RESOLUTION NO. 18-108

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
CALLING FOR THE PLACEMENT ON THE BALLOT
FOR THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO
THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE
REGARDING GENERAL SALES TAX MEASURE AND ADVISORY MEASURE

WHEREAS, pursuant to California Elections Code section 9222, the City Council has authority to
place measures on the ballot to be considered at a General Municipal Election; and

WHEREAS, pursuant to the law of the State of California, the City Council has called and ordered to
be held in the City of El Paso de Robles, California, on Tuesday, November 6, 2018, a General Municipal
Election; and

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City of El Paso de Robles
(“City”), subject to approval by a majority vote of the qualified voters of the City voting in an election on the
issue, to levy a transactions and use tax pursuant to the Transactions and Use Tax Law at a rate of 0.125% or
any multiple thereof for general purposes and projects; and

WHEREAS, Section 2(b) of Article XIII C of the California Constitution, added by Proposition 218
effective November, 1996, requires that the measure proposing a general tax be submitted to the voters at an
election consolidated with a regularly scheduled general election for members of the governing body of the
local government; and

WHEREAS, pursuant to California Constitution Article XIII C, section 2 and Elections Code
section 10201, the City has determined to submit a proposition to enact an ordinance establishing a
transactions and use tax to the voters at the City’s next regular election; and

WHEREAS, if the measure is approved, the City Council also desires to continue its practice of
receiving community input on the use of additional revenues generated by the additional sales tax revenues;

NOW, THEREFORE the City Council of the City of El Paso de Robles does hereby resolve as
follows:

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and
correct and are hereby incorporated by reference.

Section 2. Under the provisions of the California Elections Code, the following proposed
amendment to the Paso Robles Municipal Code shall be submitted to the voters at the General Municipal
Election to be held on November 6, 2018:
### MEASURE # : Paso Robles Limited-Term General Sales Tax Increase

To upgrade deteriorating streets and sidewalks; and address other general revenue purposes; shall a measure be adopted approving an ordinance establishing a one-half of one percent sales tax providing approximately $4,750,000 annually for 6 years, requiring annual audits, quarterly reports to the public by a citizens oversight committee, and using all funds within Paso Robles only?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

#### Section 3

Should said measure be approved by the requisite vote, the ordinance attached hereto as Exhibit A and incorporated by this reference shall be enacted.

#### Section 4

The City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election, the following question:

<table>
<thead>
<tr>
<th>MEASURE # : Advisory Measure On Use of Sales Tax Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the voters approve a one-half of one-percent (.5%) limited-term general sales tax increase, shall the additional revenues be used primarily for the purpose of repairing and maintaining the City’s streets and sidewalks?</td>
</tr>
<tr>
<td>YES</td>
</tr>
</tbody>
</table>

#### Section 5

That pursuant to Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the Ordinance to the City Attorney to prepare an impartial analysis of the Ordinance which shall not exceed 500 words in length.

#### Section 6

That pursuant to Elections Code Section 9282, the City Council may file a written argument in favor of the Ordinance in accordance with Article 4, Chapter 3, Division 9 of the Elections Code and may change the argument as allowed by law.

#### Section 7

That pursuant to Elections Code Section 9287, if more than one argument for or more than one argument against the Ordinance is submitted to the City Clerk within the time prescribed by law, he or she shall select one of the arguments in favor and one of the arguments against the Ordinance for printing and distribution to the voters, giving preference in such selection in the following order:

1. The City Council, or a member or members of the City Council authorized by the City Council.
2. Bona fide associations of citizens.
3. Individual voters who are eligible to vote on the Ordinance.
Section 8. That pursuant to Elections Code Sections 9220 and 9285, when the City Clerk has selected the arguments for and against the Ordinance which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the Ordinance to the author or authors of the argument against, and copies of the argument against the Ordinance to the author or authors of the argument in favor. The author or authors may submit a rebuttal argument to the direct argument not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments and shall immediately follow the direct argument which it seeks to rebut. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed, and this Section shall only apply to the election on the Ordinance to be held on November 6, 2018.

Section 9. In accordance with Section 10002 of the Elections Code, the Board of Supervisors of San Luis Obispo County is hereby requested to consent to the Registrar of Voters rendering election services to the City as may be requested by the City Clerk of said City, the County of San Luis Obispo to be reimbursed in full for such services as are performed. The Board of Supervisors of San Luis Obispo County is also requested to consent and agree to the consolidation of the General Election with any other election occurring on November 6, 2018, and the City hereby consents to any such consolidation.

Section 10. The election services which the City requests of the Registrar of Voters, or such other official as may be appropriate to perform, and which such officer is hereby authorized and directed to perform if the said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards, the establishment or appointment of precincts, polling places, and election officers, opening and closing of polling places, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places, the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk, and the performance of such other election services as may be requested by said City Clerk.

Section 11. That the polls for the election shall be open at seven o’clock a.m. of the day of the election and shall remain open continuously from that time until eight o’clock p.m. of the same day when the polls shall be closed, pursuant to California Elections Code Section 10242 and Section 14212, except as provided in California Elections Code Section 14401 or any other provision of law.

Section 12. All persons qualified to vote at municipal elections in the City on the day of the election herein provided for shall be qualified to vote on the Ordinance hereby submitted at the General Municipal Election.

Section 13. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding general municipal elections in the City.

Section 14. Notice of the time and place of holding the General Municipal Election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner as required by law.

Section 15. The City Clerk shall receive the canvass as it pertains to the General Municipal Election, and shall certify the results to this City Council, as required by law.

Section 16. If any section, subsection, sentence, clause, phrase or provision of this Resolution or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other provision or applications, and to this end the provisions of this Resolution are declared to be severable. The City Council hereby declares that it would have passed this Resolution and each section, subsection, sentence,
clause, phrase or provision thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or provisions thereof be declared invalid or unconstitutional.

Section 17. Pursuant to California Elections Code section 9295, this Resolution and the attached Ordinance will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the sample ballot. The examination period will end on the day that is seventy-five (75) days prior to the date set for the election.

Section 18. This Resolution shall take effect immediately upon its adoption by a two-thirds vote of the members of the City Council.

Section 19. The City Clerk of the City of El Paso de Robles is hereby directed to certify to the passage and adoption of this Resolution and to file a certified copy of this Resolution with the Board of Supervisors of San Luis Obispo County and the Registrar of Voters of San Luis Obispo County at least eighty-eight (88) days before the date of the election.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of El Paso de Robles, California, at its regular meeting held on the 18th day of July, 2018, by the following vote:

AYES: Strong, Gregory, Hamon, Reed, Martin
NOES: 
ABSENT: 
ABSTAIN: 

Steven W. Martin, Mayor

Attest:

Kristen L. Buxkemper, Deputy City Clerk
EXHIBIT A

ORDINANCE NO. ______

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
ADDING CHAPTER 3.11 TO TITLE 3 OF THE EL PASO
DE ROBLES MUNICIPAL CODE RELATED TO A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE
BOARD OF EQUALIZATION

THE PEOPLE OF THE CITY OF EL PASO DE ROBLES, CALIFORNIA DO HEREBY
ORDAIN AS FOLLOWS:

SECTION 1.  Addition of Chapter 3.11.  Chapter 3.11 is hereby added to Title 3 of the El Paso de Robles
Municipal Code to read as follows:

Chapter 3.11 - TRANSACTIONS AND USE TAX.

3.11.010 - Short title.

This chapter shall be known as the “Transactions and Use Tax” and shall be applicable in
the incorporated territory of the City of El Paso be Robles (“city”).  This chapter shall
complement, and not replace or supersede, the city’s existing sales and use tax, as such tax is
described in Chapter 3.08  and Chapter 3.10 of Title 3 of the El Paso de Robles Municipal
Code.

3.11.020 - Definitions.

For the purpose of this chapter the following words terms shall have the meaning
given in this section:

“In the city” means and includes all territory within the city limits.

“Operative Date” means the first day of the first calendar quarter commencing
more than 110 days after the later of the adoption of this chapter and the approval by the
voters of the city of a measure approving the imposition of an increased transactions and use
tax; provided that, if the city shall not have entered into a contract with the State Board of
Equalization as required by section  3.11.040 prior to such date, the operative date shall be
the first day of the first calendar quarter following the execution of such a contract.

3.11.030 - Purpose.

This chapter of the El Paso de Robles Municipal Code has been adopted for the
following purposes, and directs that the provisions hereof be interpreted in order to
accomplish those purposes:

(1)  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.  This chapter 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.
To adopt a retail transactions and use tax 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.

To adopt a retail transactions and use tax that imposes a tax and provides a measure therefor 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 California State Sales and Use Taxes.

To adopt a retail transactions and use tax that can be administered in a manner that will, to the greatest degree possible, be consistent with the provisions of Parts 1.6 of Division 2 of the said Revenue and Taxation Code, and thereby minimize the cost of collecting city transactions and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

3.11.040 - Contract with state.

Prior to the operative date, the city shall contract with the State Board of Equalization to perform all functions incidental to the administration and operation of this transactions and use tax ordinance. If the city has not 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. The city council may make any technical amendments to this chapter required by the State Board of Equalization, except for any changes affecting the tax rate, tax methodology, or its manner of collection.

3.11.050 - Imposition of transactions and use tax – Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of one-half of one percent (0.5%) of any gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of this chapter.

3.11.060 - 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 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 Board of Equalization.
3.11.070 - Imposition of use tax – 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 or after the operative date of this chapter, at the rate of one-half of one percent (0.5%) of the sales price of the property subject to the tax. 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.

3.11.080 - Adoption of provisions of state law – Generally.

Except as otherwise provided in the 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 Part 1 (commencing with § 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

3.11.090 - Adoption of provisions of state law – Limitations; Limitations on collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(1) 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:

(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 of California;

(B) 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 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 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.

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

3.11.100 - 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.

3.11.110 - Exemptions and exclusions.

(1) Measure of Tax. 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.

(2) Transactions Tax Exemptions. There are exempted from the computation of the amount of transactions tax the gross receipts from:

(A) 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.

(B) 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:

(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 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.

(C) 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.

(D) 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.
For the purposes of subsections (2)(C) and (2)(D) 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.

(3) Use Tax Exemptions. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this city of tangible personal property:

(A) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(B) 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.

(C) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date.

(D) 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.

For the purposes of subsections (3)(C) and (3)(D) 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.

(4) Exemption from Collection of Use Tax. Except as provided in subsection (5), 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.

(5) Retailer Not Exempt from Collection of Use Tax. “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.

(6) Credit Against Use Tax for Transactions Tax Paid Elsewhere. 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.

3.11.120 - Adoption of amendments to state law.

All amendments subsequent to the effective date of this chapter 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 chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

3.11.130 - Enjoining collection prohibited.

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 hereunder, or Parts 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.11.140 – Termination

The authority set forth in this Chapter 3.11 to impose a retail transactions and use tax shall continue until the sixth anniversary of the Operative Date, as defined in Section 3.11.020, unless such authority is extended by the voters in the manner provided by law.

3.11.150 – Oversight Committee.

The City Council shall establish a “Citizens Oversight Committee”, which shall review the collection and expenditure of funds generated by the tax established by this Chapter and shall make recommendations to the City Council as appropriate. The number, qualifications and duties of Committee members shall be established by resolution of the City Council.

SECTION 2  Effective Date. Pursuant to the California Constitution Article XIIIC(2)(b) and California Elections Code 9217, if the requisite number of qualified voters voting in the election on Measure “___” vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 3  Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The People of the City of El Paso de Robles hereby declare that they would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 4  Certification/Summary. Following the City Clerk’s certification that the citizens of El Paso de Robles have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.
PASSED, APPROVED, and ADOPTED by the People of the City of El Paso de Robles this 6th day of November, 2018.

______________________________
Steve W. Martin
Mayor

ATTEST:

______________________________
Kristen L. Buxkemper
Deputy City Clerk