

RESOLUTION NO. 2024-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GONZALES SUBMITTING TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION HELD ON TUESDAY, NOVEMBER 5, 2024, A MEASURE INCREASING THE CITY'S TRANSACTIONS AND USE TAX RATE BY ONE-HALF PERCENT (0.5%) WITH THE USE OF THE TAX REVENUE TO BE SUBJECT TO ANNUAL AUDITS BY AN INDEPENDENT AUDITOR AND A CITIZENS' OVERSIGHT COMMITTEE

WHEREAS, over the last decade, stagnant growth in the City has produced little to no revenue resulting in a disequilibrium between operating costs and revenue creating an extremely tight budget with no room for unexpected and unbudgeted expenditures or for projects that require upgrades. Maintenance of infrastructure has been deferred, worsening the condition of city facilities, roads, sidewalks, and city parks; and

WHEREAS, the reallocation of existing funds to meet these outstanding needs will have an adverse impact on other projects and programs. Absent a new funding source, the City will have to reset priorities which will result in continued deterioration of public infrastructure, potential loss of qualified staff and have an adverse impact on current programs and services; and

WHEREAS, the voters of the City of Gonzales have previously approved two tax measures, Measure K and Measure X, (known collectively as the "Gonzales Quality of Life Temporary Tax Measure") setting the City's current Temporary Transactions and Use Tax (TUT), as codified in Chapter 3.29 in the Gonzales City Code, at one percent (1%). The 1% TUT, administered as Measure X but accounted for as two separate funds, Measure K and Measure X, each of which receives 0.5% of all Measure X tax proceeds and is overseen by a separate oversight committee, has established a sales tax rate in Gonzales at 8.75%, one of the lowest tax rates in Monterey County. With guidance provided by Measure K and Measure X TUT Advisory Committees, TUT revenues in Gonzales have been used for a variety of projects, including but not limited to funding debt service for the Community Pool, award-winning youth services and leadership programs, park improvements (restrooms, tot- lot, playground equipment), Community Center Complex Project costs, grant programs, and senior programs; and

WHEREAS, the City Council has considered the placement of a question on the ballot to seek voter approval of an amendment to the City's Transactions and Use Tax, as authorized by Revenue and Taxation Code Section 7285.9; and

WHEREAS, after due consideration, the City Council of the City of Gonzales desires to submit to the voters at the November 5, 2024 consolidated general and municipal election a question relating to the imposition of a one-half percent (0.5%) increase to the City's existing Transactions and Use Tax rate, for a new total tax amount of one percent (1.5%), for General Fund purposes for projects, equipment, and services that are currently unfunded or underfunded, pursuant to California Constitution Article XIII C, Section 2, Government Code Section 53724, Elections Code Section 9222, and the Gonzales City Code; and

WHEREAS, the tax measure to be submitted to the voters, if approved, would be imposed on retail transactions involving personal property. The new additional one-half percent (0.5%) tax will create a cumulative Transactions and Use Tax of one and one-half percent (1.5%) of the value of personal property in the City through 2044 at which time the tax will drop to one-half percent (0.5%) if the Measure X Tax is not extended; the tax revenue would be collected by the California Department of Tax and Fee Administration and remitted to the City; the revenues would be audited annually by an independent auditor and a public expenditure report would be issued annually regarding the use of the revenues from the tax; use of the tax revenues would be subject to review and recommendation of a Transaction and Use Tax Advisory Committee; the new revenues would be devoted to the City of Gonzales and its residents and cannot be taken by the State or other local entities; and the tax shall be approved if the measure receives at least a majority of affirmative votes; and

WHEREAS, without additional General Fund revenue sources, the City of Gonzales will not be able to maintain or enhance public infrastructure and improvements, purchase equipment vital to public safety services, and provide other services desired by its residents without having to minimize current operations and eliminate or reduce existing services; and

WHEREAS, the proposed Gonzales 2024 Transactions and Use Tax, established at one-half percent (0.5%) on retail transactions involving personal property in the City, would generate approximately \$800,000 per year, which should allow the City to pursue various infrastructure improvement projects, purchase needed equipment and maintain various services and programs; and

WHEREAS, the new one-half percent (0.5%) Transactions and Use Tax is proposed to be collected until otherwise ended by the voters; and

WHEREAS, the City Council previously passed Resolution 2024-39 on June 17, 2024, calling a general municipal election for the purpose of electing the mayor at-large and one (1) council member from new District 2; requesting that the general municipal election be consolidated with the Statewide general election to be held on Tuesday, November 5, 2024; and requesting that the Board of Supervisors of the County of Monterey direct the Registrar of Voters/Election Department to take any and all necessary steps to conduct the consolidated election; and under provisions of the laws relating to cities in the State of California, a General Municipal Election shall be held on November 5, 2024, for the election of the aforesaid municipal officers; and

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

WHEREAS, in addition to the consolidation of the election of municipal officers with the Statewide general election requested by the City in Resolution 2024-39, the City Council now also desires to consolidate the new Gonzales 2024 Transactions and Use Tax Ballot Measure with the Statewide general election to be held on November 5, 2024; and

WHEREAS, based on all of the information presented at the August 5, 2024 regular city council meeting, both written and oral, including the staff report and other relevant materials, the City Council finds that under California Environmental Quality Act (“CEQA”) Guidelines Sections 15060 (c)(2) and 15378, subdivisions (2) and (4) of subdivision (b), the proposed tax does not constitute a project under CEQA and therefore review under CEQA is not required.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GONZALES does hereby resolve, declare, determine and order as follows:

SECTION I. RECITALS AND FINDINGS.

1. All of the foregoing recitals are true and correct and are incorporated herein by reference.
2. The City of Gonzales continues to strive to maintain core city operations and infrastructure, maintain a variety of proactive business initiatives, maintain its award winning G3 recycling, sustainable and environmental program, civic engagement efforts, advancing the Dennis and Janice Caprara Community Center Complex, nurturing its youth engagement and leadership programs, and continue its leadership role in regional efforts on economic development, storm water and solid waste issues, and housing, all subject to an extremely limited budget.
3. Notwithstanding the foregoing accomplishments, the City’s sensitive financial condition has been exacerbated by the lack of growth resulting in stagnant property taxes, sales tax, and the limited and competitive availability of grant proceeds while the cost to do business continues to rise. Additionally, the COVID-19 Pandemic, which caused a sharp rise in the price of a variety of materials, goods and services, continues to have a negative impact on City finances.
4. In the circumstances set forth above, where revenues do not keep pace with operations and maintenance costs, the City is going to be forced to consider budget cuts resulting in the reduction and/or elimination of City services and deferral of essential maintenance of City infrastructure and improvements.
5. In response to the need for additional revenues, the City has previously adopted two tax measures, Measure K and Measure X, (known collectively as the “Gonzales Quality of Life Temporary Tax Measure”) setting the rate of the City’s current Temporary Transactions and Use Tax (or “TUT”), as codified in Chapter 3.29 in the Gonzales City Code, at one percent (1%). The 1% TUT, administered as Measure X but accounted for as two separate funds, Measure K and Measure X, each of which receives one half percent (0.5%) of all Measure X tax proceeds and is overseen by a separate oversight committee, has established a sales tax rate in Gonzales at 8.75%, one of the lowest tax rates in Monterey County. The tax revenues are restricted to use exclusively by the City of Gonzales and its residents and cannot be taken by the state for other purposes. The Gonzales Transactions and Use Tax currently generates approximately \$1,600,000 annually in tax revenues.

6. Since the passage of the existing Transactions and Use Tax, the City has met all criteria for use of the tax revenues adopted by the voters. A prime example is the establishment of the Measure K and Measure X Transactions and Use Tax Advisory Committees, which since their inception, have been very engaged and proactive, and which have effectively represented the community in expressing preferred uses for Transactions and Use Tax revenues. Projects, programs and services supported by Measure K have included funding of the debt service for the renovation of the community pool, youth services and leadership development, the Community Action Grants Program, senior and adult programming and extended after school and summer camp programs, and the purchase of park and playground equipment. The Measure X Advisory Subcommittee has recommended, and the Council has approved that a majority of its 0.5% of the TUT tax proceeds be applied towards the Dennis and Janice Caprara Community Center Complex Project (“Project”) costs. Phase I of the long-awaited Project, which will include a library, Teen Innovation Center, a meeting room and an outdoor amphitheater has broken ground and has an estimated completion date of December 2025. The City anticipates that a significant portion of the Measure X funds will continue to be allocated to the Project. Measure X funds have also been used for the project design and construction to date.

7. Despite the City’s prudent and fiscally responsible efforts, as well as the collection of the aforesaid Transactions and Use Tax, a number of critical projects and areas of operation in the City are currently unfunded and have had to be deferred. More specifically, the City Council has determined that a variety of infrastructure issues that need to be addressed, such as rehabilitation of the Fire House and its restrooms and sleeping facilities, city streets, roads and sidewalks, and city parks have had to be deferred due to significant costs. Additionally, the purchase of expensive City equipment, such as fire trucks and related fire-fighting equipment are all out of the City’s reach at the current time. Each time the City experiences expenditures related to the unexpected and immediate need to repair damaged infrastructure of equipment, the City’s budget suffers and requires a reallocation of funds, all to the detriment of ongoing operations and planned maintenance. It also results in little if any opportunity to address projects and needed expenditures that have already been deferred.

8. The City Council has determined that in order to raise additional revenues for the aforesaid infrastructure needs, equipment, and projects, the City Council should consider increasing the existing Transaction and Use Tax rate by one-half percent (0.5%) for a consolidated tax rate of one and one-half percent (1.5%).

9. It is estimated that a one-half percent (0.5%) increase in the City’s Transaction and Use Tax rate would generate approximately \$800,000 per year. These increased funds would allow the City to maintain the current programs and services and address unmet infrastructure and improvement maintenance and equipment needs.

10. The City anticipates that the impact of a one-half percent (0.5%) increase to the City’s Transaction and Use Tax rate will not create a significant financial burden on the City’s heavy sales tax producing businesses since they are already paying sales tax in other cities and regions with a higher sales tax.

SECTION II. CALL FOR ELECTION. PLACEMENT OF MEASURE ON THE BALLOT. Pursuant to California Constitution Article XIII C, Section 2; Government Code Section 53724; Elections Code Section 9222 and Sections 10400 *et seq.*; and the Gonzales City Code, the City Council of the City of Gonzales hereby calls an election at which it shall submit to the qualified voters of the City, a question that, if approved, would adopt a one-half percent (0.5%) increase to the City’s existing Transactions and Use Tax rate, for a total tax of one and one-half percent (1.5%), as authorized by Revenue and Taxation Code Section 7285.9. This measure shall be designated by letter by the Monterey County Elections Department. Pursuant to Elections Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established previously consolidated election to be conducted on November 5, 2024.

SECTION III. PROPOSED ORDINANCE. The ordinance authorizing the general tax to be approved by the voters pursuant to Section II is as set forth in **Exhibit A** hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 5, 2024, consolidated Statewide election, as required by Revenue and Taxation Code Section 7285.9, subject to the approval of a majority of the voters voting on the measure at the election called by the adoption of this resolution. The entire text of the ordinance attached hereto as Exhibit A shall be printed in the voter information portion of the sample ballot. The ordinance specifies that the rate of the current Transactions and Use Tax, set at one percent (1.0%), shall be increased by a new one-half percent (0.5%) transactions tax, for a new total Transactions and Use Tax rate of one and one-half percent (1.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City, and from one percent (1.0%) to one and one-half percent (1.5%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. The California Department of Tax and Fee Administration shall collect the tax from retailers subject to the tax and remit the funds to the City. All tax revenues collected by application of the new one-half percent (0.5%) Transaction and Use Tax will be subject to independent audit and subject to the oversight of a new citizen’s Transactions and Use Tax Advisory Committee. The new one-half percent (0.5%) Transactions and Use Tax would be collected until ended by the voters. The new Transactions and Use Tax rate of one and one-half percent (1.5%) would remain in place through 2044 at which time the tax will drop to one-half percent (0.5%) if the Measure X Tax is not extended.

SECTION IV. BALLOT LANGUAGE. The official ballot to be used at said election shall conform to the laws of the State of California with relation thereto. The proposed Transactions and Use Tax shall be submitted to the voters on the ballot at the General Municipal Election to be held and consolidated with the Statewide general election on Tuesday, November 5, 2024, in the form of the following question:

City of Gonzales 2024 Transactions and Use Tax. Shall a measure establishing a new Gonzales sales tax that increases the total tax rate from 1.0% to 1.5% used for general government purposes such as maintenance of infrastructure and improvements (Fire House, streets, roads and sidewalks, parks) adding \$800,000 in revenues annually, collected on an ongoing basis until extinguished and requiring all funds to stay local with independent citizen’s committee oversight and annual audits, be adopted?

The words “Yes” and “No” shall be printed on the ballots so the qualified electors may express their choice.

This measure shall be designated by letter by the Monterey County Elections Department.

SECTION V. IMPARTIAL ANALYSIS AND SUBMISSION OF BALLOT

ARGUMENTS. The City Attorney is hereby authorized to prepare an impartial analysis of the proposed measure. The Attorney's impartial analysis of the ballot measure shall not exceed five hundred (500) words in length showing the effect of the measure on the existing law and the operation of the measure. The City Attorney shall transmit such impartial analysis to the City Clerk by the close of business on August 15, 2024. Written arguments in favor or opposed to the measure may be prepared by the City Council, any member or members of the City Council so authorized by Council action, or any individual voter who is eligible to vote on the measure, or any bona fide association of citizens, or any combination of voters and associations. By adoption of this resolution, the City Manager and Staff are hereby authorized to prepare and file a written argument in favor of the proposed measure not to exceed three hundred (300) words on behalf of the City Council. All arguments must be submitted to the City Clerk by 5:00 p.m. on August 15, 2024. No argument shall exceed three hundred (300) words in length. A ballot argument may not be accepted unless accompanied by the printed name and signature or printed names and signatures of the author or authors submitting it, or if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument. No more than five signatures shall appear on any argument. If more than one argument is submitted for or against the measure, the City Clerk shall select the argument for printing and distribution in accordance with the provisions of Elections Code Section 9287. Pursuant to Section 9285 of the California Elections Code, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments may thereafter be prepared in a length not exceeding two hundred and fifty (250) words and shall be filed with the City Clerk by no later than 5:00 p.m. on August 22, 2024. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION VI. CEQA. The City Council finds that under CEQA Guidelines 15060(c) (2) and 15378, subdivisions (2) and (4) of subdivision (b), this tax does not constitute a project under CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment, and therefore, review under CEQA is not required.

SECTION VII. REQUEST TO CONSOLIDATE AND CANVAS RETURNS. The City requests and authorizes the Registrar of Voters to consolidate this election with the established election on November 5, 2024 for the ease and convenience of the registered voters and to take advantage of any cost savings possible by such consolidation. The election on the measure set forth in Section IV shall be held and conducted, the votes canvassed and the returns made, and the results ascertained and determined as provided for herein. The election shall be held in accordance with the Elections Code of the State of California. The Board of Supervisors of the County of Monterey is authorized to canvas the returns of that election with respect to the votes cast in the City of Gonzales and to certify the results to the City Council of the City of Gonzales. At the next regular meeting of the City Council occurring after the returns of the election have been canvassed and the certification of the results to the City Council, the City

Council shall cause to be entered in its minutes a statement of the results of the election. The City Clerk may request the assistance of the County of Monterey Elections Department in regard to said Consolidated Statewide Primary Election, as the City Clerk deems necessary, and in recognition of the fact that additional costs will be incurred by the County in providing assistance, the City agrees that it shall pay the incurred cost of such assistance pursuant to the "Service Agreement for the Provisions of Election Services between the City of Gonzales and the Monterey County Registrar of Voters," previously approved by the Council. The City Manager is hereby authorized to enter into or modify any written agreement for such services with the County of Monterey Elections Department.

SECTION VIII. PUBLICATION OF MEASURE. In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in the Salinas Valley Tribune, a weekly newspaper of general circulation, printed, published, and circulated in the City of Gonzales and hereby designated for that purpose by the Council of Gonzales, at least one time not later than one week before the election.

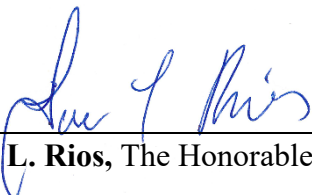
SECTION IX. EFFECTIVE DATE. This Resolution shall become effective immediately upon its passage and forthwith entered upon the minutes of this Council and kept and maintained by the City Clerk of the City of Gonzales.

SECTION X. The City Clerk is hereby authorized and directed to certify the due adoption of this Resolution and to transmit a copy hereof so certified to the Board of Supervisors and the Registrar of Voters of Monterey County.

SECTION XI. The City Clerk and City Attorney are authorized to make any typographical, clerical, non-substantive corrections to this resolution and to the ballot measure as may be deemed necessary by the Monterey County Clerk/Registrar of Voters.


PASSED AND ADOPTED by the City Council of the City of Gonzales at a regular meeting duly held on the 5th day of August 2024 by the following vote:

| | | |
|-----------------|-------------------------|--|
| AYES: | COUNCIL MEMBERS: | Mayor Pro Tem Scott Funk, Liz Silva, Lorraine Worthy, Maria Orozco, and Mayor Jose L. Rios |
| NOES: | COUNCIL MEMBERS: | None |
| ABSTAIN: | COUNCIL MEMBERS: | None |
| ABSENT: | COUNCIL MEMBERS: | None |



Jose L. Rios, The Honorable Mayor

ATTEST:



Mary Villegas, Deputy City Clerk

ORDINANCE NO. 2024-145

**AN ORDINANCE OF THE VOTERS OF THE CITY OF GONZALES
ADDING CHAPTER 3.30 TO THE GONZALES CITY CODE IMPOSING A NEW
GENERAL TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION AND TAX
REVENUES TO BE SPENT FOR CITY OF GONZALES SERVICES, PROGRAMS AND
INFRASTRUCTURE, SUBJECT TO ANNUAL AUDITS AND ANNUAL PUBLIC
EXPENDITURE REPORTS**

BE IT ORDAINED BY THE VOTERS OF THE CITY OF GONZALES:

SECTION 1. FINDINGS. The voters of the City of Gonzales hereby find as follows:

- a. The City of Gonzales continues to address ongoing challenges to its efforts to maintain infrastructure and provide a range of services to its residents, including programs and activities that serve public needs but that have limited funding.
- b. Over the last decade, stagnant growth has produced little to no revenue resulting in a disequilibrium between operating costs and revenue creating an extremely tight budget with no room for unexpected and unbudgeted expenditures or for projects that require upgrades. Maintenance of infrastructure has been deferred, worsening the conditions of city facilities, roads, sidewalks, and City parks.
- c. The City's financial condition continues to be adversely impacted by sluggish growth in property taxes, sales tax, and the limited and competitive availability of grant proceeds. In the current financial environment, tax revenues and other sources of City income are not keeping pace with inflation, City expenditures and needs. The cost of supplies and equipment has increased dramatically in recent years due to supply chain constraints, general inflation, and strong demand for consumer goods. The Producer Price Index, the metric reflecting the price that manufacturers charge dealers and distributors for their products, indicates that prices for machinery and equipment increased by 19% between January of 2020 and March of 2023. There was also a significant increase in such costs during the Covid 19 Pandemic, and although the impacts of the Pandemic are largely considered to be under control in the U.S., COVID's negative impacts on the economy remain unabated. Despite a fiscally conservative approach to budgeting, all of the foregoing hamper the City's ability to address capital projects, programs and services required and expected by the Community.
- d. Because of changes in State law, particularly the approval of Propositions 62 and 218, the City has very few means available for increasing General Fund revenue.
- e. The voters of the City of Gonzales have previously approved two tax measures, Measure K and Measure X, (known collectively as the "Gonzales Quality of Life Temporary Tax Measure") setting the rate of the City's current Temporary Transactions and Use Tax (or "TUT"), as codified in Chapter 3.29 in the Gonzales City Code, at one percent (1.0%). The 1.0% TUT, administered as Measure X but accounted for as two separate funds,

Measure K and Measure X, each of which receives one-half percent (0.5%) of all Measure X tax proceeds and is overseen by a separate oversight committee, has established a sales tax rate in Gonzales at 8.75%, one of the lowest tax rates in Monterey County. With guidance provided by Measure K and Measure X TUT Advisory Committees, TUT revenues in Gonzales have been used for a variety of projects, including but not limited to funding debt service for the Community Pool, award-winning youth services and leadership programs, park improvements (restrooms, tot lot, playground equipment), Dennis and Janice Caprara Community Center Complex Project costs, grant programs, senior programs, and internet accessibility for all citizens. The Gonzales Transaction and Use Tax Measure currently generates approximately \$1,600,000 annually in tax revenues.

- f. Despite the City's prudent spending and cost savings efforts, as well as the collection of the aforesaid Transaction and Use Tax, a number of infrastructure projects and matters important to the Community, such as maintenance of the Fire House and its restroom and sleeping facilities, purchase of fire equipment, street and road maintenance, maintenance of public parks and open spaces, and programming for all ages are currently not funded but are critical to the overall health and well-being of the community. Reallocation of existing funds to meet these needs will have an adverse impact on existing projects and programs and projects and programs that are currently being funded by the City's existing one percent (1.0%) Transactions and Use Tax. Absent a new funding source, the City will have to reset priorities which may result in continued deterioration of public infrastructure, potential reduction of qualified staff, and the inability to continue current programs and services.
- g. Pursuant to California Revenue and Taxation Code Sections 7285.9 and 7290, the City of Gonzales has the authority to levy a Transactions and Use Tax for unrestricted general revenue purposes. Pursuant to Part 6.1 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, and Part 1.7 of Division 2, the City may seek voter approval for a general transaction and use tax.
- h. In light of the foregoing, the City Council is proposing to increase the rate of the existing Transactions and Use Tax by imposition of a new one-half percent (0.5%) Transactions and Use Tax to be approved by the voters. Revenues from the new Transactions and Use Tax shall be available for unrestricted general revenues purposes, although a preference will be shown for the use of said revenues for Fire Department needs, streets and road repair and maintenance, City park maintenance, and youth and senior programs and services.
- i. The City desires to raise revenue by transmitting this measure to the voters in an effort to generate revenue to meet service needs and desires in the community referenced in subparagraph f.
- j. The City Council has proposed a City Code amendment that will increase the existing Transactions and Use Tax in Gonzales by establishing a new one-half percent (0.5%) Transactions and Use Tax that when added to the existing one percent (1.0%) Transaction

and Use Tax will result in a total one and one-half percent (1.5%) Transition and Use Tax rate in the City.

- k. Revenues generated by the proposed ordinance amendment would provide the City with greater financial flexibility to maintain public infrastructure, such as the Fire house, city streets and roads, and parks, and provide a range of services to its residents.

SECTION 2. AMENDMENT TO TITLE 3-REVENUE AND FINANCE OF THE GONZALES CITY CODE. Upon the approval of a majority of the voters in the City of Gonzales at a consolidated general election to be held on November 5, 2024, new “Chapter 3.30 - 2024 Transactions and Use Tax” shall be added to Title 3- Revenue and Finance of the Gonzales City Code and shall read as follows:

“3.30.010 Title.

This ordinance codified in this Chapter shall be known as the “Gonzales 2024 Transactions and Use Tax Measure.” This ordinance shall be applicable in the incorporated territory of the City.

3.30.020 Operative date.

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

3.30.030 Purpose.

The City Council declares that the ordinance codified in this chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division

2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.30.040 Contract with State.

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.30.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.30.060 Place of sale.

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.30.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-half percent (0.5%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.30.080 Adoption of provisions of State law.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.30.090 Limitations on adoption of State law and collection of use taxes.

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

A. Wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. However, the substitution shall not be made when:

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

2. The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. 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

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

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

B. The word “City” shall be substituted for the word “State” in the phrase “retailer engaged in business in this State” in Section 6203 and in the definition of that phrase in Section 6203.

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

3.30.100 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 ordinance.

3.30.110 Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and

county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

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

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

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

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this city of tangible personal property:

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

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the city shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the city or participates within the city in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the city or through any representative, agent, canvasser, solicitor, subsidiary, or person in the city under the authority of the retailer.

7. "A retailer engaged in business in the city" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the city.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.30.120 Amendments

All amendments subsequent to the effective date of this ordinance to Part I of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments

to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance. The foregoing amendments shall not require voter approval.

The following amendments to this ordinance must be approved by the voters of the City of Gonzales: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; or imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of the preceding paragraph). The City Council may otherwise amend this ordinance without submitting the amendment to voters for approval.

3.30.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.30.140 Annual audits, expenditure report and oversight committee.

Annually, the City retains an independent auditor to conduct an audit of and provide audited financial statements for all of the City's financial activities. The auditor shall include an accounting of the revenue received from the tax and expenditures thereof in the audited financial statements. The auditor's report shall be presented to the council at a public meeting and made available to the public. The City Manager and City Finance Director shall annually prepare and present to the council and the public a report in conjunction with the budget that reviews the status and performance of the programs and services funded wholly or partially with proceeds of the tax. Additionally, the Mayor and each member of the City Council shall each annually appoint one City resident to serve on an oversight committee for the revenue that the City receives from the tax enacted by this article and to recommend the use thereof. The City Manager shall provide staff for the committee, and the Finance Director shall provide all relevant data regarding revenue from the tax and expenditure thereof.

3.30.150 Refunds and credits; suits and legal proceedings.

A. Refunds of and credits for any tax paid pursuant to this article may be made only as provided for in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

B. Suits and proceedings for the recovery of any amount alleged to have been erroneously or illegally determined or collected pursuant to this article may be maintained in any court only as provided for in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code. A judgment shall not be rendered in favor of the plaintiff in any action brought against the California Department of Tax and Fee Administration to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

3.30.160 Effect of tax.

The tax established herein is meant to be imposed and collected in addition to any existing tax established by the City and is not meant to supersede or otherwise impact the tax established in Chapters 3.28 and/or 3.29 of this Code. This tax will remain in effect until otherwise ended by the voters.

SECTION 3. USE OF TAX REVENUE. The tax approved by this ordinance is a general tax. The City may use the revenue from the tax for any general governmental purpose, including without limitation, Fire Department infrastructure maintenance and equipment needs, streets and road maintenance, the maintenance and enhancement of our City parks and open space, and program and service needs. The revenue from the tax shall only be used for purposes maintenance, equipment, services and programs that benefit the residents of the City.

SECTION 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The voters of the City of Gonzales hereby declare that they would have adopted each and every provision of this ordinance regardless of the invalidity of any other provision.

SECTION 5. CODIFICATION. Upon adoption of this ordinance pursuant to the voter approval referenced in Section 2, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this ordinance in the Gonzales City Code.

SECTION 6. EFFECTIVE DATE. If this ordinance is approved by a majority of the voters voting on the issue at the November 5, 2024, election, pursuant to Elections Code Section 9217, this ordinance shall become effective ten (10) days after the Council declares the results of the election, and the tax shall become operative on the “operative date,” as defined in Section 2 of this ordinance.

SECTION 7. PUBLICATION. The Clerk of the City of Gonzales is hereby directed to cause the following summary of the ordinance to be published by one (1) insertion in The Salinas Valley Tribune, a newspaper of general circulation published and circulated in the City of Gonzales:

Contingent upon majority voter approval, this ordinance adopts a new one-half percent (0.5%) Transactions and Use Tax (sales tax) on the sale or consumption of tangible personal property within the City of Gonzales. The new Transactions and Use Tax rate in Gonzales would be one and one-half percent (1.5%). The ordinance requires independent annual audits, annual public expenditure reports and establishes a citizens’ oversight committee. The tax revenues will only be used for general governmental purposes, with a preference for local infrastructure and improvement maintenance, such as at the City’s Fire Station and on street, roads and City parks, the purchase of fire equipment, and programs and services for the City of Gonzales and its residents. Once approved, the new tax would remain in place until extinguished by the voters.

APPROVED by the following vote of the Voters of the City of Gonzales on

November 5, 2024.

ADOPTED by Declaration of the vote by the City Council of the City of Gonzales on _____, 2024:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Jose L. Rios, The Honorable Mayor

ATTEST:

Mary Villegas, Deputy City Clerk