2018, a General Municipal Election; and

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City of El Paso de Robles (“City”), subject to approval by a majority vote of the qualified voters of the City voting in an election on the issue, to levy a transactions and use tax pursuant to the Transactions and Use Tax Law at a rate of 0.125% or any multiple thereof for general purposes and projects; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218 effective November, 1996, requires that the measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, pursuant to California Constitution Article XIII C, section 2 and Elections Code section 10201, the City has determined to submit a proposition to enact an ordinance establishing a transactions and use tax to the voters at the City’s next regular election; and

WHEREAS, if the measure is approved, the City Council also desires to continue its practice of receiving community input on the use of additional revenues generated by the additional sales tax revenues;

NOW, THEREFORE the City Council of the City of El Paso de Robles does hereby resolve as follows:

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Under the provisions of the California Elections Code, the following proposed amendment to the Paso Robles Municipal Code shall be submitted to the voters at the General Municipal Election to be held on November 6, 2018:

| | |
|---------------------------------|-----|
| <u>MEASURE #</u> _____ : | Yes |
| | No |

Section 3. Should said measure be approved by the requisite vote, the ordinance attached hereto as Exhibit A and incorporated by this reference shall be enacted.

Section 4. That pursuant to Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the Ordinance to the City Attorney to prepare an impartial analysis of the Ordinance which shall not exceed 500 words in length.

Section 5. That pursuant to Elections Code Section 9282, the City Council may file a written argument in favor of the Ordinance in accordance with Article 4, Chapter 3, Division 9 of the Elections Code and may change the argument as allowed by law.

Section 6. That pursuant to Elections Code Section 9287, if more than one argument for or more than one argument against the Ordinance is submitted to the City Clerk within the time prescribed by law, he or she shall select one of the arguments in favor and one of the arguments against the Ordinance for printing and distribution to the voters, giving preference in such selection in the following order:

1. The City Council, or a member or members of the City Council authorized by the City Council.
2. Bona fide associations of citizens.
3. Individual voters who are eligible to vote on the Ordinance.

Section 7. That pursuant to Elections Code Sections 9220 and 9285, when the City Clerk has selected the arguments for and against the Ordinance which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the Ordinance to the author or authors of the argument against, and copies of the argument against the Ordinance to the author or authors of the argument in favor. The author or authors may submit a rebuttal argument to the direct argument not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments and shall immediately follow the direct argument which it seeks to rebut. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed, and this Section shall only apply to the election on the Ordinance to be held on November 6, 2018.

Section 8. In accordance with Section 10002 of the Elections Code, the Board of Supervisors of San Luis Obispo County is hereby requested to consent to the Registrar of Voters rendering election services to the City as may be requested by the City Clerk of said City, the County of San Luis Obispo to be reimbursed in full for such services as are performed. The Board of Supervisors of San Luis Obispo County is also requested to consent and agree to the consolidation of the General Election with any other election occurring on November 6, 2018, and the City hereby consents to any such consolidation.

Section 9. The election services which the City requests of the Registrar of Voters, or such other official as may be appropriate to perform, and which such officer is hereby authorized and directed to perform if the said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards, the establishment or appointment of precincts, polling places, and election officers, opening and closing of polling places, and making such publications as are required by law in connection therewith; the

Version B – retain Measure E, establish 1%

furnishing of ballots, voting booths and other necessary supplies or materials for polling places, the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk, and the performance of such other election services as may be requested by said City Clerk.

Section 10. That the polls for the election 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 Section 10242 and Section 14212, except as provided in California Elections Code Section 14401 or any other provision of law.

Section 11. All persons qualified to vote at municipal elections in the City on the day of the election herein provided for shall be qualified to vote on the Ordinance hereby submitted at the General Municipal Election.

Section 12. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding general municipal elections in the City.

Section 13. Notice of the time and place of holding the General Municipal Election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner as required by law.

Section 14. The City Clerk shall receive the canvass as it pertains to the General Municipal Election, and shall certify the results to this City Council, as required by law.

Section 15. If any section, subsection, sentence, clause, phrase or provision of this Resolution or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other provision or applications, and to this end the provisions of this Resolution are declared to be severable. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, phrase or provision thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions thereof be declared invalid or unconstitutional.

Section 16. Pursuant to California Elections Code section 9295, this Resolution and the attached Ordinance will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election.

Section 17. This Resolution shall take effect immediately upon its adoption by the City Council.

Section 18. The City Clerk of the City of El Paso de Robles is hereby directed to certify to the passage and adoption of this Resolution and to file a certified copy of this Resolution with the Board of Supervisors of San Luis Obispo County and the Registrar of Voters of San Luis Obispo County at least eighty-eight (88) days before the date of the election.

Version B – retain Measure E, establish 1%

PASSED, APPROVED, AND ADOPTED by the City Council of the City of El Paso de Robles, California, at its regular meeting held on the 17th day of July, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

Attest:

Kristen L. Buxkemper, Deputy City Clerk

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
ADDING CHAPTER 3.11 TO TITLE 3 OF THE EL PASO
DE ROBLES MUNICIPAL CODE RELATED TO A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE
BOARD OF EQUALIZATION

THE PEOPLE OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA DO HEREBY
ORDAIN AS FOLLOWS:

SECTION 1. Addition of Chapter 3.11. Chapter 3.11 is hereby added to Title 3 of the El Paso de Robles
Municipal Code to read as follows:

Chapter 3.11 - TRANSACTIONS AND USE TAX.

3.11.010 - Short title.

This chapter shall be known as the “Transactions and Use Tax” and shall be applicable in the
incorporated territory of the City of El Paso de Robles (“city”). This chapter shall
complement, and not replace or supersede, the city’s existing sales and use tax, as such tax is
described in Chapter 3.08 of Title 3 of the El Paso de Robles Municipal Code.

3.11.020 - Definitions.

For the purpose of this chapter the following words terms shall have the meaning
given in this section:

“In the city” means and includes all territory within the city limits.

“Operative Date” means the first day of the first calendar quarter commencing more
than 110 days after the later of the adoption of this chapter and the approval by the voters of
the city of a measure approving the imposition of an increased transactions and use tax;
provided that, if the city shall not have entered into a contract with the State Board of
Equalization as required by section 3.11.040 prior to such date, the operative date shall be the
first day of the first calendar quarter following the execution of such a contract.

3.11.030 - Purpose.

This chapter of the El Paso de Robles Municipal Code has been adopted for the
following purposes, and directs that the provisions hereof be interpreted in order to
accomplish those purposes:

(1) To impose a retail transactions and use tax in accordance with the provisions
of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code
and Section 7285.9 of Part 1.7 of Division 2, which authorizes the city to adopt this tax. This
chapter 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.

Version B – retain Measure E, establish 1%

(2) To adopt a retail transactions and use tax 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.

(3) To adopt a retail transactions and use tax that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization 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 State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

(4) To adopt a retail transactions and use tax that can be administered in a manner that will, to the greatest degree possible, be consistent with the provisions of Parts 1.6 of Division 2 of the said Revenue and Taxation Code, and thereby minimize the cost of collecting city transactions and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

3.11.040 - Contract with state.

Prior to the operative date, the city shall contract with the State Board of Equalization to perform all functions incidental to the administration and operation of this transactions and use tax ordinance. If the city has not contracted with the State Board of Equalization 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. The city council may make any technical amendments to this chapter required by the State Board of Equalization, except for any changes affecting the tax rate, tax methodology, or its manner of collection.

3.11.050 - Imposition of transactions and use 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 any gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of this chapter.

3.11.060 - 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 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 Board of Equalization.

3.11.070 - Imposition of use tax – 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 or after the operative date of this chapter, at the rate of one percent (1%) of the sales price of the property subject to the tax. 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.

3.11.080 - Adoption of provisions of state law – Generally.

Except as otherwise provided in the 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 § 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.

3.11.090 - Adoption of provisions of state law – Limitations; Limitations on collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(1) 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:

(A) The word “State” is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(B) 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 State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.

(C) 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 that would not be subject to tax by the state under the said provision of that code.

(D) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

Version B – retain Measure E, establish 1%

(2) 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.

3.11.100 - 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.

3.11.110 - Exemptions and exclusions.

(1) Measure of Tax. There shall be excluded from the measure of the transactions and 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.

(2) Transactions Tax Exemptions. There are exempted from the computation of the amount of transactions tax the gross receipts from:

(A) 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.

(B) Sales of property to be used outside the city which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the city shall be satisfied:

(i) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-city address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(ii) With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(C) 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.

(D) 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.

For the purposes of subsections (2)(C) and (2)(D) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease

Version B – retain Measure E, establish 1%

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.

(3) Use Tax Exemptions. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:

(A) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(B) 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.

(C) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date.

(D) 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.

For the purposes of subsections (3)(C) and (3)(D) 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.

(4) Exemption from Collection of Use Tax. Except as provided in subsection (5), 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.

(5) Retailer Not Exempt from Collection of Use Tax. “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.

(6) Credit Against Use Tax for Transactions Tax Paid Elsewhere. 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.

3.11.120 - Adoption of amendments to state law.

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.

3.11.130 - Enjoining collection prohibited.

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 hereunder, or Parts 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.11.140 – Termination

The authority set forth in this Chapter 3.11 to impose a retail transactions and use tax shall continue until such authority is terminated by the voters of the City in the manner provided by law.

SECTION 2. Effective Date. Pursuant to the California Constitution Article XIII C(2)(b) and California Elections Code 9217, if the requisite number of qualified voters voting in the election on Measure “___” vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The People of the City of El Paso de Robles hereby declare that they would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 4. Certification/Summary. Following the City Clerk’s certification that the citizens of El Paso de Robles have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.

Version B – retain Measure E, establish 1%

PASSED, APPROVED, and ADOPTED by the People of the City of El Paso de Robles this 6th day of November, 2018.

Steve W. Martin
Mayor

ATTEST:

Kristen L. Buxkemper
Deputy City Clerk

RESOLUTION NO. 18-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
CALLING FOR THE PLACEMENT ON THE BALLOT OF A MEASURE
FOR THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO
THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE
REGARDING GENERAL SALES TAX MEASURE

WHEREAS, pursuant to California Elections Code section 9222, the City Council has authority to place measures on the ballot to be considered at a General Municipal Election; and

WHEREAS, pursuant to the law of the State of California, the City Council has called and ordered to be held in the City of El Paso de Robles, California, on Tuesday, November 6, 2018, a General Municipal Election; and

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City of El Paso de Robles (“City”), subject to approval by a majority vote of the qualified voters of the City voting in an election on the issue, to levy a transactions and use tax pursuant to the Transactions and Use Tax Law at a rate of 0.125% or any multiple thereof for general purposes and projects; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218 effective November, 1996, requires that the measure proposing a general tax be submitted to the voters at an election consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, pursuant to California Constitution Article XIII C, section 2 and Elections Code section 10201, the City has determined to submit a proposition to enact an ordinance establishing a transactions and use tax to the voters at the City’s next regular election; and

WHEREAS, if the measure is approved, the City Council also desires to continue its practice of receiving community input on the use of additional revenues generated by the additional sales tax revenues;

NOW, THEREFORE the City Council of the City of El Paso de Robles does hereby resolve as follows:

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Under the provisions of the California Elections Code, the following proposed amendment to the Paso Robles Municipal Code shall be submitted to the voters at the General Municipal Election to be held on November 6, 2018:

| | |
|---------------------------|-----|
| <u>MEASURE # :</u> | Yes |
| | No |

Section 3. Should said measure be approved by the requisite vote, the ordinance attached hereto as Exhibit A and incorporated by this reference shall be enacted.

Section 4. That pursuant to Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the Ordinance to the City Attorney to prepare an impartial analysis of the Ordinance which shall not exceed 500 words in length.

Section 5. That pursuant to Elections Code Section 9282, the City Council may file a written argument in favor of the Ordinance in accordance with Article 4, Chapter 3, Division 9 of the Elections Code and may change the argument as allowed by law.

Section 6. That pursuant to Elections Code Section 9287, if more than one argument for or more than one argument against the Ordinance is submitted to the City Clerk within the time prescribed by law, he or she shall select one of the arguments in favor and one of the arguments against the Ordinance for printing and distribution to the voters, giving preference in such selection in the following order:

1. The City Council, or a member or members of the City Council authorized by the City Council.
2. Bona fide associations of citizens.
3. Individual voters who are eligible to vote on the Ordinance.

Section 7. That pursuant to Elections Code Sections 9220 and 9285, when the City Clerk has selected the arguments for and against the Ordinance which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the Ordinance to the author or authors of the argument against, and copies of the argument against the Ordinance to the author or authors of the argument in favor. The author or authors may submit a rebuttal argument to the direct argument not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments and shall immediately follow the direct argument that it seeks to rebut. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed, and this Section shall only apply to the election on the Ordinance to be held on November 6, 2018.

Section 8. In accordance with Section 10002 of the Elections Code, the Board of Supervisors of San Luis Obispo County is hereby requested to consent to the Registrar of Voters rendering election services to the City as may be requested by the City Clerk of said City, the County of San Luis Obispo to be reimbursed in full for such services as are performed. The Board of Supervisors of San Luis Obispo County is also requested to consent and agree to the consolidation of the General Election with any other election occurring on November 6, 2018, and the City hereby consents to any such consolidation.

Section 9. The election services that the City requests of the Registrar of Voters, or such other official as may be appropriate to perform, and that such officer is hereby authorized and directed to perform if the said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards, the establishment or appointment of precincts, polling places, and election officers, opening and closing of polling places, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places, the canvassing

Version C – retain Measure E, establish .5%

of the returns of the election and the furnishing of the results of such canvassing to the City Clerk, and the performance of such other election services as may be requested by said City Clerk.

Section 10. That the polls for the election 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 Section 10242 and Section 14212, except as provided in California Elections Code Section 14401 or any other provision of law.

Section 11. All persons qualified to vote at municipal elections in the City on the day of the election herein provided for shall be qualified to vote on the Ordinance hereby submitted at the General Municipal Election.

Section 12. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding general municipal elections in the City.

Section 13. Notice of the time and place of holding the General Municipal Election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner as required by law.

Section 14. The City Clerk shall receive the canvass as it pertains to the General Municipal Election, and shall certify the results to this City Council, as required by law.

Section 15. If any section, subsection, sentence, clause, phrase or provision of this Resolution or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other provision or applications, and to this end the provisions of this Resolution are declared to be severable. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, phrase or provision thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions thereof be declared invalid or unconstitutional.

Section 16. Pursuant to California Elections Code section 9295, this Resolution and the attached Ordinance will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election.

Section 17. This Resolution shall take effect immediately upon its adoption by the City Council.

Section 18. The City Clerk of the City of El Paso de Robles is hereby directed to certify to the passage and adoption of this Resolution and to file a certified copy of this Resolution with the Board of Supervisors of San Luis Obispo County and the Registrar of Voters of San Luis Obispo County at least eighty-eight (88) days before the date of the election.

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PASSED, APPROVED, AND ADOPTED by the City Council of the City of El Paso de Robles, California, at its regular meeting held on the 17th day of July, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

Attest:

Kristen L. Buxkemper, Deputy City Clerk

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
ADDING CHAPTER 3.11 TO TITLE 3 OF THE EL PASO
DE ROBLES MUNICIPAL CODE RELATED TO A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE
BOARD OF EQUALIZATION

THE PEOPLE OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA DO HEREBY
ORDAIN AS FOLLOWS:

SECTION 1. Addition of Chapter 3.11. Chapter 3.11 is hereby added to Title 3 of the El Paso de Robles
Municipal Code to read as follows:

Chapter 3.11 - TRANSACTIONS AND USE TAX.

3.11.010 - Short title.

This chapter shall be known as the “Transactions and Use Tax” and shall be applicable in the
incorporated territory of the City of El Paso de Robles (“city”). This chapter shall
complement, and not replace or supersede, the city’s existing sales and use tax, as such tax is
described in Chapter 3.08 of Title 3 of the El Paso de Robles Municipal Code.

3.11.020 - Definitions.

For the purpose of this chapter the following words terms shall have the meaning
given in this section:

“In the city” means and includes all territory within the city limits.

“Operative Date” means the first day of the first calendar quarter commencing more
than 110 days after the later of the adoption of this chapter and the approval by the voters of
the city of a measure approving the imposition of an increased transactions and use tax;
provided that, if the city shall not have entered into a contract with the State Board of
Equalization as required by section 3.11.040 prior to such date, the operative date shall be the
first day of the first calendar quarter following the execution of such a contract.

3.11.030 - Purpose.

This chapter of the El Paso de Robles Municipal Code has been adopted for the
following purposes, and directs that the provisions hereof be interpreted in order to
accomplish those purposes:

(1) To impose a retail transactions and use tax in accordance with the provisions
of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code
and Section 7285.9 of Part 1.7 of Division 2, which authorizes the city to adopt this tax. This
chapter 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.

(2) To adopt a retail transactions and use tax 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.

(3) To adopt a retail transactions and use tax that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization 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 State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

(4) To adopt a retail transactions and use tax that can be administered in a manner that will, to the greatest degree possible, be consistent with the provisions of Parts 1.6 of Division 2 of the said Revenue and Taxation Code, and thereby minimize the cost of collecting city transactions and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

3.11.040 - Contract with state.

Prior to the operative date, the city shall contract with the State Board of Equalization to perform all functions incidental to the administration and operation of this transactions and use tax ordinance. If the city has not contracted with the State Board of Equalization 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. The city council may make any technical amendments to this chapter required by the State Board of Equalization, except for any changes affecting the tax rate, tax methodology, or its manner of collection.

3.11.050 - Imposition of transactions and use 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 (.5%) of any gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of this chapter.

3.11.060 - 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 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 Board of Equalization.

3.11.070 - Imposition of use tax – 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 or after the operative date of this chapter, at the rate of one-half of one percent (.5%) of the sales price of the property subject to the tax. 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.

3.11.080 - Adoption of provisions of state law – Generally.

Except as otherwise provided in the 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 § 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.

3.11.090 - Adoption of provisions of state law – Limitations; Limitations on collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(1) 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:

(A) The word “State” is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(B) 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 State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.

(C) 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 that would not be subject to tax by the state under the said provision of that code.

(D) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

(2) 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.

3.11.100 - 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.

3.11.110 - Exemptions and exclusions.

(1) Measure of Tax. There shall be excluded from the measure of the transactions and 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.

(2) Transactions Tax Exemptions. There are exempted from the computation of the amount of transactions tax the gross receipts from:

(A) 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.

(B) Sales of property to be used outside the city which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the city shall be satisfied:

(i) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-city address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(ii) With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(C) 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.

(D) 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.

For the purposes of subsections (2)(C) and (2)(D) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease

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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.

(3) Use Tax Exemptions. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:

(A) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(B) 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.

(C) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date.

(D) 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.

For the purposes of subsections (3)(C) and (3)(D) 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.

(4) Exemption from Collection of Use Tax. Except as provided in subsection (5), 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.

(5) Retailer Not Exempt from Collection of Use Tax. “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.

(6) Credit Against Use Tax for Transactions Tax Paid Elsewhere. 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.

3.11.120 - Adoption of amendments to state law.

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.

3.11.130 - Enjoining collection prohibited.

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 hereunder, or Parts 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.11.140 – Termination

The authority set forth in this Chapter 3.11 to impose a retail transactions and use tax shall continue until such authority is terminated by the voters of the City in the manner provided by law.

SECTION 2. Effective Date. Pursuant to the California Constitution Article XIII C(2)(b) and California Elections Code 9217, if the requisite number of qualified voters voting in the election on Measure “___” vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The People of the City of El Paso de Robles hereby declare that they would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 4. Certification/Summary. Following the City Clerk’s certification that the citizens of El Paso de Robles have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.

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PASSED, APPROVED, and ADOPTED by the People of the City of El Paso de Robles this 6th day of November, 2018.

Steve W. Martin
Mayor

ATTEST:

Kristen L. Buxkemper
Deputy City Clerk