



City Council Participation



Time and Location

2nd and 4th Tuesday of each month. 3:00 PM

Council Chambers
200 Civic Center Way
El Cajon, CA 92020



Watch Online

elcajon.gov/videostreaming
or Facebook Live (comments are not monitored)



In-Person Comments

Members of the public may address the City Council/Agency Members on any item listed on the agenda, or on matters which are not listed on the agenda but are within the subject matter jurisdiction of the City Council, Housing Authority and Successor Agency to the El Cajon Redevelopment Agency.

Public comments are limited to three (3) minutes per person, per agenda item.
[CLICK HERE](#) for additional instruction on in-person comments.



Written Comments

Comments must be emailed to acortez@elcajon.gov or mailed to the City Clerk at 200 Civic Center Way, El Cajon, CA 92020 and received by 4:00 pm the day prior to the City Council meeting for prompt distribution. Written public comments will be recorded in the public record and will be provided to the City Council in advance of the meeting for review.



Listening Devices and other Accommodations

ALDs are available from the City Clerk's office. As required by the Americans with Disabilities Act (ADA), requests for reasonable accommodations to facilitate meeting participation will be provided, please contact the City Clerk's office at least two (2) working days prior to the meeting at 619.441.1763.



CITY COUNCIL
HOUSING AUTHORITY AND
SUCCESSOR AGENCY TO THE EL CAJON
REDEVELOPMENT AGENCY

Council Chamber
200 Civic Center Way
El Cajon, CA 92020

Joint Special Meeting Agenda

AUGUST 6, 2024 - 3:00 p.m.

Bill Wells, Mayor
Steve Goble, Councilmember
Gary Kendrick, Councilmember
Michelle Metschel, Councilmember
Phil Ortiz, Deputy Mayor

Graham Mitchell, City Manager
Vince DiMaggio, Assistant City Manager
Morgan Foley, City Attorney
Angela Cortez, City Clerk

CALL TO ORDER: Mayor Bill Wells

ROLL CALL: City Clerk Angela Cortez

PLEDGE OF ALLEGIANCE TO THE FLAG AND MOMENT OF SILENCE

ADMINISTRATIVE REPORTS:

1. Measure J Sales Tax Measure

RECOMMENDATION:

That the City Council adopts the next resolution, in order, to:

1. Call for a general municipal election on Tuesday, November 5, 2024;
2. Submit a proposed ordinance (attached) that continues the current \$0.005 cent sales tax;
3. Consolidate the election with the statewide election;
4. Formally request the County to conduct the election; and
5. Direct the City Attorney to prepare an impartial analysis of the measure.

That the City Council adopts another resolution that expresses the City Council's intent to introduce the draft ordinance and placing Measure J on the November 5, 2024 ballot.

If the resolutions are approved, that (1) the City Council introduces an ordinance for first reading titled: An Ordinance of the City Council Imposing a Transactions and Use Tax to be Administrated by the State Department of Tax and Fee Administration, substantially in the form as presented, then (2) approves a motion for the City Clerk to read the ordinance by title only, and waive further reading.

ADJOURNMENT: The Joint Special Meeting of the El Cajon City Council/El Cajon Housing Authority/Successor Agency to the El Cajon Redevelopment Agency held this 6th day of August 2024, is adjourned.



City Council
Agenda Report

DATE: 08/06/2024
TO: Honorable Mayor and City Councilmembers
FROM: Graham Mitchell, City Manager
SUBJECT: Measure J Sales Tax Measure

RECOMMENDATION:

That the City Council adopts the next resolution, in order, to:

1. Call for a general municipal election on Tuesday, November 5, 2024;
2. Submit a proposed ordinance (attached) that continues the current \$0.005 cent sales tax;
3. Consolidate the election with the statewide election;
4. Formally request the County to conduct the election; and
5. Direct the City Attorney to prepare an impartial analysis of the measure.

That the City Council adopts another resolution that expresses the City Council's intent to introduce the draft ordinance and placing Measure J on the November 5, 2024 ballot.

If the resolutions are approved, that (1) the City Council introduces an ordinance for first reading titled: An Ordinance of the City Council Imposing a Transactions and Use Tax to be Administrated by the State Department of Tax and Fee Administration, substantially in the form as presented, then (2) approves a motion for the City Clerk to read the ordinance by title only, and waive further reading.

BACKGROUND:

On November 8, 2008, the El Cajon electorate approved Proposition J – a \$0.005 sales tax measure with a twenty-year expiration. As that expiration date approaches, the City Council has been exploring the possibility of a sales tax measure to continue what the voters approved in 2008. As part of that consideration, the City Council has completed two polls (one in March 2024 and one in July 2024), has obtained feedback through four town halls that occurred in June 2024, and commenced sharing information with the community about a possible measure.

Rationale for a Sales Tax Measure

The following are reasons why a sales tax measure (Measure J) could be considered: First, it is a continuation of an existing \$0.005 sales tax that generates more than \$13 million annually for the General Fund. This revenue source makes up about 14 percent of the General Fund revenue and at least 75 percent of the funds support the City's public safety operations.

Second, El Cajon receives a smaller portion of property tax than most cities in San Diego County. This fact requires the City's economy to outperform other cities, which in many cases it does. However, this is still not enough to finance the needs of the community.

Third, if the existing sales tax measure were to cease in 2029, City staff has already begun considering cuts that will be required in order to “live within our means.” The comments from the town halls helped inform staff of where the expenditure cuts would need to come from, including reducing paramedic and firefighter capability, decreasing the number of Police Department personnel by at least twenty, eliminating several parks and recreation centers, and ending citywide events such as America on Main Street and Hauntfest, just to name a few.

Taxpayer Safeguards

Staff has prepared an ordinance that the City Council could consider placing before the voters on November 5, 2024. The draft Measure J includes two specific taxpayer safeguards:

- Creation of an Independent Oversight Committee that would include a mix of residents, business representatives, accounting professionals, and representation from a taxpayer protection association. This committee did not exist for the 2008 sales tax measure.
- Establishment of a twenty-year sunset clause.

Considerations

If the City Council wishes to place a \$0.005 sales tax measure (Measure J) on the ballot, it must approve two resolutions by 4/5th votes.

The first resolution establishes five items:

1. Calls for a general municipal election on Tuesday, November 5, 2024;
2. Submits a proposed ordinance that continues the current \$0.005 cent sales tax;
3. Consolidates the election with the statewide election;
4. Formally requests the County to conduct the election; and
5. Directs the City Attorney to prepare an impartial analysis of the measure.

As indicated above, the resolution submits a proposed ordinance that will be considered by the voters on November 5, 2024. That ordinance includes the following key points:

- Continues the collection of \$0.005 sales tax as the former tax measure expires on March 31, 2029;
- Expires on April 1, 2049; and
- Establishes an Independent Citizens’ Oversight Committee comprised of the following: member nominated by the San Diego Taxpayers Association, member nominated by a business organization representing the business community located within the City, and three residents at large with at least one having a background in accounting, auditing, or finance. In the event the San Diego County Taxpayers Association or a business organization declines to nominate a representative, the City Council may fill that position with a resident of El Cajon.

The resolution also calls for the language to be included on the November 5, 2024 ballot as the following:

EL CAJON CRITICAL SERVICES MEASURE.

To prevent substantial cuts to:

- The number of firefighters/paramedics;
- The number of police officers (including patrol, crime prevention, and homeless enforcement);
- Street maintenance (for example, pothole repair and repaving); and
- Other essential City services.

Shall the City continue the ½ cent sales tax approved by the voters in 2008, for an additional 20 years, with oversight from a Citizens' Committee?

If both resolutions are approved, a draft ordinance has been prepared and is attached to this agenda report for consideration. Staff recommends that the ordinance (titled, "An Ordinance of the City Council Imposing a Transactions and Use Tax to be Administrated by the State Department of Tax and Fee Administration") is approved for introduction and first reading. It will be necessary for the City Council to include a motion to read the ordinance by title, only, and waive further reading.

If Measure J is approved by the voters, the ordinance would then require a second reading and adoption upon the certification of the results of the election, likely at the first meeting in December.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The proposed action is exempt from the California Environmental Quality Act ("CEQA") in accordance with State CEQA Guidelines section 15378(b)(4). The proposed sales and use tax to be submitted to the voters is a general tax that can be used for legitimate governmental purpose; it is not a commitment to any one particular action. Furthermore, it creates a governmental funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

FISCAL IMPACT:

Current revenue from existing Proposition J generates approximately \$13.5 million in General Fund revenue—about 75 percent of that funding supports the City's public safety operations. If voters continue the sales tax, with the passage of Measure J, the revenue will continue, avoiding significant budget cuts.

Prepared By: Graham Mitchell, City Manager

Reviewed By: Morgan Foley, City Attorney

Approved By: Graham Mitchell, City Manager

Attachments

Reso - Calling-Consolidating-Impartial Analysis

Reso - Intent to Introduce Ordinance

Ordinance - Imposing Transaction & Use Tax

RESOLUTION NO. __-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CAJON, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 5, 2024, FOR THE SUBMISSION OF A PROPOSED ORDINANCE CONTINUING A ONE-HALF PERCENT GENERAL SALES AND USE TAX INCREASE; CONSOLIDATING THE ELECTION WITH THE STATEWIDE ELECTION; REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO PERMIT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, Revenue and Taxation Code section 7285.9 authorizes the City Council for the City of El Cajon to levy a general transactions and use tax if the ordinance proposing the tax is approved by a two-thirds vote of all members of the City Council, and the tax is approved by a simple majority (50%+1) vote of the qualified voters of the City voting in an election on the issue; and

WHEREAS, in 2008, the voters of the City of El Cajon approved Proposition J, establishing a one-half percent (0.5%) sales and use tax increase for general governmental purposes as authorized pursuant to Ordinance No. 4919; and

WHEREAS, by a two-thirds vote, the City Council has approved for introduction and first reading of Ordinance No. _____ attached hereto as Exhibit "A" (the "2024 El Cajon Critical Services Ordinance") to continue the one-half percent (0.5%) sales tax for general purposes subject to the approval of the majority of voters in the City; and

WHEREAS, a General Municipal Election for Tuesday, November 5, 2024, has been previously called by resolution of this City Council and pursuant to Revenue and Taxation Code section 7285.9 and California Elections Code section 9222, the City Council desires to submit the 2024 El Cajon Critical Services Ordinance to the electorate at the General Municipal Election that was previously called; and

WHEREAS, the City Council desires to authorize the City Clerk to carry out all actions necessary to ensure placement of the 2024 El Cajon Critical Services Ordinance on the General Municipal Election ballot that has been consolidated with the Statewide General Election Ballot; and

WHEREAS, Elections Code section 9282 authorizes the filing of written arguments for and against measures placed on the ballot and rebuttal arguments, with priority determined according to state law; and

WHEREAS, the City Council finds that the proposed activity is in compliance with the California Environmental Quality Act ("CEQA") and it has determined that this activity is not a "Project" as defined under section 15378 of the State CEQA Guidelines because it is a financing decision without commitment to a specific project which may result in a potentially significant physical impact on the environment; therefore, pursuant

to section 15060(c)(3) of the State CEQA Guidelines, the actions proposed are not subject to CEQA; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date; that the City precincts, polling places and election officers of the two elections be the same; that the Registrar of Voters canvass the returns of the General Municipal Election; and that the election be held in all respects as if there were only one election.

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

SECTION 1. The foregoing recitals are true and correct and incorporated herein as findings.

SECTION 2. Pursuant to the requirements of the laws of the State of California there shall be and there is hereby called and ordered to be held in the City of El Cajon, California, on Tuesday, November 5, 2024, a General Municipal Election for the purpose of submitting the following proposed ordinance imposing a general transactions and use (sales) tax to the qualified electors of the City of El Cajon.

SECTION 3. Pursuant to its right and authority, the City Council does order submitted to the voters at the General Municipal Election on November 5, 2024, the following question:

EL CAJON CRITICAL SERVICES MEASURE. To prevent substantial cuts to: <ul style="list-style-type: none">• The number of firefighters/paramedics;• The number of police officers (including patrol, crime prevention, and homeless enforcement);• Street maintenance (for example, pothole repair and repaving); and• Other essential city services, shall the City continue the one-half percent (0.5%) sales tax approved by the voters in 2008, for an additional 20 years, with oversight from a Citizens Committee?	Yes
	No

SECTION 4. The text of the 2024 El Cajon Critical Services Ordinance to be submitted to the voters is attached as Exhibit "A" and incorporated into this resolution by this reference. The City does not request the Registrar of Voters to print the entire text of the 2024 El Cajon Critical Services Ordinance in the voter information materials. The ballots to be used in the election shall be in the form and content as required by law.

SECTION 5. The vote requirement for the Ordinance to pass is a majority (50% +1) of the votes cast.

SECTION 6. By adopting this resolution, the City Council hereby approves the form of the attached Ordinance No. _____, and the submission of said 2024 El Cajon Critical Services Ordinance to the voters of the City at the November 5, 2024, General Municipal Election, such ordinance to become effective in accordance with state law upon the approval of a majority (50%+1) of the voters voting on the measure in the election.

SECTION 7. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 8. The City Clerk shall certify to the passage and adoption of this resolution by a two-thirds vote of all members of the City Council and enter it into the book of original resolutions.

SECTION 9. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters of the County of San Diego and to issue instructions to the Registrar of Voters to take any and all steps necessary to hold the election and propose this measure.

SECTION 10. The City requests for this measure to be treated by the County of San Diego pursuant to the previous resolutions adopted by the City Council for the November 5, 2024, general municipal election, wherein the City: (a) requested that the County agree to consolidate the General Municipal Election with the Statewide General election; (b) requested that the County permit the Registrar of Voters to perform and render all services and proceedings, and to procure and furnish any and all official ballots, notices, printed matter and all supplies and equipment and paraphernalia incidental to and connected with the conduct of the subject election; (c) requested that the Registrar of Voters canvass the returns and hold the election as if it were only one election with one form of ballot; (d) requested that the County Board of Supervisors issue instructions to the Registrar of Voters to take any and all steps for the holding of the consolidated election and canvass the returns; (e) agreed to reimburse the County in full for the services performed by the San Diego County Registrar of Voters by the City of El Cajon upon presentation of a proper invoice, including reimbursement for any additional costs to consolidate the election; and (f) agreed to indemnify and save free and harmless the County, its officers, agents and employees from expense or liability, including reasonable attorneys' fees, as a result of an election contest arising after conduct of this election.

SECTION 11. Ballot arguments shall be accepted for and against this measure in the manner required by law. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk, in accordance with Elections Code section 9286(b), after which no arguments for or against the measure may be submitted to the City Clerk. The arguments shall be accompanied by the Form of Statement to Be Filed by Author(s) of Argument as supplied by the City Clerk.

SECTION 12. Due to the community interest in this issue, the City Council authorizes a process permitting a community submittal of the argument. Under Elections Code section 9282, a ballot argument on this measure may only be submitted

by an individual voter eligible to vote on the measure, a bona fide association of citizens, or any combination of voters or associations.

SECTION 13. Pursuant to California Elections Code section 9285, rebuttal arguments will be allowed. The rebuttal arguments may not exceed 250 words. Rebuttal arguments must be submitted to the City Clerk, and may be changed until and including the date fixed by the City Clerk, after which no rebuttal arguments for or against the measure may be submitted to the City Clerk. This Section 13 is applicable only to the November 5, 2024 election called by this resolution and after that election, shall expire.

SECTION 14. The City Clerk is directed to transmit a copy of the proposed ordinance in Exhibit "A" to the City Attorney. The City Attorney is directed to prepare an impartial analysis of the proposed Ordinance pursuant to Elections Code section 9280. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 15. City requests this measure be titled as Measure J provided, however, that the measure shall bear such designation assigned by the County Registrar of Voters.

SECTION 16. The City Council finds that this resolution is not subject to CEQA as specified in the recitals above.

SECTION 17. The provisions of this resolution are severable and if any provision of this resolution is held invalid, improper or unenforceable, that provision shall be severed from the resolution and the remainder of this resolution shall continue in full force and effect, and not be affected by such invalidity.

08/06/24 CC Agenda
Reso – Calling-Consolidating-Impartial Analysis 072924

EXHIBIT "A"

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF EL CAJON IMPOSING A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
STATE DEPARTMENT OF TAX AND FEE ADMINISTRATION**

Section 1. TITLE. This ordinance shall be known as the City of El Cajon "2024 El Cajon Critical Services Ordinance." The City of El Cajon hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 2. OPERATIVE DATE. "Operative Date" means one day after the expiration of Ordinance No. 4919 and will expire in twenty years thereafter.

Section 3. PURPOSE. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a general 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 general 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 general 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 general retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 4. CONTRACT WITH STATE. Prior to the Operative Date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half percent (0.5%) 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 one-half percent (0.5%) 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, State Board of Equalization, State Treasury, or the Constitution of the State of California;
 2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.
 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
 4. In sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in section 6203 and in the definition of that phrase in section 6203.

Section 10. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 11. EXEMPTIONS AND EXCLUSIONS.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.
4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this ordinance.
5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

- C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
 3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
 7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3

of the Vehicle Code, aircraft licensed in compliance with section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

- D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 12. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 13. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 14. AMENDMENTS BY CITY COUNCIL. The following amendments to this ordinance must be approved by the voters of the City: increasing the tax rate; revising the methodology for calculating the tax, such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of law); or terminating the tax. The City Council may otherwise amend this ordinance without submitting the amendment to the voters for approval in any manner which does not constitute a tax "increase" as that term is defined in Government Code section 53750(h).

Section 15. USE OF PROCEEDS. The proceeds from the tax imposed by this ordinance shall be for unrestricted general revenue purposes of the City and shall be received into the general fund of the City. Nothing in this ordinance shall constitute the tax imposed under this ordinance as a special tax or bind the City to use the proceeds for any specific purpose or function; the City Council shall retain discretion to expend the proceeds of the tax for any lawful purpose of the City.

Section 16. INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE. If this ordinance is approved by a majority of the voters at the election on November 5, 2024, the City Council shall establish an independent citizens' oversight committee to ensure

that the sales tax proceeds from this ordinance are spent in a manner that meets community needs. The citizens' oversight committee shall consist of five members and shall include one (1) member nominated by the San Diego County Taxpayers Association, one (1) member nominated by a business organization representing the business community located within the City, and three (3) El Cajon residents at large with at least one having a background in accounting, auditing, or finance. In the event the San Diego County Taxpayers Association or a business organization declines to nominate a representative, the City Council may fill that position with a resident of El Cajon. No employee or official of the City and no vendor, contractor, or consultant of the City shall be appointed to the committee.

Section 17. 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 18. CEQA. The adoption of this ordinance is not a "project" subject to the requirements of the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 et seq.). CEQA Guideline 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

Section 19. IMPLEMENTATION. This ordinance authorizes City of El Cajon officers and employees to take all steps necessary to implement this ordinance in the manner required by law, including any applicable amendments to the laws of the State of California.

Section 20. CERTIFICATION. The City Clerk shall certify the adoption of this ordinance by the voters, cause it to be published as required by law, and forward a copy of the adopted ordinance to the California Department of Tax and Fee Administration.

Section 21. EFFECTIVE DATE. Pursuant to Elections Code section 9217, this ordinance shall be considered as adopted upon the date that the vote by the electorate of the City of El Cajon is declared by the City Council and shall become effective ten days after that date.

Section 22. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall terminate upon the effective date of March 31, 2049 or any ordinance adopted by the voters repealing this ordinance.

It is hereby certified that this ordinance was duly adopted by the voters at the November 5, 2024 election and took effect ten (10) days following adoption of a resolution declaring the results of the election at a meeting of the City Council held on December __, 2024 by the following vote:

RESOLUTION NO. ____-24

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF EL CAJON, CALIFORNIA, EXPRESSING THE INTENT
OF THE CITY COUNCIL IN INTRODUCING ORDINANCE NO. ____
AND PLACING A LOCAL SALES TAX MEASURE
ON THE NOVEMBER 2024 BALLOT

WHEREAS, the City of El Cajon ("City") is a California charter city and municipal corporation that faces critical fiscal challenges to sufficiently meet the growing needs of its residents and continue to address issues of effective fire/medical responses, crime, homelessness, and City infrastructure; and

WHEREAS, the City has been an excellent steward of taxpayer funds with a focus on living within its means and setting aside funds for emergencies when available; and

WHEREAS, the City has aggressively responded to this financial challenge by reducing its workforce over the years despite the City's growing population, restructured pension debt, deferring maintenance of City facilities and purchase of equipment, contracting out certain services, pursuing available grant funding whenever possible, focusing on economic development opportunities, and implementing a myriad of innovative approaches to providing municipal services; and

WHEREAS, in 2008 the voters of El Cajon approved Proposition J, a one-half percent (0.5%) sales tax measure to fund general government activity; and

WHEREAS, the term of Proposition J expires in 2029 and plays a vital role in the City's ability to provide basic municipal services; and

WHEREAS, the non-renewal of the Proposition J sales tax revenue would have dire impacts on the City's ability to provide services and severe cuts to those services would have to be implemented leading up to 2029; and

WHEREAS, the City Council considered and adopted a resolution placing a measure on the November 5, 2024 ballot that would allow voters to consider a one-half percent (0.5%) sales tax measure that will replace Ordinance No. 4919 after its expiration in 2029 (the "Measure"); and

WHEREAS, because the current City Council is not able to direct future city councils on their spending priorities in their budgets, and particularly in how any revenue derived from a proposed local general sales tax measure will be allocated, the purpose of this resolution is to unequivocally state the intent of this City Council in how to allocate additional funds generated by the Measure if approved by the voters on November 5, 2024; and

WHEREAS, this City Council believes that should the community vote to approve a local sales tax measure, the current City Council agrees to continuing using the general

purpose tax for general government activities including the current priorities of preserving fire/paramedic services, not having to reduce law enforcement services, enforcing regulations about camping on public streets,, maintain funding for roads and parks, as well as other municipal services; and

WHEREAS, the proposed Measure will require separate accounting as Local Sales and Use Tax – Measure J Revenues (the designation of the Measure assigned by the County Registrar of Voters to be inserted when available) (the "Measure Revenues") as part of the General Fund Revenue categories; and

WHEREAS, the City Council shall create and convene a Citizens' Oversight Committee to annually review annual spending of Measure Revenues and make spending recommendations to the City Council of Measure Revenues; and

WHEREAS, the Citizens' Oversight Committee shall consist of five members with a representative nominated by the San Diego Taxpayers Association, a representative appointed by a local business organization, and three El Cajon residents, one of which shall have financial, auditing, or accounting experience; and

WHEREAS, the Citizens' Oversight Committee shall operate subject to the Brown Act and all meetings will be properly noticed and open to the public; and

WHEREAS, the City shall conduct an annual independent audit of the City's financial statements, including the review of the collection and expenditure of revenue from the Measure, and the auditor's report shall be presented to the Citizens' Oversight Committee for its review of compliance with the terms of the Measure; and

WHEREAS, if approved by the voters, the Measure will become effective one day after the expiration of Ordinance No. 4919 and will expire in twenty (20) years thereafter.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Cajon, California, as follows:

SECTION 1. The above recitations are true and correct, expressing the legislative intent of the City Council.

SECTION 2. This City Council believes that a city must live within its financial means; engage the community in its yearly budget process in a transparent, honest and meaningful way; and must avoid whenever reasonably possible placing any additional tax burdens on city residents.

SECTION 3. This City Council believes at this time there are sufficient critical financial circumstances and needs warranting placement of a local sales tax measure on the ballot for voter consideration.

SECTION 4. In approving the introduction of Ordinance No. ____ the City Council expressly recognizes that future City Councils must have the opportunity to make sound

financial decisions with adequate fiscal resources to maintain a safe and livable community for City residents and that can best be accomplished by prioritizing funds for preserving fire/paramedic services, not having to reduce law enforcement services, enforcing regulations about camping on public streets, and maintaining funding for roads and parks, as well as other municipal services.

SECTION 5. The proposed complete text of the Measure to be submitted to the voters is attached as Exhibit "A."

SECTION 6. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 7. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 8. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

SECTION 9. This resolution shall take effect immediately upon its adoption by the City Council.

08/06/24 CC Agenda
Reso – Intent to Intro Ord & Placing on November 2024 Ballot 072924

EXHIBIT "A"

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF EL CAJON IMPOSING A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
STATE DEPARTMENT OF TAX AND FEE ADMINISTRATION**

Section 1. TITLE. This ordinance shall be known as the City of El Cajon "2024 El Cajon Critical Services Ordinance." The City of El Cajon hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 2. OPERATIVE DATE. "Operative Date" means one day after the expiration of Ordinance No. 4919 and will expire in twenty years thereafter.

Section 3. PURPOSE. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a general 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 general 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 general 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 general retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 4. CONTRACT WITH STATE. Prior to the Operative Date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half percent (0.5%) 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 one-half percent (0.5%) 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, State Board of Equalization, State Treasury, or the Constitution of the State of California;
 2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.
 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
 4. In sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in section 6203 and in the definition of that phrase in section 6203.

Section 10. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 11. EXEMPTIONS AND EXCLUSIONS.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.
4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this ordinance.
5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

- C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
 3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
 7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3

of the Vehicle Code, aircraft licensed in compliance with section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

- D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 12. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 13. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 14. AMENDMENTS BY CITY COUNCIL. The following amendments to this ordinance must be approved by the voters of the City: increasing the tax rate; revising the methodology for calculating the tax, such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of law); or terminating the tax. The City Council may otherwise amend this ordinance without submitting the amendment to the voters for approval in any manner which does not constitute a tax "increase" as that term is defined in Government Code section 53750(h).

Section 15. USE OF PROCEEDS. The proceeds from the tax imposed by this ordinance shall be for unrestricted general revenue purposes of the City and shall be received into the general fund of the City. Nothing in this ordinance shall constitute the tax imposed under this ordinance as a special tax or bind the City to use the proceeds for any specific purpose or function; the City Council shall retain discretion to expend the proceeds of the tax for any lawful purpose of the City.

Section 16. INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE. If this ordinance is approved by a majority of the voters at the election on November 5, 2024, the City Council shall establish an independent citizens' oversight committee to ensure

that the sales tax proceeds from this ordinance are spent in a manner that meets community needs. The citizens' oversight committee shall consist of five members and shall include one (1) member nominated by the San Diego County Taxpayers Association, one (1) member nominated by a business organization representing the business community located within the City, and three (3) El Cajon residents at large with at least one having a background in accounting, auditing, or finance. In the event the San Diego County Taxpayers Association or a business organization declines to nominate a representative, the City Council may fill that position with a resident of El Cajon. No employee or official of the City and no vendor, contractor, or consultant of the City shall be appointed to the committee.

Section 17. 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 18. CEQA. The adoption of this ordinance is not a "project" subject to the requirements of the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 et seq.). CEQA Guideline 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

Section 19. IMPLEMENTATION. This ordinance authorizes City of El Cajon officers and employees to take all steps necessary to implement this ordinance in the manner required by law, including any applicable amendments to the laws of the State of California.

Section 20. CERTIFICATION. The City Clerk shall certify the adoption of this ordinance by the voters, cause it to be published as required by law, and forward a copy of the adopted ordinance to the California Department of Tax and Fee Administration.

Section 21. EFFECTIVE DATE. Pursuant to Elections Code section 9217, this ordinance shall be considered as adopted upon the date that the vote by the electorate of the City of El Cajon is declared by the City Council and shall become effective ten days after that date.

Section 22. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall terminate upon the effective date of March 31, 2049 or any ordinance adopted by the voters repealing this ordinance.

It is hereby certified that this ordinance was duly adopted by the voters at the November 5, 2024 election and took effect ten (10) days following adoption of a resolution declaring the results of the election at a meeting of the City Council held on December __, 2024 by the following vote:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EL CAJON IMPOSING A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE
STATE DEPARTMENT OF TAX AND FEE ADMINISTRATION

Section 1. TITLE. This ordinance shall be known as the City of El Cajon "2024 El Cajon Critical Services Ordinance." The City of El Cajon hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 2. OPERATIVE DATE. "Operative Date" means one day after the expiration of Ordinance No. 4919 and will expire in twenty years thereafter.

Section 3. PURPOSE. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a general 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 general 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 general 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 general retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 4. CONTRACT WITH STATE. Prior to the Operative Date, the City shall contract with the California Department of Tax and Fee Administration to perform all

functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half percent (0.5%) 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 one-half percent (0.5%) 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, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.
 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
 - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
 4. In sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in section 6203 and in the definition of that phrase in section 6203.

Section 10. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 11. EXEMPTIONS AND EXCLUSIONS.

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
 1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the City in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property

under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.
 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this ordinance.
 5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.
4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this ordinance.
5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

- D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 12. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 13. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 14. AMENDMENTS BY CITY COUNCIL. The following amendments to this ordinance must be approved by the voters of the City: increasing the tax rate; revising the methodology for calculating the tax, such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of law); or terminating the tax. The City Council may otherwise amend this ordinance without submitting the amendment to the voters for approval in any manner which does not constitute a tax "increase" as that term is defined in Government Code section 53750(h).

Section 15. USE OF PROCEEDS. The proceeds from the tax imposed by this ordinance shall be for unrestricted general revenue purposes of the City and shall be received into the general fund of the City. Nothing in this ordinance shall constitute the tax imposed under this ordinance as a special tax or bind the City to use the proceeds for any specific purpose or function; the City Council shall retain discretion to expend the proceeds of the tax for any lawful purpose of the City.

Section 16. INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE. If this ordinance is approved by a majority of the voters at the election on November 5, 2024, the City Council shall establish an independent citizens' oversight committee to ensure that the sales tax proceeds from this ordinance are spent in a manner that meets community needs. The citizens' oversight committee shall consist of five members and shall include one (1) member nominated by the San Diego County Taxpayers Association, one (1) member nominated by a business organization representing the business community located within the City, and three (3) El Cajon residents at large with at least one having a background in accounting, auditing, or finance. In the event the San Diego County Taxpayers Association or a business organization declines to nominate a representative, the City Council may fill that position with a resident of El Cajon. No

employee or official of the City and no vendor, contractor, or consultant of the City shall be appointed to the committee.

Section 17. 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 18. CEQA. The adoption of this ordinance is not a "project" subject to the requirements of the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 et seq.). CEQA Guideline 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

Section 19. IMPLEMENTATION. This ordinance authorizes City of El Cajon officers and employees to take all steps necessary to implement this ordinance in the manner required by law, including any applicable amendments to the laws of the State of California.

Section 20. CERTIFICATION. The City Clerk shall certify the adoption of this ordinance by the voters, cause it to be published as required by law, and forward a copy of the adopted ordinance to the California Department of Tax and Fee Administration.

Section 21. EFFECTIVE DATE. Pursuant to Elections Code section 9217, this ordinance shall be considered as adopted upon the date that the vote by the electorate of the City of El Cajon is declared by the City Council and shall become effective ten days after that date.

Section 22. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall terminate upon the effective date of March 31, 2049 or any ordinance adopted by the voters repealing this ordinance.

It is hereby certified that this ordinance was duly adopted by the voters at the November 5, 2024 election and took effect ten (10) days following adoption of a resolution declaring the results of the election at a meeting of the City Council held on December __, 2024 by the following vote: