

City Council Special Meeting Agenda



JULY 6, 2020

5:00 p.m.

City of Turlock Yosemite Room

156 S. Broadway, Turlock, California

NOTICE: THIS MEETING WILL BE HELD IN ACCORDANCE WITH EXECUTIVE ORDER N-29-20, ISSUED BY CALIFORNIA GOVERNOR GAVIN NEWSOM ON MARCH 17, 2020, THE RALPH M. BROWN ACT (CALIFORNIA GOVERNMENT CODE SECTION 54950, ET SEQ.), AND THE FEDERAL AMERICANS WITH DISABILITIES ACT.

THIS MEETING WILL NOT BE PHYSICALLY OPEN TO THE PUBLIC.

THE MEETING WILL BE STREAMED ON THE CITY OF TURLOCK WEBSITE AT WWW.CITYOFTURLOCK.ORG AND BROADCASTED ON SPECTRUM CHANNEL 2.

MEMBERS OF THE PUBLIC MAY ALSO PARTICIPATE IN THE MEETING VIA THE FOLLOWING METHODS:

JOIN BY CLICKING ON THE MEETING LINK: <https://us02web.zoom.us/j/84924629186>

OR

**JOIN BY ACCESSING THE ZOOM WEBSITE: <https://zoom.us/join>
WEBINAR ID: 849 2462 9186**

OR

**JOIN BY TELEPHONE: 669-900-6833
WEBINAR ID: 849 2462 9186**

Mayor
Amy Bublak

Council Members

Nicole Larson

Gil Esquer

Andrew Nosrati

Becky Arellano

Vice Mayor

City Manager
Toby Wells, P.E.
City Clerk
Jennifer Land
City Attorney
Douglas L. White

NOTICE REGARDING NON-ENGLISH SPEAKERS: The Turlock City Council meetings are conducted in English and translation to other languages is not provided. Please make arrangements for an interpreter if necessary.

EQUAL ACCESS POLICY: If you have a disability which affects your access to public facilities or services, please contact the City Clerk's Office at (209) 668-5540. The City is committed to taking all reasonable measures to provide access to its facilities and services. Please allow sufficient time for the City to process and respond to your request.

NOTICE: Pursuant to California Government Code Section 54954.3, any member of the public may directly address the City Council on any item appearing on the agenda, including Consent Calendar and Public Hearing items, before or during the City Council's consideration of the item. Members of the public will be allowed three (3) minutes for comments.

AGENDA PACKETS: Prior to the City Council meeting, a complete Agenda Packet is available for review on the City's website at www.cityofturlock.org and in the City Clerk's Office at 156 S. Broadway, Suite 230, Turlock, during normal business hours. Materials related to an item on this Agenda submitted to the Council after distribution of the Agenda Packet are also available for public inspection in the City Clerk's Office. Such documents may be available on the City's website subject to staff's ability to post the documents before the meeting.

- 0. A. **CALL TO ORDER**
- B. **SALUTE TO THE FLAG**
- C. **ROLL CALL**
- D. **DECLARATION OF CONFLICTS**

1. APPROVAL OF AGENDA AS POSTED OR AMENDED

This is the time for the City Council to remove items from the agenda or to change the order of the agenda. Matters may be taken up out of order of the established agenda by a four-fifths vote of the City Council.

2. PUBLIC PARTICIPATION – LIMITED TO ITEMS DESCRIBED IN THE NOTICE FOR THIS MEETING

MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE CITY COUNCIL WILL BE GIVEN THE SAME TIME ALLOTMENT FOR COMMENTS (3 MINUTES) AS NORMALLY ALLOWED FOR MEETINGS SUBJECT TO THE PROVISIONS OF EXECUTIVE ORDER N-29-20.

Pursuant to California Government Code Section 54954.3(a), this is the time set aside for citizens to address the City Council concerning any item that has been described in the notice for this meeting, including Consent Calendar items, before or during consideration of that item. You will be allowed three (3) minutes for your comments. If you wish to speak regarding an item on the agenda, you may be asked to defer your remarks until the Council addresses the matter.

3. ACTION ITEMS:

- A. Request to declare a general municipal election to be held on Tuesday, November 3, 2020, for the submission of a ballot measure to the City of Turlock qualified voters to approve a local three-quarter ($\frac{3}{4}$) cent transactions and use (sales) tax for general City revenue purposes; and request the Board of Supervisors of the County of Stanislaus to consolidate the Election with the statewide general election and permit the County Registrar of Voters to render election services AND Amend the Turlock Municipal Code Title 3, Adding Chapter 3-11, "City of Turlock, 911 Safety/Emergency Medical Response, Community Services Measure", by imposing an ongoing three-quarter ($\frac{3}{4}$) cent transactions and use (sales) tax for general City revenue purposes, to remain in effect until the voters amend or repeal it, to be collected and administered by the California Department of Tax and Fee Administration, subject to voter approval (*Wells*)

Recommended Action:

Resolution: Declaring a general municipal election to be held on Tuesday, November 3, 2020, for the submission of a ballot measure to the City of Turlock qualified voters to approve a local three-quarter ($\frac{3}{4}$) cent transactions and use (sales) tax for general City revenue purposes; and requesting the Board of Supervisors of the County of Stanislaus to consolidate the Election with the statewide general election and permit the County Registrar of Voters to render election services

Ordinance: Amending the Turlock Municipal Code Title 3, Adding Chapter 3-11, "City of Turlock, 911 Safety/Emergency Medical Response, Community Services Measure", by imposing an ongoing three-quarter ($\frac{3}{4}$) cent transactions and use (sales) tax for general City revenue purposes, to remain in effect until the voters amend or repeal it, to be collected and administered by the California Department of Tax and Fee Administration, subject to voter approval

4. ADJOURNMENT

City Council Staff Report
July 6, 2020



From: Toby Wells, P.E., City Manager

Prepared by: Toby Wells, P.E., City Manager

Agendized by: Toby Wells, P.E., City Manager

1. ACTION RECOMMENDED:

Resolution: Declaring a general municipal election to be held on Tuesday, November 3, 2020, for the submission of a ballot measure to the City of Turlock qualified voters to approve a local three-quarter (¾) cent transactions and use (sales) tax for general City revenue purposes; and requesting the Board of Supervisors of the County of Stanislaus to consolidate the Election with the statewide general election and permit the County Registrar of Voters to render election services

Ordinance: Amending the Turlock Municipal Code Title 3, Adding Chapter 3-11, "City of Turlock, 911 Safety/Emergency Medical Response, Community Services Measure", by imposing an ongoing three-quarter (¾) cent transactions and use (sales) tax for general City revenue purposes, to remain in effect until the voters amend or repeal it, to be collected and administered by the California Department of Tax and Fee Administration, subject to voter approval

2. SYNOPSIS:

Approving actions declaring the general municipal election of November 3, 2020, for the submission of a ballot measure to the City of Turlock qualified voters to approve a local three-quarter ¾ cent sales tax for general City purposes; and requesting the County of Stanislaus Board of Supervisors to consolidate the Election with the statewide general election and amending the Turlock Municipal Code for imposition of a three-quarter (¾) cent transactions and use (sales) tax for general City revenue purposes, subject to voter approval.

3. DISCUSSION OF ISSUE:

BACKGROUND

With the adoption of the Fiscal Year 2019-2020 City of Turlock ("City") budget, significant reductions in services were implemented to balance the budget. The changes were significant and 17 budgeted positions were not funded along with the elimination of funding for training, vehicle replacements, and other critical expenditures many of which impacted essential public safety services and basic infrastructure maintenance that City residents expect and deserve.

These reductions were particularly concerning amid the increase in calls for service for emergency response. In 2019, Turlock Firefighters responded to more than 7,000 calls for service, an all-time high for the City. However as emergency calls have increased, Fire Department staffing has decreased.

Additionally, independent engineers gave the condition of Turlock's streets and roads a rating of 57 out of 100, which is nearly 10 points worse than five years ago. The City does not currently have the funding necessary to address repairs at the scale needed, impacting driver, pedestrian, and bicyclist safety as well as the need for drivers to make costly pothole-related car repairs. Continuing to wait will result in a further worsening of road conditions and will cost the City more to repair in the future.

Finally, while crime has increased four percent in the City last year and gang-related crimes have expanded, including violent crimes, weapons, drug sales and human trafficking, Turlock is 34 police officers below accepted standards for a City our size. The City has not had the resources to fully fund crime prevention and response programs.

The adoption of the budget came after several years of reduced revenues and increased expenditures leaving the General Fund reserve balance near minimum levels.

In March of 2020, the novel strain of coronavirus (COVID-19) pandemic hit, further diminishing already struggling revenue sources. Sales tax revenue for Fiscal Year 2019-2020 is expected to come in well under budgeted estimates by approximately \$1.5 million. While the business disruption may be temporary, there is considerable uncertainty around the duration of the closings and the impacts of the shelter in place order on sales tax revenue. The ultimate financial impact and duration is very difficult to accurately estimate at this time.

The budget for Fiscal Year 2020-2021 was adopted on June 23, 2020 and is largely a status quo budget adjusted to reflect the global COVID-19 pandemic and the associated impact to decreased revenues. The budget includes the continued

freezing of 17 positions from Fiscal Year 2019-2020 and 18 additional positions in Fiscal Year 2020-2021, for a total of 35 positions frozen. This amounts to 14 percent of the City's total allocated positions and 23 percent of the General Fund's allocated positions. The budget as adopted is not sustainable over the long run and results in reduced services to the citizens of Turlock.

PUBLIC ENGAGEMENT AND COMMUNITY PRIORITIES

On November 12, 2019, the City Council directed staff to conduct community engagement and solicit feedback on how to best address the City's long-term financial stability, including a potential local tax measure on the November 2020 ballot. Council District workshops were held in November 2019 in which the Interim City Manager shared information on the City's financial picture. At those workshops, there was excellent public attendance and thoughtful community engagement on a variety of issues.

On December 10, 2019, the City Council approved an agreement with Grassroots Lab to gauge citizens' opinions on the quality of life and standard of public services in Turlock, including resident interest in potential solutions and receptivity to various potential local revenue measures.

In January 2020, Grassroots Lab in partnership with FM3, conducted opinion polls to survey resident's attitudes and awareness toward City revenues and other key issues. Grassroots Lab developed briefings with analysis specific to the City's history, past election results, and current political dynamics. These briefings also included a broad analysis of revenue measures in peer agencies in the state, including neighboring jurisdictions. The briefings were designed to deliberate the merits and viability of a potential local revenue measure.

On January 14, 2020, the formation of the Community Priorities Advisory Committee (CPAC) comprised of 17 local residents, advocates, and business owners, was approved by the City Council. The purpose of the CPAC was to ensure direct and meaningful community participation in reviewing levels of City services and programs.

CPAC members were appointed to represent a wide range of viewpoints and were tasked with the following charge:

- a. Continue ongoing public outreach efforts and help develop a common understanding of municipal finances and budget to provide context for recommendations about funding and levels of service;
- b. Review aspects of key General-Funded City operations, prioritizing community expectations for the levels of service provided by five General-

Funded City departments: Police, Fire, Parks and Recreation, Development Services, and Administration; and

- c. Review fiscal strategies and constraints associated with continued delivery of high-quality services at current or increased levels.

Over the course of six (6) months, the CPAC met and received information regarding the operations of key City departments including programs and services, fiscal and programmatic challenges relative to resources and service delivery, and the value these programs and services provide to the community, with a focus on helping maintain local property values and ensuring that Turlock remains a good place to live, work, and raise a family. The final report was presented to the City Council on June 16, 2020. One of the primary recommendations of the CPAC report was to allow the community to decide whether or not to pursue additional revenue by placing a local sales tax revenue measure on the ballot in order to continue to provide and restore the level of local services that residents have indicated that they value. The CPAC report stated:

“It is abundantly clear; however, that expense reduction alone cannot and will not bring about a balanced budget, replenishment of reserves, or restoration of services vital to the residents of Turlock.”

On May 27, 2020 the City Council conducted a workshop to consider moving forward with a local revenue measure. The City Council directed staff to move forward with the preparation of the documents necessary to place an item on the ballot for voter consideration.

In June 2020, FM3 completed interviews on their latest community survey to gauge the public’s interest in a potential local Safety, 911, Emergency Response Measure. The survey showed as much as 65% of likely November voters supporting a simple majority requirement sales tax measure, and were interested in the following service priorities:

- Maintaining 911 emergency medical response and services
- Retaining local businesses and jobs
- Maintaining fire protection
- Protecting Turlock’s ability to respond to emergencies and natural disasters
- Keeping public areas safe and clean
- Protecting Turlock’s long-term financial stability
- Addressing homelessness and vagrancy

On June 9, 2020, the City Council provided additional direction to form a citizen committee to assist with providing final recommendations regarding the ballot measure. City Council Members made recommendations for citizen participation

and the following individuals participated in the Sales Tax Committee ("Committee"): John Lazar, Forrest White, Abe Rojas, and Milt Treweiler.

The Sales Tax Committee met on June 25 and again on June 30, 2020. After a thorough discussion, the Committee unanimously recommended a measure be placed on the ballot for voter consideration, and to allow voters to retain the power to end the tax at their sole discretion. On the question relative to the tax rate, the Committee unanimously agreed to a ½ cent tax and three of the four Committee members supported a ¾ cent tax, ultimately deferring to the Council to make the final decision.

SALES TAX MEASURE TO BE SUBMITTED TO THE VOTERS

The proposed ballot measure will provide and preserve services valued by Turlock residents. The City of Turlock is submitting a measure to the voters for the City of Turlock three-quarter (¾) cent Transaction and Use Tax (sales tax) in order to provide locally-controlled funding for essential, necessary, and appropriate general City services.

The measure is being proposed to provide funding that cannot be taken by the State of California, with funding to be used only for local city services. The measure proposes a general tax and requires a majority (50 percent plus 1) of votes cast by Turlock's qualified voters to approve the measure.

The Resolution contains the information regarding the actions necessary to place the measure on the ballot at the Election, including setting out the ballot question, and requesting that the County of Stanislaus (the "County") consolidate the City's election with the statewide general election.

The question that voters will be asked at the Election is:

<p><i>"City of Turlock, 911 Safety/Emergency Medical Response, Community Services Measure: Shall the measure to maintain fire, 9-1-1 emergency medical response, neighborhood safety, anti-gang/anti-drug programs; restore fire station staffing; address homelessness, vagrancy; keep public areas safe/clean; repair streets, potholes; retain small businesses, local jobs; and other general services by establishing a ¾¢ sales tax providing approximately \$11,000,000 annually until ended by voters, requiring public disclosure of spending, all funds used locally, be adopted?"</i></p>	<p>Yes</p>
	<p>No</p>

METHODS FOR SUBMITTING ARGUMENTS AND CITY ATTORNEY IMPARTIAL ANALYSIS

Pursuant to Elections Code sections 9282 and 9285, when a measure is placed on the ballot by the legislative body, the legislative body or a member of the legislative body authorized by that body, or an individual voter who is eligible to vote on the measure, or a bona fide association of citizens, or a combination of voters and associations, may file a written argument for or against a measure. An argument shall not exceed 300 words in length.

Arguments for and against said measure may be filed in accordance with applicable provisions of the law. The resolution provides that the Council authorizes the Committee to draft the argument in support of the measure and the rebuttal, and does not authorize the Council as a body or any individual member of the Council to file a written argument or any rebuttal argument for or against the measure.

Pursuant to Elections Code section 9280, the City Attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing laws and the operation of the measure.

Deadlines for arguments and impartial analysis are as follows:

July 23, 2020	Filing deadline: arguments for and against
July 24 – August 2, 2020	10-day public examination period
July 31, 2020	Filing deadline: rebuttals to arguments for and against
August 1 – August 10, 2020	10-day public examination period
July 31, 2020	Filing deadline: City Attorney Impartial Analysis
August 1 – August 10, 2020	10-day public examination period

4. BASIS FOR RECOMMENDATION:

- A. The City's current and projected revenues are insufficient to fully provide municipal services at the level residents need and expect. Additional revenue is necessary to fund vital municipal services and facilities.
- B. Turlock Municipal Code section 1-7-01 requires all City general municipal elections for all City elective offices be held on the first Tuesday following the first Monday in November of even-numbered years.
- C. Elections Code section 10403 sets forth the procedures for cities to request the general municipal election be consolidated with the statewide general election.
- D. The City Clerk is directed to submit the resolution declaring the Election for the submission of a ballot measure to the City of Turlock qualified voters

and consolidating the Election with the statewide general election to the Board of Supervisors of the County of Stanislaus no later than July 8, 2020 (as authorized by the County of Stanislaus).

5. FISCAL IMPACT / BUDGET AMENDMENT:

Fiscal Impact:

The City of Turlock will be required to pay the Stanislaus County Registrar of Voters for its services in consolidating the election. \$185,000 has been approved for the Fiscal Year 2020/21 budget in account number 110-10-104.43152 "Contract Elections."

If the qualified voters of the City of Turlock approve the measure, it would provide an estimated \$11 million in revenue to fund services valued by City residents.

6. CITY MANAGER'S COMMENTS

Recommend Approval.

7. ENVIRONMENTAL DETERMINATION:

N/A

8. ALTERNATIVES:

- A. Council may direct staff to change provisions of the proposed resolution and/or ordinance.
- B. The alternative is to not place the item on the ballot for consideration by Turlock voters. This alternative is not recommended.

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF DECLARING A } RESOLUTION NO. 2020-
GENERAL MUNICIPAL ELECTION TO BE HELD }
ON TUESDAY, NOVEMBER 3, 2020, FOR THE }
SUBMISSION OF A BALLOT MEASURE TO THE }
CITY OF TURLOCK QUALIFIED VOTERS TO }
APPROVE A LOCAL THREE-QUARTER (¾) }
CENT TRANSACTIONS AND USE (SALES) TAX }
FOR GENERAL CITY REVENUE PURPOSES; }
AND REQUESTING THE BOARD OF }
SUPERVISORS OF THE COUNTY OF }
STANISLAUS TO CONSOLIDATE THE }
ELECTION WITH THE STATEWIDE GENERAL }
ELECTION AND PERMIT THE COUNTY }
REGISTRAR OF VOTERS TO RENDER }
ELECTION SERVICES }
_____ }

WHEREAS, the City wishes to maintain local property values and keep Turlock a good place to live, work and, raise a family; and

WHEREAS, Turlock Firefighters responded to more than 7,000 calls for service in 2019, as staffing levels decreased; and

WHEREAS, without additional funding, the City will have to cut additional firefighting positions which will drastically increase, and potentially double, fire and emergency medical response times in the City; and

WHEREAS, additional funding is needed to protect Turlock’s long-term financial stability and maintain and restore public safety services, rapid 911 emergency and medical response and fire protection, fix streets and potholes, support local businesses, address challenges with homelessness and vagrancy, and protect Turlock’s ability to respond to emergencies and natural disasters; and

WHEREAS, additional funding is needed to repair and properly maintain our streets and roads, which were recently rated 57 out of 100 by independent engineers, nearly 10 points worse than five years ago, making them less safe for drivers, pedestrians and cyclists and increasing the need for drivers to make costly pothole related repairs; and

WHEREAS, if the City cannot address street and pothole repairs now, they will worsen, costing the City and citizens more in the long run; and

WHEREAS, Turlock is down 34 police officers below accepted standards for a City our size and the City has not had the resources to fully fund crime prevention and response programs; and

WHEREAS, additional funding will improve local public safety by allowing for proactive crime prevention, and improving Turlock's 911 emergency response center so it can continue handling calls from our community during times of crisis; and

WHEREAS, the measure would create a source of local funds that cannot be taken by the County or State government; and

WHEREAS, this measure contains tough fiscal accountability provisions including annual independent financial audits, citizen oversight, and public disclosure of spending to ensure funds are used efficiently, effectively, and as promised; and

WHEREAS, pursuant to Elections Code section 9222, the City Council is submitting to the City of Turlock (the "City") voters a ballot measure and proposed ordinance to establish a three-quarter ($\frac{3}{4}$) cent sales tax for general City revenue purposes (the "Measure"); and

WHEREAS, pursuant to Government Code section 53724, the City Council by this resolution (the "Resolution") approves by a two-thirds ($\frac{2}{3}$) vote the Measure and submits the Measure to the electorate of the City, pursuant to Government Code section 53723, for a vote on November 3, 2020 (the "Election"); and

WHEREAS, a statewide general election will be held on November 3, 2020; and

WHEREAS, pursuant to Elections Code sections 10002 and 10400 et seq., the City Council is authorized to request an order from the County of Stanislaus (the "County") Board of Supervisors for election services and to consolidate the Election with the statewide general election; and

WHEREAS, it is desirable that the Election be consolidated with the statewide general election to be conducted on November 3, 2020.

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

SECTION 1: Pursuant to Government Code section 53724, the City Council by this Resolution approves by a two-thirds ($\frac{2}{3}$) vote the Measure. The Measure is a general tax as defined in Article XIII C of the State of California Constitution and Government Code section 53721 and shall not take effect until approved by a vote of at least a majority of voters voting on the question at the Election.

SECTION 2: Pursuant to Elections Code section 9222, the City Council hereby calls and orders a general municipal election to be held in the City on Tuesday, November 3, 2020, for the purpose of submitting the following question to the voters at such election:

<p><i>“City of Turlock, 911 Safety/Emergency Medical Response, Community Services Measure: Shall the measure to maintain fire, 9-1-1 emergency medical response, neighborhood safety, anti-gang/anti-drug programs; restore fire station staffing; address homelessness, vagrancy; keep public areas safe/clean; repair streets, potholes; retain small businesses, local jobs; and other general services by establishing a ¾¢ sales tax providing approximately \$11,000,000 annually until ended by voters, requiring public disclosure of spending, all funds used locally, be adopted?”</i></p>	Yes
	No

SECTION 3: The text of the ordinance submitted to the voters is attached as **Exhibit A.**

SECTION 4: Pursuant to Elections Code sections 10002 and 10403, the City Council hereby requests that the County Board of Supervisors consolidate the Election with the statewide general election, to be conducted on Tuesday, November 3, 2020 (the “Consolidated Election”). The City acknowledges that the Consolidated Election shall be held and conducted in the manner prescribed by Elections Code section 10418.

SECTION 5: Pursuant to Elections Code section 10002, the City Council hereby requests that the County Board of Supervisors authorize the Stanislaus Registrar of Voters (the “Registrar”) to provide all services necessary to conduct the Consolidated Election.

SECTION 6: The City recognizes the additional costs that will be incurred by the County to conduct the Consolidated Election and agrees to reimburse the County for any costs to conduct the Consolidated Election, upon presentation of a bill as required by Elections Code section 10002.

SECTION 7: The City Council hereby directs the City Clerk, or designee, to file a certified copy of this Resolution with the County Board of Supervisors and the Registrar. The City Clerk, or designee, shall file a certified copy of this Resolution with the County Board of Supervisors and the Registrar on or before July 8, 2020 (as authorized by the County of Stanislaus).

SECTION 8: Pursuant to Elections Code section 9280, the City Council hereby directs the City Clerk, or designee, to transmit a copy of the Measure to the City Attorney. The City Council hereby directs the City Attorney to prepare an impartial analysis of the Measure pursuant to Elections Code section 9280 (the “Impartial Analysis”). The City Attorney shall file the Impartial Analysis with the City Clerk on or before July 31, 2020.

SECTION 9: The City Council authorizes a subcommittee of City staff members and the Sales Tax Committee (the “Subcommittee”) to file a written argument in favor of the Measure in accordance with Elections Code sections 9282 and 9283

(the "Argument") and to change the Argument until and including the date fixed by the City's elections official, or designee, after which no arguments for or against the measure may be submitted. The Subcommittee shall file the Argument with the City Clerk on or before July 23, 2020.

Arguments for and against said measure may be filed in accordance with applicable provisions of the law. No member of the City Council shall submit any argument or rebuttal argument in favor or against the Measure on behalf of the City, unless doing so in their individual capacity, and shall not use their official title of office in any arguments in support of or against the Measure. The City Clerk shall consider other arguments and rebuttal arguments filed by bona fide associations or individual residents who are eligible to vote in accordance with Elections Code Sections 9287.

SECTION 10: The City Council authorizes the Subcommittee to file a rebuttal argument against any argument submitted against the Measure in accordance with Elections Code section 9285 (the "Rebuttal"). The Subcommittee shall file the Rebuttal with the City Clerk on or before July 31, 2020.

SECTION 11: The City Clerk and other City officers and employees are authorized and directed to take all other actions that are necessary to have the Measure properly submitted to the City voters at the Election, to be conducted on Tuesday, November 3, 2020.

PASSED AND ADOPTED by a two-thirds vote at a regular meeting of the City Council of the City of Turlock this 6th day of July, 2020, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

ATTEST:

Jennifer Land, City Clerk,
City of Turlock, County of Stanislaus,
State of California

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF AMENDING THE }
TURLOCK MUNICIPAL CODE TITLE 3, }
ADDING CHAPTER 3-11, "CITY OF }
TURLOCK, 911 SAFETY/EMERGENCY }
MEDICAL RESPONSE, COMMUNITY }
SERVICES MEASURE", BY IMPOSING }
AN ONGOING THREE-QUARTER (¾) }
CENT TRANSACTIONS AND USE }
(SALES) TAX FOR GENERAL CITY }
REVENUE PURPOSES, TO REMAIN }
IN EFFECT UNTIL THE VOTERS }
AMEND OR REPEAL IT, TO BE }
COLLECTED AND ADMINISTERED }
BY THE CALIFORNIA DEPARTMENT }
OF TAX AND FEE ADMINISTRATION, }
SUBJECT TO VOTER APPROVAL }

ORDINANCE NO. -CS

WHEREAS, the City wishes to maintain local property values and keep Turlock a good place to live, work, and raise a family; and

WHEREAS, Turlock Firefighters responded to more than 7,000 calls for service in 2019, as staffing levels decreased; and

WHEREAS, without additional funding, the City will have to cut additional firefighting positions which will drastically increase, and potentially double, fire and emergency medical response times in the City; and

WHEREAS, additional funding is needed to protect Turlock's long-term financial stability and maintain and restore public safety services, rapid 911 emergency and medical response and fire protection, fix streets and potholes, support local businesses, address challenges with homelessness and vagrancy, and protect Turlock's ability to respond to emergencies and natural disasters; and

WHEREAS, additional funding is needed to repair and properly maintain our streets and roads, which were recently rated 57 out of 100 by independent engineers, nearly 10 points worse than five years ago, making them less safe for drivers, pedestrians, and cyclists and increasing the need for drivers to make costly pothole related repairs; and

WHEREAS, if the City cannot address street and pothole repairs now, they will worsen, costing the City and citizens more in the long run; and

WHEREAS, Turlock is down 34 police officers below accepted standards for a City our size and the City has not had the resources to fully fund crime prevention and response programs; and

WHEREAS, additional funding will improve local public safety by allowing for proactive crime prevention, and improving Turlock's 911 emergency response center so it can continue handling calls from our community during times of crisis; and

WHEREAS, the measure would create a source of local funds that cannot be taken by the County or State government; and

WHEREAS, this measure contains tough fiscal accountability provisions including annual independent financial audits, citizen oversight, and public disclosure of spending to ensure funds are used efficiently, effectively, and as promised; and

WHEREAS, pursuant to Elections Code section 9222, the City Council is submitting to City voters a ballot measure and proposed ordinance to establish a three-quarter cent ($\frac{3}{4}$) sales tax for general City purposes; and

WHEREAS, pursuant to Government Code section 53724, the City Council previously approved by two-thirds vote a resolution to submit this general tax ordinance to the electorate of the City, pursuant to Government Code section 53723, for a vote on November 3, 2020.

BE IT ORDAINED by the people of the City of Turlock as follows:

SECTION 1. AMENDMENT: Subject to the approval of a majority of the voters of the City of Turlock at the scheduled election so designated by the City Council in a resolution placing the proposal on the ballot for such election, Chapter 3-11, City of Turlock, 911 Safety/Emergency Medical Response, Community Services Measure, of Title 3, Finance, of the Turlock Municipal Code is hereby added as follows:

CHAPTER 3-11

City of Turlock, 911 Safety/Emergency Medical Response, Community Services Measure

- 3-11-01 Title.
- 3-11-02 Operative Date.
- 3-11-03 Purpose.
- 3-11-04 Contract with State.
- 3-11-05 Transactions Tax Rate.
- 3-11-06 Place of Sale.
- 3-11-07 Use Tax Rate.
- 3-11-08 Adoption of Provisions of State Law.
- 3-11-09 Limitations on Adoption of State Law and Collection of Use Taxes.
- 3-11-10 Permit Not Required.
- 3-11-11 Exemptions and Exclusions.
- 3-11-12 Amendments to State Law.
- 3-11-12 Enjoining Collection Forbidden.
- 3-11-14 Annual Accountability Report.
- 3-11-15 Establishment of Citizens' Oversight Committee.
- 3-11-16 Annual Audit and Report.

3-11-01 Title. This ordinance shall be known as the *City of Turlock, 911 Safety/Emergency Medical Response, Community Services Measure*. The City of Turlock hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3-11-02 Operative Date. "Operative date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

3-11-03 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 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.

e. To adopt a retail transactions and use tax for unrestricted general revenue purposes, to remain in effect until the voters amend or repeal it.

3-11-04 Contract with State. Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax

and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3-11-05 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 three-fourths percent (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.

3-11-06 Place of Sale. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3-11-07 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 three-fourths percent (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.

3-11-08 Adoption of Provisions of State Law. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3-11-09 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 therefore. 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:

i. 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

ii. 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.

3-11-10 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.

3-11-11 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 levied 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 purposes of this paragraph, delivery to a point outside the City shall be satisfied:

i. 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 Chapter 2 of 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

ii. 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 subsections (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 levied 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 subsections (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 Chapter 2 of 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.

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.

3-11-13 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.

3-11-14 Annual Accountability Report. The City Council shall cause preparation of an annual accountability report for the benefit of the citizens of the City and in order to assure accountability in the expenditure of tax revenues received pursuant to this ordinance. The annual accountability performance report shall be posted on the City's website and shall include the following information:

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

3-11-15 Establishment of Citizens' Oversight Committee.

- a. Committee Established. A Citizens' Oversight Committee is hereby established in the City of Turlock which shall have the duty and responsibility to review the annual accountability performance report and report its findings to the City Council and the citizens of the City.
- b. Selection of Members. Members of the Citizens' Oversight Committee shall be appointed by the City Council. The Committee shall consist of five members. Members of the Citizens' Oversight Committee shall not be current City of Turlock employees, officials, contractors, or vendors of the City. Past

employees, officials, contractors, and vendors shall be eligible to serve on the Committee, provided that there are no conflicts of interest as determined by the City Attorney. To the extent possible at least two members of the Committee should be certified public accountants, or have significant background and experience in accounting or a finance related field. Of the members of the Committee first appointed, three members shall be appointed for terms of two years and two members shall be appointed for terms of three years. Their successors shall be appointed for terms of three years. No member may serve more than two consecutive three-year terms. The City Council shall solicit members of the Citizens' Oversight Committee, through an open application process that is promoted through the City's recruiting process for boards and commissions. Any resident of the City is eligible to apply for Committee membership, subject to the restrictions specified above. All applications will be reviewed by the City Council, which will have the authority to make final decisions regarding Committee composition, subject to the guidelines in this ordinance.

c. Purposes and Jurisdiction. The Citizens' Oversight Committee shall meet on a quarterly basis per fiscal year, including conducting an annual review of expenditures of revenue collected pursuant to this ordinance to determine whether such funds are expended for the purposes set forth in this ordinance. Committee members may review the annual financial audit performed by an independent auditor during the review process. The Citizens' Oversight Committee shall issue an annual report on their findings to the City Council and to the citizens of Turlock. The Citizens' Oversight Committee annual report is subject to review and approval of the City Council. The Committee shall confine its review specifically to revenues generated pursuant to this ordinance and the expenditure of those revenues. The Committee shall serve in an advisory-only role to the City Council. Committee members shall not play a formal or informal role in the expenditure of the funds raised by this ordinance. The Committee is not charged with decision-making on spending priorities; schedules; project details; funding source decisions; financing plans; or tax rate assumptions. The Committee shall have no jurisdiction other than that delegated to it by the People pursuant to this ordinance. The Turlock City Manager or the City Manager's designee shall provide reasonable administrative or technical assistance required by the Committee to fulfill its responsibilities or publicize its findings.

d. Meetings. The Citizens' Oversight Committee shall meet on a quarterly basis per fiscal year with specific meeting dates to be determined by Committee members. Citizens' Oversight Committee meetings are subject to the Brown Act. Meetings must be noticed and open to the public. Committee meeting minutes and reports are a matter of public record, and must be posted on the City's website. Additional meetings may be scheduled by the Committee as necessary. All Committee members shall attend a training and orientation session prior to the first regular Committee meeting. Committee members are expected to attend all regular meetings. Failure to attend two consecutive meetings may result in removal from the Committee at the discretion of the City Council.

e. Committee Operations. The Citizens' Oversight Committee will select members to serve as Chair and Vice Chair of the Committee. A City staff person will be appointed by the City Manager, or the City Manager's designee, to serve as Secretary. The Secretary will be responsible for preparing, posting, and distributing agendas and taking minutes at each meeting. Approved minutes shall be made available to the public. Committee decisions, positions, findings, and procedures shall require a simple majority vote of those Committee members in attendance. The quorum requirement for any meeting shall be a minimum of three (3) members.

f. Vacancies. Committee members may be removed from the Committee only by the City Council for repeated absences at committee meetings, malfeasance, failure to meet the qualifications set forth in this Section, or for inability or unwillingness to fulfill the duties of a Committee member. In the event of removal, resignation, or death, the City Council shall appoint a person to fill the vacant seat.

g. Miscellaneous. Subject to the restrictions specifically addressed in this Section, the Committee shall be subject to the policies and procedures set forth in the City Officials' Handbook.

3-11-16 Annual Audit and Review. The revenue from the tax imposed by this ordinance, as well as the expenditure thereof, shall be subject to the annual audit performed by the City's independent auditor of the City's books, records, accounts, and fiscal procedures and which is reported in the City's Comprehensive Annual Financial Report. The audit results may be combined with the audit of other City funds, so long as the proceeds from this ordinance are reported separately. The City Council shall discuss the results of such audit at a meeting of the City Council that is open to the public. The report of such audit shall be posted on the City's website.

SECTION 2. NO MANDATORY DUTY OF CARE: This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. CONFLICTS: All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

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 Sections 21000, et seq., "CEQA" and 14 Cal. Code of Regs. Sections 15000 et seq., "CEQA Guidelines"). This ordinance imposes a general sales tax that can be used for unrestricted general revenue purposes as specified in this ordinance. It is not a commitment to any specific project that may result in a potentially significant physical impact on the environment.

SECTION 5. CODIFICATION: Subject to the voter approval, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this ordinance in the Turlock Municipal Code.

SECTION 6. EFFECTIVE DATE: Pursuant to California Constitution Article XIII C §(2)(b) and Elections Code sections 9217 and 15400, this Ordinance shall take effect only if approved by a majority of the eligible voters in the City of Turlock, and shall be considered as adopted upon the date that the vote is declared by the legislative body, and shall go into effect 10 days after that date.

SECTION 7. SEVERABILITY: If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The Turlock City Council hereby declares that they would have passed this ordinance, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more section, subsection, sentence, clause, word, or phrase be declared invalid or unconstitutional.

SECTION 8. REPEAL OR AMENDMENT. This ordinance shall not be repealed or amended, except by a measure approved by a majority of the electors voting on the issue at a General Municipal Election, or at a special election called for that purpose.

SECTION 9. CERTIFICATION AND PUBLICATION. The City Clerk shall certify the final approval of this ordinance, publish the same as required by law, and forward a certified copy of the adopted ordinance to the California Department of Tax and Fee Administration.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this day of 6th day of July 2020, by the following vote:

AYES:
NOES:
NOT PARTICIPATING:
ABSENT:

Signed and approved this ___ day of _____, 2020.

AMY BUBLAK, Mayor

ATTEST:

Jennifer Land, City Clerk,
City of Turlock, County of Stanislaus,
State of California