

CITY OF ISLETON

Measure B

MEASURE B

Shall the measure to support the operation of the City of Isleton's fire protection needs, by establishing a one-half ($\frac{1}{2}$) percent transactions and use tax for a period of five (5) years commencing on April 1, 2022, that is projected to provide between \$83,726.06 and \$106,858.02 of revenue annually, be adopted?

IMPARTIAL ANALYSIS OF MEASURE B

Prepared by Isleton City Attorney

The City Council of the City of Isleton has placed Measure B on the November 2, 2021 special election ballot to enact a one-half percent (0.5%) special transactions and use tax to fund fire protection services. The City's prior 0.5% special tax adopted by voters in 2016 expired on September 30, 2021.

California Revenue and Taxation Code section 7285.91 authorizes the City Council to levy a special transactions and use tax via ordinance, provided the ordinance establishing the tax is ultimately approved by the voters. Measure B would, if approved by voters, raise revenue for fire protection services in the City by enacting a 0.5% (i.e., 1/2 cent per dollar) transactions and use tax for a period of five (5) years after the operative date, anticipated to run approximately from April 1, 2022 to March 31, 2027. This transactions and use tax would be at the same rate as the City's prior transactions and use tax that funded fire protection services.

The tax would be paid in addition to current sales taxes and would be collected at the same time and in the same manner as existing sales taxes. A special transactions and use tax is administered by the California Department of Tax and Fee Administration. Once established, a transactions and use tax is allocated to the City where any goods are delivered or placed into use. By law, all revenues raised by the measure would belong to the City and could not be taken by, or shared with, the State or any other city or agency.

The transactions and use tax that would be established by Measure B is a "special tax." As a "special tax," the revenue generated by Measure B may only be used for specific, specified purposes. The ballot question for Measure B states that the 0.5% transactions and use tax will be used solely to fund fire protection needs for the City of Isleton.

It is anticipated that this tax will generate between \$83,726.06 and \$106,858.02 per year. The Measure requires that the City make an annual public report on the revenue generated from Measure B and expenditures of that revenue.

Finally, because Measure B is a "special tax," it will only be approved if it receives at least 2/3 (over 66.66%) vote in favor of the Measure.

If approved, Measure B would become operative on April 1, 2022, and would remain in effect until March 31, 2027.

A **"YES"** vote on Measure B will authorize the ordinance enacting a 0.5% transactions and use tax in the City.

A “**NO**” vote on Measure B will prohibit the City from enacting the City’s 0.5% transactions and use tax and it will remain expired.

s/ Andreas L. Booher
City Attorney

*****YOU CAN FIND THE MEASURE ARGUMENT FOLLOWING THE
FULL TEXT OF THIS MEASURE*****

ORDINANCE NO. 2021-006

**AN URGENCY ORDINANCE OF THE CITY OF ISLETON ESTABLISHING
A SPECIAL TRANSACTIONS AND USE TAX FOR FIRE PROTECTION
SERVICES TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT
OF TAX AND FEE ADMINISTRATION, SUBJECT TO ADOPTION BY
THE ELECTORATE**

RECITALS

WHEREAS, pursuant to Government Code sections 36934 and 36937, the City Council may pass an urgency ordinance for the immediate preservation of the public peace, health, or safety to take effect immediately upon approval by at least four-fifths of the City Council; and

WHEREAS, weather and climate trends show that California cities are at an exponentially increasing risk of fire danger and fire damage to persons and property; and

WHEREAS, the City’s fire protection services are essential to protect the public health, safety, and general welfare specifically by mitigating fire damage to persons and property; and

WHEREAS, the City of Isleton has inadequate general funds to financially support fire protection services; and

WHEREAS, on June 7th, 2016, the electorate approved an ordinance to establish a special transactions and use tax of one-half percent which the city relies on to fund fire protection services; and

WHEREAS, the 2016 special tax will expire by its own terms on September 30, 2021; and

WHEREAS, at the expiration of the 2016 special tax, the City will be unable to provide adequate funding for fire protection services, which will expose persons and property to significant and increasing risk of fire damage; and

WHEREAS, it is essential for the protection of the public health, safety, and general welfare that the City establishes a new special transactions and use tax at the earliest opportunity; and

WHEREAS, Revenue and Tax Code section 7265 provides a transactions and use tax may not be operative until the first calendar day of a quarter starting more than 110 days after the adoption of the ordinance establishing the tax; and

WHEREAS, the next regular election date is April 12th, 2022 and a tax approved by the electorate on that date could not be collected until October 1st, 2022; and

WHEREAS, the City Council finds it necessary for the immediate preservation of the public peace, health, and safety, that it collect funds as soon as possible in order to provide fire protection services prior to October 1st, 2022, especially during the 2022 fire season, generally June through September, when risk of fire damage is especially high; and

WHEREAS, Elections Code section 9222 authorizes the City Council to place before the electorate an ordinance for a transactions and use tax on any regular or special election date that is at least 88 days from the resolution to call the election; and

WHEREAS, November 2nd, 2021 is the earliest date for a special election and a tax approved by the electorate on that date could be collected on and after April 1, 2022; and

WHEREAS, on August 5th, 2021, the City Council adopted Resolution 022-21 calling for an election on November 2nd, 2021.

The City Council of the City of Isleton does ordain as follows:

Section 1. FINDINGS and TITLE.

The foregoing recitals are true and correct, and adopted as if set forth herein in full.

This ordinance shall be known as the Isleton Special Transactions and Use Tax Ordinance. The City of Isleton hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 2. 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.

Section 3. PURPOSE.

This ordinance shall establish a special transactions and use tax to read as set forth herein, and 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 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if two-thirds 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.

E. To establish a special tax at a rate of 0.5 percent (i.e. 1/2 cent) for a period of five years from the operative date.

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 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 0.50% 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 0.50% 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 and 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. EXPENDITURE PLAN.

Revenue and Taxation Code section 7285.91 requires that this ordinance include "an expenditure plan describing the specific projects for which the revenues from the tax may be expended."

A. All revenue from the tax shall be restricted revenue used solely to fund Fire Department Services.

B. The City's independent auditor shall complete a report reviewing the collection, management and expenditure of revenue from the tax levied by this chapter, the results of which shall be included in the City's annual financial audit.

C. Following approval of this special tax by the Isleton voters, the City Manager shall file a report with the City Council annually. The report shall contain the following information: (a) the amount of funds collected and expended, (b) the status of any project required or authorized to be funded by the special tax.

Section 13. 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 14. 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 15. 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 16. EFFECTIVE DATE.

This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

Section 17. TERM OF TAX.

The authority to levy the tax imposed by this ordinance shall expire five (5) years after the Operative Date.

EXHIBIT A

(Initiative Measure)

The People of the City of Isleton (“City”) do hereby ordain as follows:

Ordinance No. 2021-006 “AN URGENCY ORDINANCE OF THE CITY OF ISLETON ESTABLISHING A SPECIAL TRANSACTIONS AND USE TAX FOR FIRE PROTECTION SERVICES TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, SUBJECT TO ADOPTION BY THE ELECTORATE” (attached hereto) that was previously adopted by the City Council, establishing a one-half ($\frac{1}{2}$) percent special transactions and use tax for the City, money generated which will be used exclusively for fire protection services, is hereby approved by the People of the City of Isleton.

ARGUMENT IN FAVOR OF MEASURE B

This is a special sales tax to help supplement the funding of the Isleton Fire Department. Measure B has been placed on the ballot for 2021. This is just an extension of the tax measure that was passed in 2016, which needs to be brought to the voters every 5 years. This measure not only helps our local Isleton Fire Department, it will help alleviate pressure on the general fund. During the past five years these tax measure funds have been used to supply the Isleton Fire Department with critical equipment including a used Type 1 Fire Engine, firefighting personnel equipment, and replacement of old fire hose. Please approve Measure B and help our community to thrive and succeed with the proper equipment.

s/ Eric Pene
Mayor, City of Isleton

*****NO ARGUMENT AGAINST MEASURE B WAS FILED*****