

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA IMPOSING A ONE PERCENT TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION, SUBJECT TO ADOPTION BY THE ELECTORATE BY APPROVING THE SANTA BARBARA CRITICAL INFRASTRUCTURE AND ESSENTIAL COMMUNITY SERVICES MEASURE

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Purpose. The City Council finds and declares as follows:

A. The City of Santa Barbara provides vital municipal services and facilities, such as:

1. Police, fire, and 911 emergency medical response;
2. Repairing local streets, potholes, bridges and storm drains;
3. Maintaining neighborhood fire stations and upgrading public safety infrastructure;
4. Protecting parks, youth and senior services;
5. Addressing homelessness;
6. Helping retain local businesses; and
7. Supporting other general services that are necessary to protect the public health, safety and general welfare.

B. The City of Santa Barbara's existing revenues are insufficient to fully provide such municipal services and facilities at the level that residents need and want.

C. Over the past five years, the state has taken away over \$100 million in local City funding. This measure provides local funding for local needs, and includes strict accountability requirements including independent oversight by a citizen's committee that must meet in public, full disclosure of public spending available on the City's website and at other public locations in the City; annual financial audits; and a requirement that all funds raised be spent locally and cannot be taken by Sacramento or Washington.

D. Even before last winter's damaging rainstorms, 64% of the streets in Santa Barbara were rated as "at risk, poor or failed" by pavement engineers.

E. The City of Santa Barbara is 167 years old and has aging infrastructure which needs to be repaired and upgraded. This measure invests in our community by helping improve the condition of our streets and sidewalks, earthquake retrofit local

bridges, as well as repair and upgrade deteriorating storm drains and the seismically unsafe police station. It will cost taxpayers less to address these infrastructure needs now, rather than letting them worsen and costing all of us more in the long-run.

F. There are nearly 800 homeless people living on the streets, in cars or in temporary shelters in Santa Barbara on any given night, including nearly 150 veterans and families with young children. This measure will help the City continue to provide resources to community partners to address homelessness including mental health, substance abuse treatment services and job training, to respectfully help individuals, veterans and families with young children transition away from or stay off the street, as well as to ensure our business districts, parks and other public areas are safe and secure for everyone.

G. Well maintained streets, quality neighborhood parks, and safe and clean streets, schools and neighborhoods are an investment in public safety that strengthens local property values and make our community a more desirable place to live, do business and raise a family.

H. About 40% of Santa Barbara's sales tax dollars are paid by tourists and visitors from surrounding areas. This measure will help make sure that tourists and visitors are paying their fair share to maintain our community and not place these costs exclusively upon city residents. Prescription medications and groceries will not be taxed by this measure.

I. The funding made available by this measure will enable the City to restore and improve its general municipal services and facilities. Nothing in this measure allows tax revenues to be directed into a special fund or for a special purpose.

SECTION 2. Chapter 4.14 [Transactions and Use Tax] of Title 4 [Revenue, Finance and Purchasing] of the Santa Barbara Municipal Code is added to read as follows:

4.14.010 Short Title. This ordinance shall be known as the Santa Barbara Critical Infrastructure and Essential Community Services Measure. The City of Santa Barbara hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

4.14.020 Operative Date. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after November 7, 2017.

4.14.030 Purposes. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and

Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

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

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the 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.

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.

4.14.040 Contract with State. Prior to the operative date, the City shall contract with the State Board of Equalization 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 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.

4.14.050 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 1.00% 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.

4.14.060 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 State Board of Equalization.

4.14.070 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 1.00% 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.

4.14.080 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.

4.14.090 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.

4.14.100 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.

4.14.110 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.

4.14.120 Amendments to State Law. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

4.14.130 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.

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

4.14.150 Effective Date and Submission to Voters. This ordinance relates to the levying and collecting of City transactions and use taxes and shall take effect immediately. However, no tax imposed by this ordinance shall be effective unless that tax has been approved by the voters of the City as required by Section 2(b) of Article XIII C of the California Constitution and applicable law.

4.14.160 Annual Accountability Performance Report. The City Council shall cause preparation of an annual accountability performance report for the benefit of Santa Barbara citizens and in order to assure accountability in the expenditure of tax revenues. The annual accountability performance report shall be posted on the City's website and shall include the following information:

- A. The amount of revenue collected pursuant to the transactions and use tax imposed by this ordinance;
- B. The amount and general purposes of the expenditures made possible by this ordinance including, where feasible, a categorization of the nature and purpose of the expenditures. These categories may include, among other things:
 - 1. A listing of general fund service expenditures (such as police, fire, parks and recreation, libraries, youth and senior programs and other general fund services).
 - 2. A listing of capital facility expenditures (such as streets, bridges, emergency police and fire facilities and other general fund capital facility expenditures).
 - 3. Such other categories as the City Council may from time to time deem necessary or desirable.

4.14.170 Citizens' Oversight Committee. The City Council shall establish a citizens' oversight committee which shall have the duty and responsibility to review the annual accountability performance report and report its findings to the City Council and to Santa Barbara citizens. All meetings of the citizens' oversight committee shall be open to the public.

4.14.180 Audit and Review. The proceeds of the tax imposed pursuant to this ordinance, as well as the expenditure thereof, shall be audited annually by an independent accounting firm. The audit results may be combined with the audit of other City funds, so long as the proceeds are reported separately. The City Council shall discuss the results of such audit at a meeting of the City Council that is open to the public. The report of such audit shall be posted on the City's website.

4.14.190 Termination and Repeal. The authority to levy the taxes imposed by this ordinance shall be in effect until and unless this ordinance is repealed.

4.14.200 Declaration. The proceeds of the taxes imposed by this ordinance may be used for any lawful purpose of the City, as authorized by ordinance, resolution or action of the City Council or by Ordinance adopted by the electorate of the City. These taxes do not meet the criteria established by Section 1(d) of Article XIII C of the California Constitution for special taxes, and are general taxes imposed for general government purposes.

4.14.210 Additional Findings. The City Council finds as follows:

- A. The City provides vital municipal services and facilities, such as police, fire, parks and recreation, streets, bridges, libraries, youth and senior programs and other general fund services.

- B. The City's existing revenues are insufficient to fully provide municipal services and facilities at the level that is necessary or desirable.
- C. The funding made available by this Ordinance will enable to City to restore and improve its general municipal services and facilities.

SECTION 3. CEQA. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.