

RESOLUTION NO. 2020-046

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIO VISTA PLACING AN ORDINANCE MEASURE ON THE NOVEMBER 3, 2020 BALLOT THAT IMPOSES A THREE-QUARTER CENT TRANSACTIONS AND USE TAX FOR GENERAL CITY SERVICES; REQUESTING THAT THE SOLANO COUNTY BOARD OF SUPERVISORS CONSOLIDATE THE ELECTION WITH THE STATEWIDE ELECTION; AUTHORIZING THE MAYOR TO PREPARE A WRITTEN ARGUMENT IN SUPPORT OF THE TAX MEASURE; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE

WHEREAS, the City of Rio Vista ("City") - like all California cities - has faced decreasing revenues, increasing monetary demands by the State of California that negatively impacts the City's revenue stream and increased costs of providing essential city services residents rely upon; and

WHEREAS, the City has attempted to maintain a balanced budget by reducing staff and lowering service levels; and

WHEREAS, the City is also facing increasing deferred maintenance costs to various infrastructure needs, including local streets and roads, storm drains, and city buildings, grounds and facilities that are not seismically safe or need significant upgrades; and

WHEREAS, this tax measure, if approved by the voters would impose a three-quarter ($\frac{3}{4}$) cent transactions and use tax for a period of five (5) years, commencing April 1, 2022 and terminating on March 31, 2027; and

WHEREAS, the projected revenue of this tax measure is between \$1,149,000 and \$1,344,000 annually for each of the five (5) years this tax measure would remain in effect; and

WHEREAS, this tax measure would create a guaranteed source of local funding for our essential City services that cannot be taken by the State and ensure our tax dollars are spent locally for the benefit of City residents; and

WHEREAS, the City has determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA). In addition, Section 15061 of the CEQA Guidelines include the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent projects that may be funded using sales tax revenue received from the referenced general transactions and use tax resulting from this action will be assessed for CEQA applicability. Furthermore, Section 15378(b)(4) of the CEQA Guidelines specifically states that the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project are not a project.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Rio Vista hereby declares, determines and orders as follows:

Section 1. The foregoing recitals are true and correct, and are hereby incorporated by reference.

Section 2. Pursuant to California Constitution Article XIII C, section 2; and Elections Code section 9222, the City Council of the City of Rio Vista submits to the qualified voters of the City, the Rio Vista General City Service Tax Measure, which if approved, would adopt a general transactions and use tax, as authorized by Revenue and Taxation Code section 7285.9. This tax measure shall be designated by letter by the Solano County Elections Department. Pursuant to Election Code section 10400, et seq., the election for this tax measure is hereby called and shall be consolidated with the Regular Election to be conducted on November 3, 2020.

Section 3. The question to be presented to the voters shall be as set forth below. This question requires the approval of a majority of qualified electors casting votes:

MEASURE "O" - GENERAL CITY SERVICES TAX MEASURE.	YES	
Shall the measure to support the continued operation of the City of Rio Vista's general services, including police, fire, parks, and other unrestricted general fund expenditures, by enacting a three-quarter (¾) percent transactions and use tax for a period of five (5) years commencing on April 1, 2022, that is projected to provide between \$1,149,000 and \$1,344,000 of revenue annually, be adopted?	NO	

Section 4. The Ordinance authorizing the general tax to be approved by the voters pursuant to Sections 2 and 3 of this resolution entitled "An Ordinance of the City of Rio Vista Imposing a General Transactions And Use Tax To Be Administered by the California Department of Tax and Fee Administration, Subject to Adoption by the Electorate" is set forth in full in **Exhibit A**, attached hereto, and incorporated herein. The full text of the Ordinance shall be printed in the Voter Information Pamphlet.

Section 5. The City Clerk is authorized, instructed and directed to work with the Solano County Registrar of Voters, as needed, in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in the form and content as required by law. The Solano County Registrar of Voters is authorized to canvass the returns of the General Municipal Election. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 6. The Board of Supervisors is requested to instruct its Registrar of Voters to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one election. The City of Rio Vista recognizes that the county will incur additional costs because of this consolidation and agrees to reimburse the county for those costs. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the tax measure on the election ballot. Such services provided by the county may include, but are not limited to, the following:

- Publication of notices calling the election
- Publication of notices calling for ballot arguments
- Provision of voter lists
- Obtaining and staffing polling places
- Provision and delivery of precinct supplies
- Counting of ballots and certification of election
- Other election activities authorized by law
- All aspects of election not specified above may be agreed upon by the County Clerk and the City Manager

Section 7.

- a. Pursuant to California Elections Code section 9282, on behalf of the City Council, the Mayor is hereby authorized to prepare a written argument in favor of the proposed tax measure, not to exceed three hundred (300) words. At the Mayor's discretion, the argument may also be signed by members of the City Council or bona fide associations, or by individual voters who are eligible to vote on the tax measure. In the event that an argument is filed against the tax measure, the Mayor is also authorized to prepare a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations, or by individual voters who are eligible to vote on the tax measure.
- b. Pursuant to California Elections Code section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the tax measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the tax measure, not to exceed five hundred (500) words in length, showing the effect of the tax measure on the existing law and the operation of the tax measure, and transmit the impartial analysis to the Solano County Registrar of Voters.
- c. Pursuant to California Elections Code section 9285, when the City Clerk has selected the arguments for and against the tax measure, which will be printed and distributed to the voters, the City Clerk is directed to send copies of the argument in favor of the tax measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor.

Section 8. Pursuant to California Elections Code section 10403, the City Clerk is directed to file certified copies of this resolution with the Board of Supervisors and the Registrar of Voters of the County of Solano, together with the attached ballot measure. The City Clerk is further authorized and directed to perform all other acts necessary or required by law to implement this Resolution and related to the election.

Section 9. The jurisdictional boundaries of the City of Rio Vista have not changed since the last General Municipal Election.

Section 10. If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the remainder of the resolution and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 11. This resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 19th day of **May 2020**. I, **JOSE JASSO, CITY CLERK OF THE CITY OF RIO VISTA, HEREBY CERTIFY** the foregoing resolution was introduced and passed at a regular meeting of the Rio Vista City Council by the following roll call vote:

AYES: Council Members Dolk, Hampton, Roos, Vice Mayor Cohn and Mayor Kott

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST:

[Redacted Signature]

Jose Jasso, MMC, City Clerk



Exhibit A

(Initiative Measure)

The People of the City of Rio Vista ("City") do hereby ordain as follows:

Ordinance 009-2020 (attached hereto) that was previously adopted by the City Council, establishing a transactions and use tax for the City, is hereby approved by the People of the City of Rio Vista.

ORDINANCE NO. 009-2020

**AN ORDINANCE OF THE CITY OF RIO VISTA
IMPOSING A GENERAL TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE
ADMINISTRATION, SUBJECT TO ADOPTION BY THE ELECTORATE**

Section 1. TITLE. This ordinance shall be known as the Rio Vista General Transactions and Use Tax Ordinance. The City of Rio Vista hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 2. OPERATIVE DATE. "Operative Date" means April 1, 2022.

Section 3. 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.

Section 4. 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.

Section 5. 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 0.75% 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.

Section 6. 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.

Section 7. 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 0.75% 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.

Section 8. 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.

Section 9. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

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

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, California Department of Tax and Fee Administration, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this 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.

Section 10. 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.

Section 11. 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.

Section 12. 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.

Section 13. 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.

Section 14. 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 15. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

Section 16. TERMINATION DATE. The authority to levy the tax imposed by this Ordinance shall expire five (5) years after the Operative Date, April 1, 2022. The taxes imposed by this ordinance may be renewed prior to the termination date by a majority of electors voting in an election.

I, JOSE JASSO, CITY CLERK OF THE CITY OF RIO VISTA, HEREBY CERTIFY this ordinance was **introduced** at a regular meeting of the Rio Vista City Council on **May 19, 2020** and **PASSED and ADOPTED** by the City Council of the City of Rio Vista at a regular meeting on _____, **2020**.

AYES:

NOES:

ABSENT:

ABSTAIN:

Ron Kott, Mayor

ATTEST:

Jose Jasso, MMC, City Clerk