

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF KINGS, STATE OF CALIFORNIA

\*\*\*\*\*

IN THE MATTER OF CONSOLIDATING                      RESOLUTION NO. 22-010  
LOCAL ELECTION WITH THE  
STATEWIDE DIRECT PRIMARY  
ELECTION \_\_\_\_\_/

WHEREAS, Proponents submitted to the Kings County Elections Official a citizen directed initiative petition signed by not less than 10% of the voters of the entire vote cast in Kings County for all candidates for Governor at the last gubernatorial election preceding the publication of Proponent’s notice of intention to circulate an initiative petition (“Petition”); and

WHEREAS, the Petition proposes the Ordinance attached hereto as Exhibit 1 to create a new local public safety transactions and use tax to benefit the Kings County Fire Department (“Ordinance”); and

WHEREAS, pursuant to Elections Code Sections 9118 and 1405, the Board of Supervisors (“Board”) shall submit the ordinance, without alteration, to the voters in the next countywide election; and

WHEREAS, pursuant to California Elections Code Section 10400 et seq., the Board seeks consolidation of the countywide election on the proposed Ordinance with the Statewide Direct Primary Election to be held on June 7, 2022; and

WHEREAS, under Elections Code sections 10400 et seq. the Board of Supervisors has the power and the authority to order the consolidation of local elections with the Statewide Direct Primary Election; and

WHEREAS, the Board acknowledges that the election will be held and conducted in the manner prescribed in Elections Code section 10418.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Ordinance shall be submitted to the voters in the next statewide election (“Election”) pursuant to Elections Code Sections 1405 and 9118.

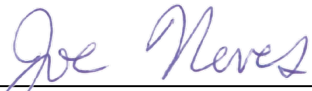
2. Such Election shall be conducted in accordance with all applicable procedural requirements of the Elections Code pertaining to general elections and shall occur in consolidation with the General Direct Primary Election to be held on June 7, 2022.

3. The County Elections Department shall provide the election services as authorized under the provisions of the Elections Code.


4. The form of the question to be placed before the voters shall be as set forth in Exhibit 2.

5. The foregoing resolution was adopted upon motion by Supervisor Fagundes, seconded by Supervisor Verboon, at a regular meeting held on March 8, 2022, by the following vote:

AYES: Supervisors: Fagundes, Verboon, Valle, Pedersen, Neves  
NOES: None  
ABSENT: None

  
\_\_\_\_\_  
Chairman of the Board of Supervisors  
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this 8th day of  
March, 2022.

  
\_\_\_\_\_  
Clerk of said Board of Supervisors

# **EXHIBIT 1**

RECEIVED

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Kings County Elections

The people of the County of Kings ordain as follows:

**Section 1. Title**

This measure shall be known and may be cited as the Kings County Fire and Emergency Services Ordinance.

**Section 2. Findings and Declarations**

The people of the County of Kings hereby find and declare the following:

Whereas, the Kings County Fire Department protects approximately 153,000 residents and responds to emergencies in a 1,392 square mile region with a combination of 10 stations and one headquarters office with 88 full time employees;

Whereas, the Department's goal is to provide our communities with unsurpassed fire protection services and offer a professional and dedicated response when citizens of Kings County call upon us for help;

Whereas, the Department primarily serves the rural areas of our county and provides contractual services to the Cities of Avenal and Corcoran;

Whereas, the Department has experienced a continual increase in the number of emergency calls received since 1985 and responds to over 5,100 calls annually, averaging nearly 14 calls daily;

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

Whereas, the County's fire protection services are essential to protect the public health, safety, and general welfare specifically by mitigating fire damage to persons and property; and

Whereas, the County has inadequate general funds to financially support fire protection and emergency services;

Therefore, it is essential for the protection of the public health, safety, and general welfare of Kings County residents that the County establish a new special transactions and use tax to support the Kings County Fire Department by dedicating proceeds from the new tax to the staffing, infrastructure and equipment needs of the Department and to help ensure there are sufficient resources to maintain quality fire protection and emergency medical services in the County.

**Section 3. Kings County Fire and Emergency Services Ordinance**

Article IX of Chapter 22 of the County of Kings Code of Ordinances is added to read as follows:

**Article IX**

22-130	Title.
22-131	Definitions.
22-132	Purpose.
22-133	Contract with State.
22-134	Transactions Tax Rate.
22-135	Place of Sale.
22-136	Use Tax Rate.
22-137	Adoption of Provisions of State Law.
22-138	Limitations on Adoption of State Law and Collection of Use Taxes.
22-139	Permit Not Required.
22-140	Exemptions and Exclusions.
22-141	Amendments.
22-142	Enjoining Collection Forbidden.
22-143	Kings County Fire and Emergency Services Fund.
22-144	Receipt of Proceeds.
22-145	Use of Proceeds.
22-146	Expenditure Plan.
22-147	Supplement to Existing Department Funding
22-148	Accountability Measures.
22-149	Taxpayer Oversight Committee.

**22-130. Title.**

This chapter shall be known as the Kings County Fire and Emergency Services Ordinance (the "Ordinance").

**22-130. Definitions.**

For the purpose of this chapter, the following definitions shall apply:

- (a) "Auditor-Controller" means the Kings County Auditor-Controller.
- (b) "Board" means the Kings County Board of Supervisors
- (c) "Committee" means the Independent Taxpayer Oversight Committee established in section 22-148.
- (d) "County" means the County of Kings.
- (e) "Department" means the Kings County Fire Department.
- (f) "Fund" means the Kings County Fire and Emergency Services Fund.
- (g) "Operative Date" means the first day of the first calendar quarter commencing more than one hundred ten (110) days after the adoption of this Ordinance.

**22-132. Purpose.**

This Ordinance is adopted to achieve the following purposes and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- (a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) and Section 7285.5 of Part 1.7 of Division 2 of the Revenue and Taxation Code, which authorizes the County 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. This retail transactions and use tax shall be in addition to any other taxes authorized by law, including any existing or future state or local transactions and use tax. The imposition, administration, and collection of the tax shall be in accordance with all applicable statutes, laws, and rules and regulations prescribed and adopted by the California Department of Tax and Fee Administration.
- (b) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- (c) To adopt a retail transactions and use tax ordinance that imposes a tax that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.
- (d) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this Ordinance.
- (e) To adopt a retail transactions and use tax ordinance in order to ensure that the County maintains adequate levels of funding for fire protection and emergency medical services by dedicating the revenue from this tax to the Kings County Fire Department for its staffing, infrastructure and equipment needs.

**22-133. Contract with State.**

- (a) Prior to the Operative Date, the County 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 County

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.

- (b) Pursuant to section 22-145, the County may use the proceeds from this transactions and use tax Ordinance to pay for the costs to administer and operate the transactions and use taxes Ordinance pursuant to sections 7272 and 7273 of the Revenue and Taxation Code.

**22-134. Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the County at the rate of one half of one percent (0.50%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this Ordinance.

**22-135. Place of Sale.**

For 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 the retailer's 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.

**22-136. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the County 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 of one 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.

**22-137. 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.

**22-138. Limitations on Adoption of State Law and Collection of Use Taxes.**

- (a) 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 County shall be substituted therefore. 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 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 County 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.
- (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.
- (b) The word "County" 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 of the Revenue and Taxation Code.
- (c) "A retailer engaged in business in the County" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

**22-139. 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.

**22-140. Exemptions and Exclusions.**

- (a) There shall be excluded from the Ordinance 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 County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
  - (2) Sales of property to be used outside the County, which is shipped to a point outside the County, pursuant to the contract of sale, by delivery to such point by the retailer or the retailer's agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this section, delivery to a point outside the County 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-county 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 outside the County 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 paragraphs (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 County of tangible personal property:
- (1) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
  - (2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
  - (3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this Ordinance.
  - (4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this Ordinance.
  - (5) For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
  - (6) Except as provided in subsection (7) a retailer engaged in business in the County 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 County or participates within the County 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 County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.

(7) "A retailer engaged in business in the County" 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 County.

(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 county 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.

**22-141. 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.

**22-142. 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 County, or against any officer of the State or the County, 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.

**22-143. Kings County Fire and Emergency Services Fund.**

There is hereby established in the treasury of the County of Kings, a special fund called the Kings County Fire and Emergency Services Fund, which shall be maintained by the County.

**22-144. Receipt of Proceeds.**

- (a) All revenue generated by this Ordinance shall be deposited into the Fund.
- (b) The uses and expenditures of money allocated to the Fund shall be governed by and subject to the requirements set forth in sections 22-145 through 22-147.

**22-145. Use of Proceeds.**

Moneys in the Fund shall be used to fund the expenditure plan set forth in section 22-146 and to reimburse the County for the costs imposed by the California Department of Tax and Fee Administration to administer and operate this tax pursuant to subdivision (b) of section 22-133.

**22-146. Expenditure Plan.**

The revenues in the Fund, aside from the reimbursements made pursuant to subdivision (b) of section 22-133, shall be expended for the following purposes:

- (a) Sixty percent (60%) shall be expended to hire and train additional firefighters or to pay for additional staff positions in the Department;
- (b) Twenty percent (20%) shall be expended to maintain, repair, or replace the Department's emergency response infrastructure, including training centers, fire stations, and offices;
- (c) Twenty percent (20%) shall be expended: to upgrade or replace the Department's firefighter safety equipment, vehicles, facilities, life-saving rescue tools, and communications technology; to improve its fire protection and emergency medical response; and for any associated administrative and financing costs.

**22-147. Supplement to Existing Department Funding**

- (a) The People of the County find and declare that the County's fire safety needs require more funding than is currently provided. In adopting this Ordinance, the people of the County of Kings intend to provide additional County resources to supplement, and not supplant, County funding for the Department.
- (b) This funding is intended to be in addition to, and not to replace, any other moneys provided by the County to the Department.

**22-148. Accountability Measures.**

The Auditor-Controller shall conduct an annual audit of the funds collected pursuant to the Ordinance and the Fund's expenditures. The Auditor-Controller shall compile this information in an Annual Audit Report and file it with the Board by no later than January 31, 2024, and by January 31 of each year thereafter. The report may relate to the calendar year, fiscal year, or other appropriate annual period, as the Auditor-Controller shall determine, and may be incorporated into or filed with the annual budget, audit, or other appropriate routine report to the Board.

**22-149. Independent Taxpayer Oversight Committee.**

- (a) Within 90 days of the effective date of this Ordinance, the Board shall establish an Independent Taxpayer Oversight Committee and appoint members to review the

Annual Audit Report and other records to determine whether funds received as a result of this Ordinance have been spent for the purposes specified in this Ordinance.

- (b) The Committee shall annually review the audit for the prior year to verify that the revenue generated by the special tax is expended only for the purposes specified in the Ordinance, to report the findings of its review to the Board and to the public, and to perform such other or additional duties as may be specified by the Board.
- (c) The Committee shall be composed of seven members, including at least two current or retired County firefighters, one certified public accountant or auditor, and four community leaders who do not hold elected office.
- (d) Committee members shall serve a four-year term, except the first class of members, three of whom shall serve a two-year term as determined by lottery at the first meeting of the Committee with the remainder serving a four-year term. No member may serve on the Committee for more than eight consecutive years.

#### **Section 4. Severability**

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The voters of County of Kings hereby declare they would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

#### **Section 5. Liberal Construction**

This measure is an exercise of the initiative power of the People of the County of Kings to implement a special tax to fund the purposes set forth in the Ordinance, and it shall be liberally construed to effectuate these purposes.

#### **Section 6. Effective Date**

Except as otherwise provided in this Ordinance, this Ordinance shall take effect ten (10) days after the Board of Supervisors declares the vote, in accordance with Elections Code section 9122.

#### **Section 7. Amendments**

The provisions of this Ordinance may be amended only upon approval by the voters.

#### **Section 8. Conflicting Measures**

This measure is intended to be comprehensive. It is the intent of the People of the County of Kings that, in the event this measure and one or more measures relating to a special tax to supplement funding for the Kings County Fire Department shall appear on the same ballot, the provisions of the other measure or measures shall be deemed in conflict with this measure. In the

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

**Section 9. Appropriations Limit Increase**

Pursuant to California Constitution Article XIII B and applicable laws, for four (4) years from the day of the election at which this Act is adopted, the appropriations limit for the County shall be increased by the aggregate sum collected by the levy of the transactions and use tax imposed by this Act.

\* \* \* \* \*

## **EXHIBIT 2**

Shall the Kings County Fire and Emergency Services .5 percent Transactions and Use Tax Ordinance be adopted? The tax is anticipated to permanently generate an approximate \$11,700,000 per year. Tax proceeds would be used exclusively to support the personnel, infrastructure and equipment needs of the Kings County Fire Department.

Yes

No