RESOLUTION NO. 2024-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUCAIPA, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY THE YUCAIPA PUBLIC SAFETY AND ESSENTIAL SERVICES PROTECTION MEASURE ESTABLISHING A ONE CENT TRANSACTIONS AND USE (SALES) TAX

WHEREAS, the City of Yucaipa wishes the community to decide on whether to raise local revenue that cannot be taken by the state, or make significant budget cuts, including potential cuts to the number of Fire Stations, firefighters , and number of police officers on the street, street and pothole repair services, and local drinking water protection, which may impact 911 response and the ability of the City to keep public areas safe and clean; and

WHEREAS, approximately 80 percent of calls to the City of Yucaipa Fire Department are for medical emergencies, such as heart attacks, strokes, and car accidents; and

WHEREAS, without additional funding the City may have to close one of the three fire stations, reduce firefighters and paramedics by 30%, impacting the staffing and life-saving equipment first responders need to respond quickly and effectively and save lives; and

WHEREAS, last year, there were over 700 robberies, burglaries, and thefts—including auto thefts—in Yucaipa; and

WHEREAS, without additional funding the City will be forced to cut up to half the City's police officers, which will reduce 911 emergency response times and the police patrols that help keep parks, business areas, and residents and their property safe; and

WHEREAS, the need for additional funding is large enough that non-public safety reductions will not be enough to address the current structural budget deficit; and

WHEREAS, without additional funds, the City will be forced to close the community pool and senior center and close up to half the City's park to address budget shortfalls, leading to the elimination of most of our youth, afterschool, and senior programs only which our families rely, and increasing the possibility that vacant, unused spaces could attract crime and homelessness; and

WHEREAS, the Measure as written incorporates strict accountability requirements such as a citizen's oversight committee, public disclosure of all spending, annual independent financial audits that ensure funds are used effectively and as promised, and legal requirement that all funds raised by this measure stay in Yucaipa for essential local services, without a penny being taken by the State; and

WHEREAS, the City Council is committed to transparency and public engagement, and believes that submitting this measure to the electors is the best way to allow the community to have a direct say in the future of their city's services.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YUCAIPA HEREBY RESOLVES AS FOLLOWS:

Section 1. **Findings and Incorporation.** The City Council hereby finds that the above recitals are true and correct and incorporates the recitals into the body of this Resolution.

Section 2. **City Council Actions.** The City Council of the City of Yucaipa, California, does hereby order that:

(A) Pursuant to its rights and authority, the City Council does order submitted to the voters at the General Municipal Election to be held on November 5, 2024 the following question:

City of Yucaipa Public Safety/Essential Services Protection Measure; to prevent reducing police officers/firefighters/paramedics/fire stations, and to maintain other essential services, including 911 response, property crime/gang prevention, senior/youth/afterschool programs, homelessness prevention, street/pothole repair, and for general government use, shall a measure establishing a 1¢ transactions and use (sales) tax providing approximately $6,000,000 annually until ended by voters, requiring oversight, independent audits, spending disclosure, local control of all funds, be adopted?	YES
	NO

(B) The text of the "Yucaipa Public Safety and Essential Services Protection Measure" that shall be submitted to the voters of the City of Yucaipa is attached as Exhibit "A" hereto and dated June 24, 2024. The City Clerk shall maintain a copy of the Measure and the proposed Ordinance and shall make the same available for public inspection upon request.

(C) The vote requirement for the Measure to pass is a majority (50% + 1) of the votes cast.

(D) Pursuant to Section 10403 of the Elections Code, the City Council hereby requests the Board of Supervisors and Registrar of Voters of the County of San Bernardino to consolidate the ballot measure with the general election to be held on November 5, 2024.

(E) The City Manager or his designee shall pay all election expenses related to this Measure upon presentation of a sufficient invoice.

(F) The City Clerk is hereby directed to file this Resolution with the Board of Supervisors and Registrar of Voters of the County of San Bernardino, on or before the deadline set by the Registrar of Voters for inclusion on the ballot for November 5, 2024.

(G) In all particulars not recited by this Resolution, the election shall be held and conducted as provided by law for holding municipal elections, including but not limited to those provisions of Elections Code Section 10418.

(H) The notice of the time and place of holding the election is given and the City Clerk is authorized and directed to give such further notice in time, form, and manner required by law.

(I) The City Clerk shall certify the passage and adoption of this Resolution.

Section 3. **Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED, APPROVED, and **ADOPTED** this 24th day of June, 2024.

Chris Venable, Mayor Pro Tem

ATTEST:

Ana V. Sauseda, MMC
Director of General Services/City Clerk

Exhibit A

ORDINANCE NO. ____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF YUCAIPA ADOPTING A ONE PERCENT GENERAL TRANSACTIONS AND USE TAX

WHEREAS the People of the City of Yucaipa desire to impose a general transactions and use tax to support the provision of general municipal services and all lawful public purposes within the city, including but not limited to police, fire, paramedic, 911 emergency response, property crime/gang prevention, senior/youth/afterschool programs, homelessness prevention, and street/pothole repair; and

WHEREAS the California Revenue and Taxation Code permit the adoption of local transactions and use taxes for general purposes upon approval by a majority vote of the electorate; and

WHEREAS it is the intent of the City Council to adopt an ordinance that aligns with the provisions of state law to ensure efficient administration and minimal deviation from existing procedures used by the California Department of Tax and Fee Administration (CDTFA); and

WHEREAS the City of Yucaipa aims to establish a tax ordinance that minimizes the cost of tax collection and the burden of record-keeping for retailers, while maximizing the benefits and revenue for the city's general fund; and

WHEREAS an independent annual audit will be conducted to ensure transparency and accountability in the use of tax proceeds, with findings presented to the City Council, a citizen oversight committee, and made available for public review; and

WHEREAS the City Council finds that it is in the best interest of the residents of Yucaipa to ensure that the revenues generated from this tax are used effectively and efficiently to maintain and enhance city services.

THE PEOPLE OF THE CITY OF YUCAIPA DO HEREBY ORDAIN AS FOLLOWS

Section 1. Incorporation of Recitals

The recitals set forth in the preamble to this ordinance are hereby incorporated by reference and made a part of this ordinance as if fully set forth herein. The People of the City of Yucaipa finds that each of those recitals is true and correct and relies upon them as a basis for adopting this ordinance.

Section 2. Adoption of Tax; Municipal Code Amendment

Chapter 3.18 adopting a one percent (1%) Transactions and Use Tax, set forth in Exhibit A to this Ordinance and incorporated as though written in full, is hereby adopted and added to the Yucaipa Municipal Code.

Section 3. Amendments

This ordinance may be amended only by a majority vote of the registered voters of the City of Yucaipa voting on the proposed amendment at a regular or special election. Any proposed amendment to this ordinance shall be presented to the voters in compliance with the applicable provisions of the California Elections Code and other relevant state and local laws. The City Council may propose amendments for voter consideration in accordance with these requirements.

Section 4. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The People of the City of Yucaipa hereby declare that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 5. Legal Defense

The People of the City of Yucaipa desire that this Ordinance, if approved by the voters and thereafter challenged in court, be defended by the City Attorney. The City Attorney shall defend this Ordinance, appeal any adverse judgment against the constitutionality, statutory permissibility, and implementation, and take other such action as in his or her reasonable legal judgment is necessary to defend the Ordinance.

Section 6. Conflicting Measures

A. This measure is intended to be comprehensive. It is the intent of the People of the City of Yucaipa that in the event this measure and one or more other measures related to taxes appear on the same ballot, whether place on the ballot through a citizen initiative or by the City Council, the provisions of the other measure or measures shall be deemed to be in conflict with this measure.

B. In the even that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

C. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than any other measure appearing on the ballot regarding taxes, provisions of this measure shall tax effect to the extent that they are not in conflict with other said measures.

D. If this measure is approved by the voters but superseded by law by any other conflicting measure approved by the voters at the same election, and the conflicting measure is later held invalid, this measure shall be self-executing and given full force and effect.

Section 7. CEQA

The People of the City of Yucaipa find that this Ordinance is not subject to the California Environmental Quality Act (CEQA) because pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) Section 10560(c)(3) (the activity is not a project as defined by Section 15378).

Section 8. Adjustment of Appropriations Limit.

Pursuant to Article XIIB of the Constitution of the State of California and applicable laws, the appropriations limit for the City of Yucaipa is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2024-25 and each year thereafter.

Section 9. Liberal Construction

This Ordinance shall be liberally construed to effectuate its purposes.

Section 10. Effective Date

This Ordinance shall take effect upon its approval by a majority of the electorate of the City of Yucaipa at the earliest date provided by law.

Section 11. Municipal Affair

The People of the City of Yucaipa hereby declare that, separately and together, the purposes encompassed by this Ordinance constitute municipal affairs. The People of the City of Yucaipa hereby further declare their desire for this Ordinance to coexist with any similar tax measures adopted by the city, county or state.

Section 12. Certification.

The City Clerk shall certify to the passage of this Ordinance, publish the same as required by applicable law, and forward a copy of the Ordinance to the California Department of Tax and Fee Administration.

EXHIBIT A

Chapter 3.18
TRANSACTIONS AND USE TAX

Sec. 3.18.010. Title.

This chapter shall be known as the "City of Yucaipa Transactions and Use Tax Ordinance."

Sec. 3.18.020. Purpose and intent.

In enacting the City of Yucaipa Transactions and Use Tax Ordinance (this chapter), it is the purpose and intent of the people of the city to:

(1) Impose a retail transactions and use tax in accordance with the provisions of the Revenue and Taxation Code § 7251 et seq. and Revenue and Taxation Code § 7285.9 of the which may be used for general municipal services and all lawful public purposes of the city.

(2) Adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the sales and use tax law of the state insofar as those provisions are not inconsistent with the requirements and limitations contained in part 1.6 of division 2 of the Revenue and Taxation Code.

(3) 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 state sales and use taxes.

(4) 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 chapter.

Sec. 3.18.030. 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, as it exists on the operative date of this chapter, and in the incorporated territory of the city as it may hereafter be amended through annexation, 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 the ordinance codified in this chapter.

Sec. 3.18.040. 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 the ordinance codified in this chapter for storage, use or other consumption in the incorporated territory of the city, and in the incorporated territory of the city as it may hereafter be amended through annexation, 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.

Sec. 3.18.050. Independent annual audit.

The proceeds resulting from the transactions and use tax imposed by this chapter shall be deposited into the city's general fund and shall be subject to the same independent annual audit requirements as other general fund revenue. The independent auditor's report, which shall include an accounting of the revenues received and expenditures made from the transactions and use tax, will be presented annually to the citizen oversight committee, the city council and made available for public review.

Sec. 3.18.060. Operative date.

"Operative date" shall mean the first day of the first calendar quarter commencing more than 110 days after the adoption of the City of Yucaipa Transactions and Use Tax Ordinance.

Sec. 3.18.070. Termination.

The transactions and use tax levied by this chapter shall commence on the operative date and shall continue thereafter until repealed or amended by the necessary vote of the registered voters of the city.

Sec. 3.18.080. 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 chapter; 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.

Sec. 3.18.090. Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her 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.

Sec. 3.18.100. Adoption of provisions of state law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of part 1.6 of division 2 of the Revenue and Taxation Code, all of the provisions of the Revenue and Taxation Code § 6001 et seq. are hereby adopted and made a part of this chapter as though fully set forth herein.

Sec. 3.18.110. Limitations on adoption of state law and collection of use tax.

In adopting the provisions of part 1 of division 2 of the Revenue and Taxation Code:

(1) Wherever the state is named or referred to as the taxing agency, the name of the city shall be substituted therefor. However, the substitution shall not be made when:

a. The word "state" is used as a part of the title of the state controller, state treasurer, state board of control, state board of equalization, state treasury, or the constitution of the state.

b. The result of that substitution would require action to be taken by or against the city or any agency, officer, or employee thereof rather than by or against the state board of equalization, in performing the functions incident to the administration or operation of this chapter.

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

1. 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;

2. 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.

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

(2) The word "city" shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in section 6203 and in the definition of that phrase in section 6203.

Sec. 3.18.120. Permit not required.

If a seller's permit has been issued to a retailer under section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

Sec. 3.18.130. 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 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 or her 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 the Vehicle Code § 4000 et seq., aircraft licensed in compliance with the Public Utilities Code § 21411, and undocumented vessels registered under the Vehicle Code § 9840, 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 the ordinance codified in this chapter.

(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 the ordinance codified in this chapter.

(5) For the purposes of subsections (b)(3) and (b)(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 chapter, the storage, use or other consumption in the 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 state Revenue and Taxation Code.

(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 the ordinance codified in this chapter.

(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 the ordinance codified in this chapter.

(5) For the purposes of subsections (c)(3) and (c)(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 subsection (c)(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 the Vehicle Code § 4000 et seq., aircraft licensed in compliance with the Public Utilities Code § 21411, or undocumented vessels registered under the Vehicle Code § 9840. 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 chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to part 1.6 of division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Sec. 3.18.140. Amendments.

All amendments subsequent to the effective date of this chapter to the Revenue and Taxation Code part 1 of division 2 relating to sales and use taxes and which are consistent with part 1.6 and part 1.7 of division 2 of the Revenue and Taxation Code, and all amendments to part 1.6 and part 1.7 of division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

Sec. 3.18.150. 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 chapter, 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.

Sec. 3.18.160. Citizen oversight committee.

(a) A citizens' oversight committee is hereby established to independently review and advise upon the city's expenditure of proceeds generated by the transactions and use tax. The committee shall meet as necessary to discharge the responsibilities of the committee. All meetings of the committee shall be held in accordance with provisions of the Ralph M. Brown Act (Government Code § 54950 et seq.).

(1) The committee shall consist of five members, all of whom shall be residents of the city. The city shall initially post and publish notice soliciting applications for persons interested in being members of the committee and shall thereafter repost and republish notice soliciting applications as necessary to fill vacancies on the committee. The city council shall review all applications for eligibility and at a public meeting interview all eligible applicants and appoint five eligible applicants to serve as members of the committee. Each member of the committee shall serve for a term of two years and such service shall be at the pleasure of the city council. Three members of the committee shall constitute a quorum. Members of the committee shall not receive a stipend for their service.

(2) The citizens' oversight committee shall annually review and report on

a. The city's proposed and actual expenditure of proceeds generated by the transaction and use tax; and

b. The independent annual audit prepared annually by the city. The committee's report shall be submitted to the city council for review and discussion at a noticed public meeting of the city council.

(3) The committee shall not have authority to hire or retain its own staff, consultants, or contractors, but the city manager and city attorney shall provide such staff resources as are reasonably necessary to assist the committee with the discharge its duties under this chapter.

State of California)
County of San Bernardino) ss
City of Yucaipa)

I, Ana V. Sauseda, MMC, City Clerk of the City of Yucaipa, California, do hereby certify, that Resolution No. 2024-38 was adopted by the City Council of the City of Yucaipa, California, at the regular meeting of June 24, 2024, by the following vote:

AYES:	Councilmember Duncan, Councilmember Garner, Councilmember Thorp, and Mayor Pro Tem Venable
NOES:	None
ABSTAIN:	None
ABSENT:	Mayor Beaver

Ana V. Sauseda, MMC
City Clerk