RESOLUTION OF THE MODESTO CITY COUNCIL CALLING AN ELECTION TO BE HELD ON NOVEMBER 8, 2022, FOR VOTER CONSIDERATION OF A BALLOT MEASURE SEEKING VOTER APPROVAL TO IMPOSE A ONE-CENT TRANSACTIONS AND USE (SALES) TAX FOR GENERAL CITY SERVICES; REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS TO CONSOLIDATE THE MUNICIPAL ELECTION WITH THE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2022; REQUESTING CERTAIN SERVICES OF THE REGISTRAR OF VOTERS OF STANISLAUS COUNTY WITH RESPECT TO THE CONSOLIDATED GENERAL MUNICIPAL ELECTION; AND ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH AN ELECTION

WHEREAS, the residents and the City Council of the City of Modesto (“City”) desire to restore critical City services aimed at reducing crime, maintaining a safe and inviting community, and improving quality of life, and

WHEREAS, the City has a special history and a bright future, with a treasured small-town feel; however, it is a growing City with big-city problems such as homelessness, blight, and crime, and

WHEREAS, the City does not receive enough funding from taxes, the State or the County to address local residents’ growing needs and concerns, and

WHEREAS, the City’s sales tax rate of 7.875% is one of the lowest percentiles statewide and in the region; with the City’s portion of that revenue being only one-cent, and

WHEREAS, the residents of the City receive far fewer services per capita than other benchmark cities in California, and

WHEREAS, since the Great Recession, the City’s organization has been decimated with the reduction of twenty-seven percent (27%) of the staff in the General
Fund departments, including seventy-seven (77) sworn Police officers and fifty-six (56) Fire personnel, and

WHEREAS, the cuts the City has had to make have resulted in a decrease in Police, Fire, and Emergency Medical Service response times at unacceptable levels far below industry standards, and

WHEREAS, even with these cuts the City has had to make to Police and Fire personnel, public safety represents 80% of the City’s General Fund Operating Expenditures, and

WHEREAS, the City’s once robust recreation services have also seen drastic changes. Due to funding shortages, the City’s parks system has deteriorated to unacceptable conditions, with Seventy-Four Million Dollars ($74,000,000) in deferred maintenance, and

WHEREAS, due to these funding shortages, it now takes months or even several years to respond to tree and sidewalk maintenance requests, and

WHEREAS, the City struggles to provide even basic City services without the reliance on one-time State and Federal funds assistance, and

WHEREAS, the City of Modesto is committed to long-term fiscal prudence, responsibility, innovation, and self-reliance, and

WHEREAS, a one-cent general revenue sales tax would enable the City to proactively develop a plan to improve City services and the quality of life for the citizens of Modesto. This additional funding would help to improve City Services such as, but not limited to:

- Addressing homelessness;
• Providing quicker responses to 911 emergencies, including DUIs, gang, and drug-related crimes;
• Supporting neighborhood police patrols, crime prevention, traffic enforcement, fire protection, and paramedics;
• Fixing and maintaining roads and sidewalks; and
• Keeping parks, recreation facilities, and public areas safe and clear of trash and litter.

WHEREAS, even after a one-cent general revenue sales tax, the City’s sales tax rate will still be one of the lowest in the region; however, it will help keep the City competitive and attractive to business investment, and

WHEREAS, a one-cent general revenue sales tax would reduce the City’s need to rely on State and Federal dollars, which often come with regulations on how the money can be spent. Instead, the City could use these local funds to satisfy local needs and priorities, and

WHEREAS, these local funds cannot be taken by the County, State, or Federal Government and are subject to local oversight, and

WHEREAS, pursuant to Elections Code Section 9222, the City Council may submit to the qualified voters of the City a proposition without a petition; therefore, by ordinance or resolution, and

WHEREAS, the City Council desires to submit to the qualified voters of the City a measure asking whether to amend the Modesto Municipal Code to add a one-cent transactions and use (“sales”) tax as described above; and
WHEREAS, the City Council, pursuant to Resolution 2022-248, called for a General Municipal Election to be held on and consolidated with the November 8, 2022 general election and for the Stanislaus County Elections Department to conduct such election on behalf of the City of Modesto and therefore the Council now desires to include this Measure on the ballot at said election.

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

SECTION 1. Placement of Measure on the Ballot. Pursuant to California Elections Code Section 9222 and Revenue and Taxation Code section 7285.9, the City Council hereby calls and orders to be held in the City of Modesto, California, on Tuesday, November 8, 2022, an election at which a measure shall be submitted to the voters of the City for approval an ordinance to enact a local transactions and use tax. The question shall appear and be printed on the ballot as follows:

MEASURE ___

To fund general city services in the City of Modesto, such as police patrols, gang, drug, and crime prevention; fire protection, paramedic/911 emergency response; addressing homelessness; cleaning-up trash and illegal dumping; keeping streets, parks, sidewalks, landscapes and infrastructure safe, clean, and well-maintained, shall an ordinance establishing a one-cent sales tax be adopted, providing $39,000,000 annually for general government use in Modesto until ended by voters, with citizen oversight and all money locally controlled?  

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SECTION 2. Approval of Ordinance. The City Council hereby approves the proposed ordinance to be submitted to the voters, attached hereto as Exhibit A. The proposed measure shall not take effect unless and until approved by a vote of at least a simple
majority of affirmative votes of the voters voting on the question at the election. The ordinance specifies that the rate of the transactions tax shall be one-cent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies that the rate of the transactions and use tax shall be one-cent of the sales price of tangible personal property stored, used, or otherwise consumed in the City. The tax shall be in effect until it is repealed by the voters. 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. The full text of the Measure will be presented in the Voter Information Guide.

SECTION 3. Publication of Measure. The City Clerk is hereby directed to cause notice of the Measure to be published once in The Modesto Bee, the official newspaper of said City and a newspaper of general circulation printed and published in said City, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

SECTION 4. Request to Consolidate and Conduct Election and Canvass Returns.

(a) Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Stanislaus is hereby requested to consent and agree to the consolidation of a General Municipal Election with the statewide election on Tuesday, November 8, 2022, for the purpose of placing the Measure set forth in Section 1 on the ballot. The City Council acknowledges that the consolidated election will be conducted in the manner prescribed in Elections Code section 10418.
(b) The County of Stanislaus Election Department is authorized to canvass the returns of the regularly scheduled General Municipal Election. The election shall be held in all respects as if there were only one (1) election, and only one (1) form of ballot shall be used.

(c) The Board of Supervisors is requested to issue instructions to the Stanislaus County Registrar of Voters to take any and all steps necessary for the holding of the consolidated election.

(d) The City of Modesto recognizes that additional costs will be incurred by the County of Stanislaus by reason of this consolidation and agrees to reimburse the County for any additional costs above and beyond those reimbursed by the State.

SECTION 5. Submission of Ballot Arguments and Impartial Analysis.

(a) The last day for submission of direct arguments for or against the Measure shall be by 5:00 p.m. on July 12, 2022.

(b) The last day for submission of rebuttal arguments for or against the Measure shall be by 5:00 p.m. on July 22, 2022.

(c) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five (5) persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The City Attorney shall prepare an impartial analysis of the Measure by July 22, 2022.
(f) Pursuant to California Elections Code Section 9282, the Mayor is 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. At the Mayor’s discretion, the argument may be signed by any combination of members of the City Council or bona fide associations of citizens or by individual voters who are eligible to vote on the Measure. In the event that an argument is filed against the measure, the Mayor is also authorized to prepare a rebuttal argument on behalf of the City Council, which may also be signed by any combination of members of the City Council or bona fide associations of citizens or by individual voters who are eligible to vote on the Measure, and who may be different from the signers of the direct argument. Submissions by email or facsimile are allowed for direct arguments and rebuttal arguments that are signed and otherwise meet the above requirements and the California Elections Code provided that the original copy thereof is delivered to the City Clerk within twenty-four (24) hours of submission of the electronic version.

(g) Pursuant to California Elections Code Section 9285, 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 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 6. Effective Date. This Resolution shall become effective immediately upon its passage and adoption. The City Clerk is directed to file a certified copy of this
Resolution with the Board of Supervisors of Stanislaus County and the Stanislaus County Elections Department. The City Clerk is hereby authorized and directed to take all steps necessary to place the Measure on the ballot and to prepare all required notices related to the ballot measure, and to publish such notices as required by law.

SECTION 7. Passage of the Resolution. This Resolution must be approved by a two-thirds (2/3) vote of the City Council.

SECTION 8. CEQA. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of 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. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines section 15060, review under CEQA is not required.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(ATTEST: DIANE NAYARIS-PEREZ, CMC, City Clerk)

(SEAL)

APPROVED AS TO FORM:

BY:

JOSE M. SANCHEZ, City Attorney
ORDINANCE NO.________-C.S.

AN ORDINANCE ADDING ARTICLE 12 TO CHAPTER 2 OF TITLE 8 OF THE MODESTO MUNICIPAL CODE IMPOSING A TRANSACTIONS AND USE TAX

The People and the City Council of the City of Modesto do ordain as follows:

WHEREAS, the People and the City Council of the City of Modesto desire to restore critical City Services aimed at reducing crime, maintaining a safe and inviting community, and improving quality of life; and

WHEREAS, the City of Modesto ("City") has a special history and a bright future, with a treasured small-town feel; however, it is a growing City with big-city problems such as homelessness, blight, and crime; and

WHEREAS, the City does not receive enough funding from taxes, the State or the County to address local residents’ growing needs and concerns; and

WHEREAS, the City’s sales tax rate of 7.875% is one of the lowest percentiles statewide and in the region; with the City’s portion of that revenue being only one percent (1%); and

WHEREAS, the residents of the City receive far fewer services per capita than other benchmark cities in California; and

WHEREAS, since the Great Recession, the City’s organization has been decimated with the cutting of twenty-seven percent (27%) of the staff in the General Fund departments, including seventy-seven (77) sworn Police officers and fifty-six (56) Fire personnel; and

WHEREAS, the cuts the City has had to make have resulted in a decrease in Police, Fire, and Emergency Medical Service response times at unacceptable levels far below industry standards; and
WHEREAS, even with these cuts the City has had to make to Police and Fire personnel, public safety represents eight (80%) of the City’s General Fund; and

WHEREAS, the City’s once robust recreation services have also seen drastic changes. Due to funding shortages, the City’s parks system has deteriorated to unacceptable conditions, with Seventy-Four Million Dollars ($74,000,000) in deferred maintenance; and

WHEREAS, due to these funding shortages, it now takes months or even several years to respond to tree and sidewalk maintenance requests; and

WHEREAS, the City struggles to provide even basic City services without the reliance on one-time State and Federal funds assistance; and

WHEREAS, the City of Modesto is committed to long-term fiscal prudence, responsibility, innovation, and self-reliance; and

WHEREAS, a one percent (1%) general revenue sales tax would enable the City to proactively develop a plan to improve City services and the quality of life for the citizens of Modesto. This additional funding would help to improve City Services such as, but not limited to:

- Addressing homelessness.
- Providing quicker responses to 911 emergencies, including DUIs, gang, and drug-related crimes.
- Supporting neighborhood police patrols, crime prevention, traffic enforcement, fire protection, and paramedics.
- Fixing and maintaining roads and sidewalks.
- Keeping parks, recreation facilities, and public areas safe and clear of trash and litter.
WHEREAS, even after a one percent (1%) general revenue sales tax, the City’s sales tax rate will still be one of the lowest in the region; however, it will help keep the City competitive and attractive to business investment; and

WHEREAS, a one percent (1%) general revenue sales tax would reduce the City’s need to rely on State and Federal dollars, which often come with regulations on how the money can be spent. Instead, the City could use these local funds to satisfy local needs and priorities; and

WHEREAS, these local funds cannot be taken by the County, State, or Federal Government and are subject to local oversite.

SECTION 1. INCORPORATION OF RECITALS. The City Council and the People of Modesto find that all the Recitals are true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF MUNICIPAL CODE. Article 12 is hereby added to Chapter 2 of Title 8 of the Modesto Municipal Code to read as follows:

"ARTICLE 12. TRANSACTION AND USE TAX.

8-2.1201- Title.

This Ordinance shall be known as the Modesto Transactions and Use Tax Ordinance. This Ordinance shall be applicable in the incorporated territory of the City (hereinafter "City.")

8-2.1202 - 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.
8-2.1203 - Purpose.

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 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.
8-2.1204 - 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.

8-2.1205 - Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this Ordinance.

8-2.1206 - 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.
8-2.1207 - 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 percent (1%) 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.

8-2.1208 - 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.

8-2.1209 - 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 Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this 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 this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds Five Hundred Thousand Dollars ($500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.
8-2.1210 - 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.

8-2.1211 - 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.

8-2.1212- Amendments.

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.

8-2.1213 - 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.

8-2.1214 - Annual Audit.

Annually the City Council 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 in the audited financial statements. The auditor’s report shall be presented to the City Council, be reviewed by the Oversight Board, made available on the City’s website and made available to the public.

8-2.1215 – Oversight Board

The City Council shall appoint a nine (9) -member Oversight Board by June 30, 2023 to meet publicly at least semi-annually to review all revenues and expenditures of funds from the tax authorized by this Ordinance, review annual audit reports related to the tax measure, and make at least one (1) written annual report to the City Council at a public meeting summarizing the Oversight Board’s findings. The Oversight Board shall consist of a representative from each Council district and three "at-large" Modesto residents. The City Council shall give strong preference to members that represent a cross-section of the community, possibly including, but not limited to, representatives of schools, local trade associations, chambers of commerce, nonprofit organizations, senior citizen groups, non-partisan political organizations (such as the
League of Women Voters), tax-payer association, and neighborhood organizations (including individuals retired from such groups).

8-2.1216 – Amendments by City Council.

The following amendments to this Ordinance must be approved by the voters of the City: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of Section 8-2.1112); or extending the tax. The City Council may otherwise amend this Ordinance without submitting the amendment to the voters for approval.

8-2.1217 – Termination Date.

The authority to levy the tax imposed by this Ordinance shall expire when ended by the voters of the City."

SECTION 3. ADJUSTMENT OF APPROPRIATIONS LIMIT. Pursuant to Article XIIIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the City is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2022-23 and each year thereafter.

SECTION 4. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). This Ordinance imposes a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the Ordinance is not a project within the meaning of 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. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

SECTION 5. 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.

SECTION 6. EFFECTIVE DATE. This Ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately upon applicable voter approval.

The foregoing Ordinance was adopted by City Council of the City of Modesto, subject to voter approval, on ________________, 2022 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

______________________________  
SUE ZWAHLEN, Mayor  

ATTEST:  
DIANE NAYARES-PEREZ, City Clerk  

APPROVED AS TO FORM:  
JOSE M. SANCHEZ, City Attorney  

5110148.6
ARGUMENT STATEMENT FORM

The undersigned proponent(s) or author(s) of the

[argument in favor]

argument against

(circle one of the above)

ballot measure [H] at the Municipal election for the City of Modesto to be held on November 8, 2022, hereby state that such argument is true and correct to the best of their knowledge and belief.

Signed: [Name] Date: 7-10-22
Please print name: DAVID WRIGHT, Modesto City Council Member
Address & Phone #: [Redacted]

Signed: [Name] Date: 10 July 2022
Please print name: Sue Zwahlen, Mayor of Modesto
Address & Phone #: [Redacted]

Signed: [Name] Date: 7-10-22
Please print name: Kristin Olsen, Business Owner/Retired Legislator
Address & Phone #: [Redacted]

Signed: [Name] Date: 7-11-22
Please print name: Michael Moradian Jr., Small Business Owner
Address & Phone #: [Redacted]

Signed: [Name] Date: 7/11/2022
Please print name: Yamilot Valladolid, Community Health Advocate
Address & Phone #: [Redacted]

NOTE: No more than five signatures may appear with any argument submitted per Election Code section 9283. If more than five authors sign the argument, the signatures of the first five authors will be printed. 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 an author of the argument must be included. Arguments may not exceed 300 words. Signers must be eligible to vote on the measure.

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Argument in Favor of Measure H

What will the future of Modesto look like?

Some urban cities across our state have become synonymous with blight and increased crime. We want Modesto to be a city we can take pride in.

We want cleaner and safer streets and sidewalks; well-maintained parks, trees, and riverways; and quicker emergency response times.

We all see the need around us every day - increased homelessness, overgrown trees, theft, blight and on and on.

Historically, Modesto has not gotten its fair share of state and federal resources to address these issues. Measure H will give us a local source of revenue to improve the quality of life for all Modestans.

The current sales tax rate in Modesto is 7.875%. Only 1% goes to the City. Our current rate is lower than Ceres, Turlock, and Oakdale.

Measure H increases the sales tax by 1 cent but does not tax food or medication.

Just 15 years ago, Modesto employed 287 public safety officers and met the state average of 1.3 officers for every 1000 residents. Today, our revenues haven’t kept up with inflation and we have only 210 officers - just 0.9 per 1000 residents - an over 25% reduction.

We want a better community for our families, our children, and our grandchildren.

We also want transparency and accountability. Measure H mandates the creation of a community oversight committee that will review and publicly disclose how every dollar is spent to ensure it meets its objectives.

Vote YES on H to:

• Provide quicker response times to emergencies, including drug-related crimes
• Support neighborhood police patrols, crime prevention, fire protection, and paramedics
• Reduce homelessness
• Keep parks and public areas clear of trash and litter

It’s time we invest in our own future and demand tangible results from our investment. Vote YES for a safer, cleaner, better Modesto.
CITY OF MODESTO MEASURE H
CITY ATTORNEY’S IMPARTIAL ANALYSIS

The City Council of the City of Modesto has placed Measure H on the ballot to ask the City’s voters to approve a one percent (1%) local transactions and use tax. The tax would, for example, add a penny to the price of an item purchased for $1; it would add $1 to the price of an item purchased for $100. The proposed one percent (1%) transactions and use tax would be collected at the same time and in the same manner as existing sales taxes.

Measure H would not limit the use of the tax revenue. Measure H is a “general tax,” not a “special tax.” As such, the City may use funds from the tax for any legitimate governmental purpose. The Measure does not include an automatic sunset in a term of years. Instead, it states that the tax would continue until ended by the voters.

According to the Council Resolution placing Measure H on the ballot and a report prepared by City staff, the tax would provide approximately $39 million annually for the City’s general fund, assisting the City’s ability to improve City services such as, but not limited to, addressing homelessness, providing quicker responses to 911 emergencies, including DUIs, gang, and drug-related crimes, supporting neighborhood police patrols, crime prevention, traffic enforcement, fire protection, and paramedics, fixing and maintaining roads and sidewalks, and keeping parks, recreation facilities, and public areas safe and clear of trash and litter. The tax revenue would be controlled by the City of Modesto; the State would not be able to take the revenue from Measure H for its own use.

Measure H requires an annual independent audit. Measure H requires that City Council appoint a nine-member Citizen Oversight Board to review revenues and expenditures from the tax, review annual audits, and make an annual report to the City Council regarding the tax.

Technically, “sales tax” is a combination of “sales and use tax” and “transactions and use tax.” With some exceptions, both are levied on the sale or use of tangible personal property sold at retail. Retailers collect the tax at the time of sale and remit the funds to the California Department of Tax and Fee Administration, which administers the tax.

A “Yes” vote is a vote to approve a one percent (1%) sales tax in Modesto. A “No” vote is a vote against the tax. Measure H will pass if it receives a simple majority of “Yes” votes.

The above statement is an impartial analysis of Measure H. If you desire a copy of the Ordinance, please contact the City Clerk’s office at (209) 577-5396 or dnayaresperez@modestogov.com, and a copy will be mailed at no cost to you.

DATED: July 22, 2022

[Signature]
José M. Sanchez, City Attorney