

**RESOLUTION NO. 19704 (N.C.S)**

**A RESOLUTION CALLING AN ELECTION TO ASK THE VOTERS OF THE CITY OF SALINAS TO APPROVE A GENERAL TRANSACTIONS AND USE TAX OF ONE CENT, WITH THE USE OF THE TAX REVENUE TO BE SUBJECT TO AN ANNUAL AUDIT BY INDEPENDENT AUDITORS, A CITIZENS' OVERSIGHT COMMITTEE AND ANNUAL EXPENDITURE REPORTS; FINDING THAT AN EMERGENCY EXISTS THAT REQUIRES ASKING THE VOTERS TO APPROVE THE TAX MEASURE BEFORE THE NEXT REGULAR ELECTION FOR THE CITY COUNCIL; AND REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY CONSOLIDATE THE ELECTION WITH THE ESTABLISHED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2009, AND DIRECT THE COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION ON THE CITY'S BEHALF**

**WHEREAS**, the State of California is faced with its largest deficit in memory, currently estimated at \$26 billion. The State began shifting property tax from local governments in 1992 and these "takes" continue. The State "takes" about \$4 million annually from Salinas in the form of the shift of a portion of the City's property tax to the Educational Revenue Augmentation Fund first implemented in 1992 that could otherwise be used for essential City services. In addition, since 1993, Salinas has been required by State legislation to pay for booking fees and property tax administration, another loss of general fund revenues otherwise available for services. The State Legislature is considering various ways to "take" additional monies from cities for FY2009-10, the impacts of which are not included in the City's FY 2009-10 budget; and

**WHEREAS**, since January 2008 Salinas has experienced a significant increase in gang and youth violence and related crime in the City, with 35 gang-related homicides in the City. This year, according to the Police Department, there has been a 67% increase in the number of gun-related gang crimes; and

**WHEREAS**, the current recession, which began in December 2007, has caused a significant reduction in revenues from virtually all sources, including sales taxes, Measure V transactions and use taxes, property taxes and building fees. These combined revenue sources represent over two-thirds of the City's discretionary revenue. General Fund revenues (which include sales taxes, property taxes and building fees) are down 15.6% or \$14.6 million from projections made in FY 2007-08; and

**WHEREAS**, the significant reductions in these major revenue sources have contributed to a 15.3% or \$13.2 million General Fund shortfall in FY 2009-10; and

**WHEREAS**, the Council adopted its operating budget on June 30, 2009. It achieved the required \$13.2 million reduction by service reductions and reductions in compensation. The service reductions total \$7.3 million and the reductions in compensation agreed to by the employee groups total \$5.9 million, and included the elimination of 41.5 positions; and

**WHEREAS**, the City of Salinas has recently suffered numerous unprecedented and unexpected revenue losses and expense increases detailed in the accompanying Staff Report dated July 21, 2009 and hereby incorporated and made a part of this resolution by reference; and

**WHEREAS**, in response to those dramatic increases in costs and equally severe decreases in revenue, the City Council has reduced expenditures on staffing and services to maintain a balanced budget for FY 2009-10; and

**WHEREAS**, included within those FY 2009-10 reductions was the elimination of 41.5 positions within the City government and the following loss or reduction of services and projects:

- A 5.9% reduction in General Fund support for the Salinas Police Department. This includes freezing 15 police officer positions, eliminating four Community Service Officers and two Police Clerks, leading to the absence of adequate resources to ensure adequate public safety for residents and longer waiting periods for non-emergency police response and reduced ability to address gang and youth violence.
- A reduction in Measure V support for the Salinas Public Library, a resource used by numerous young people to have a safe place to go after school, on weekends or vacations effective July 1, 2009. Library services at the City's three public libraries will continue 7 days per week with 150 hours per week and 43 full-time employees (48 employees reduced by the 10% furlough program), down from 177 hours in 2008-09 and 48 employees. In addition, the budget for library materials was reduced. This is a service reduction of 3.9%. In addition to their more obvious functions, the City's libraries are places of safety, learning and literacy in this ethnically diverse and working community. Decreasing the public's access to that resource therefore diminishes safe educational opportunities for those in the City who most need them. In the short-term, at-risk individuals will have lost opportunities presented by the libraries, forcing them to find other ways to spend their time. In the long-term, increases in crime, decreases in literacy and educational achievement, and resulting negative effects on the City's welfare seem likely.
- A 7.0% reduction in General Fund support for the City's Parks and Community Services Department, which manages the City's recreational facilities and provides programs for the community. The reduction includes the elimination of one Neighborhood Services Coordinator position, and will reduce recreation program hours offered at the City's recreation center sites and Municipal Pool, and less availability for safe use by residents of all ages.
- A 5.3% reduction in General Fund support for the Salinas Fire Department. This includes freezing three Firefighter positions and one Fire Battalion Chief position and reducing paramedics from 27 to 21. Reductions may increase paramedic response times.
- A 11.6% reduction in General Fund support for the Engineering and Transportation Department. Reduction of two engineering positions will lead to street and sewer system

project delays and reduced traffic safety initiatives including school locations, traffic calming, traffic safety education and traffic studies.

- A 8.5 % reductions in General Fund support for the Environmental and Maintenance Services Department. This includes the elimination of 6 maintenance worker positions and reductions in contract janitorial, park, landscape and tree maintenance. There is minimal funding for sidewalk repairs; there will be reduced tree planting and pruning, repairs to damaged structures, and park maintenance. These reductions will lead to quicker deterioration of facilities and increased unsightliness that diminish the quality of life in the City.
- A 9.9% reduction in General Fund support for the City's Finance Department, the place residents can go to pay bills, get information about opening a new business, business licenses, parking permits, parking citations, garage sales, etc. The reduction will result in longer waits for the public at the Department's front counter and delayed responses, in general.
- A 14.2% reduction in General Fund support for Administration (City Manager, City Clerk). The reduction includes the elimination of the Assistant City Manager position and City Clerk's secretary. It will result in reduced public assistance at the City Clerk's office and the City Manager's office. The furlough program has reduced business hours at City Hall.

**WHEREAS**, to assist the Council close the structural deficit gap facing the City, employees voluntarily reduced their wages and benefits for FY 2009-10 and FY 2010-11. The police management and officers and fire supervisors and firefighters agreed to pay reductions of 7.5% for the two years. All non-safety employees agreed to a 10% pay reduction in the form of furloughs every Friday and to defer an 8% salary adjustment for two years; and

**WHEREAS**, the City will use all of its General Fund reserves to bridge the budget gap through FY 2009-10. Historically, the City has maintained a reserve fund for emergencies and capital projects, not for on-going operations. Use of the reserves to fund dramatically reduced service levels means that the City will not have resources to respond to new, specific emergencies and capital needs as they arise, unless it can rebuild the reserves; and

**WHEREAS**, City's reserves are maintained for emergencies and capital projects. The City's financial policies provide that the City "strive" to maintain a five (5%) percent General Fund Operating Reserve. The five (5%) percent reserve is required primarily for cash flow purposes. Reserves above the five (5%) percent level can be characterized more as "rainy day" funds to guard against economic uncertainties and for capital projects; and

**WHEREAS**, the Council used \$3.7 million from General Fund reserves and \$1.4 million from Measure V reserves for the operating budget. The City anticipates having \$152,503 of General Fund reserves (0.2%) and \$248,051 of Measure V reserves (2.4%) at the end of 2009-10, well below 5% of its General Fund Operating Budget; and

**WHEREAS**, in April 2009, the Council also approved increases in fees for City services to ensure that the fee amounts recaptured the cost of providing the services; and

**WHEREAS**, by cutting City staff and services to the bare minimum necessary to preserve the public health, safety, and welfare; negotiating with its employees for significant monetary concessions; using the City's General Fund reserves; and obtaining some increases in revenue, the Council adopted a balanced budget for FY 2009-10. The level of services that can be provided in FY 2009-10 is below what the Council would like to provide and places Salinas at the low end of comparable cities in terms of per capita spending for general fund services. Further, revenue and cost predictions indicate that the City's financial situation will not improve in FY 2010-11 and that there will be a General Fund shortfall of \$5.7 million. With only \$152,503 in General Fund reserves and \$248,051 in Measure V reserves going into FY 2010-11, the City will not be able to balance its FY 2010-11 budget with reserves. Thus, to even maintain the 2009-10 reduced level of services in 2010-11, the Council must either find a new funding source or make even further cuts in services in the range of reducing staffing by approximately 68.75 full time positions, which could adversely affect public health, safety and welfare; and

**WHEREAS**, as an illustration of why the City's solution to the existing emergency must also be a part of solving its long-term needs, even with the revenues from Measure V, at \$563 revenue per capita, Salinas still has the lowest per capita General Fund revenue of comparable cities and other local area jurisdictions; and

**WHEREAS**, without a new source of revenue, Salinas will be unable to provide additional public safety services needed to address the gang violence problem, such as hiring additional police officers to patrol schools, neighborhoods and parks; expanding programs to identify and shut down drug or gang houses; increasing job training programs for local youth; and expanding anti-gang and youth violence prevention programs; and

**WHEREAS**, without a new source of revenue, police and fire safety services would operate at even more reduced levels; recreation centers would close; libraries would reduce hours; maintenance of roads, parks, and other public facilities would be indefinitely deferred; and programs for youth might not be able to be funded, among other lost services. The magnitude and potential severity of these reductions is detailed in the FY 2010-11 Budget Balancing Plan considered by the Council today and which is hereby incorporated by reference; and

**WHEREAS**, concerned that long-term maintenance of reduced staff and service levels would have a detrimental effect on the public health, safety, and welfare, on June 30, 2009, the Council directed staff to develop a General Fund/ Measure V budget balancing plan for FY 2010-11, inclusive of service level reductions and new revenue alternatives, for City Council consideration on July 21, 2009; and

**WHEREAS**, without additional General Fund revenue sources, the City of Salinas will not be able to make the necessary investments in the City and its neighborhoods, will not be able to add necessary resources to the police department including resources to address gang crime and violence, will not be able to restore programs and services that have been eliminated, such as

the paramedic program, will not be able to adequately maintain basic infrastructure or address graffiti abatement, and may need to permanently close four recreation facilities and the Salinas Community Center; and

**WHEREAS**, a Salinas Safe Neighborhoods/ Essential Services Measure would generate approximately \$18 million per year. That revenue will allow the City to begin funding the Police Chief's plan as outlined in his 90-Day report to the Council for public safety services, as well as restoring other essential services that have been reduced or eliminated; and

**WHEREAS**, the absence of any additional General Fund revenue presents an even more dismal picture of inadequate services, closed recreation center facilities, fewer police officers and CSO's, inadequate maintenance of facilities, and no way to provide an adequate array of basic services to residents, such as gang prevention programs, in-school anti-gang education, after school recreation, tutoring, mentoring and job training programs that prevent youth from becoming gang members; and

**WHEREAS**, additionally, the City will be faced with the requirement to re-establish capital improvement and cash reserves in order to assure the long-term financial integrity of City finances. The City's \$10,000,000 General Fund Operating Reserve was identified and used as a resource to cushion the reductions that were made since April 2003. There will be no monies in the General Fund Operating Reserve at the end of FY2010-11. Without that Operating Reserve, the City will face the uncertainties inherent in providing services for its residents due to natural disasters and economic downturns, such as the current recession which is the worst in over half a century. The Operating Reserve must be restored as quickly as possible. In addition, the City's General Fund Capital Improvement Program has been stripped of all but the most basic items. The City's financial policies and its need to be able to respond in the event of future emergencies and capital needs require the City to rebuild its reserves as soon as possible; and

**WHEREAS**, unless new revenue can be assumed before the end of FY 2009-10, further and significant reductions in basic services will be required. Further General Fund reductions will have to come from the City's Police, Fire Parks and Community Services Departments. There are no alternatives. Therefore, a General Fund election must be scheduled as soon as legally possible; and

**WHEREAS**, given the timing issues associated with a transactions and use tax, it is imperative that the matter be placed before the voters as soon as possible in order to avoid even further drastic reductions in basic services, including public safety services; and

**WHEREAS**, the City Council held a noticed public hearing on July 21, 2009 to consider calling a municipal election to seek voter approval of a proposed general transactions and use tax (or "sales tax"), as authorized by Revenue and Taxation Code section 7285.9; and

**WHEREAS**, at the conclusion of that hearing, the City Council concluded that all of the information presented indicated that an emergency existed in the City, and that the Council should call an election to ask the voters of the City to approve a one percent local transactions and use tax, the revenue from which could be used to support general municipal services solely

within the City of Salinas; and

**WHEREAS**, the measure to be submitted to the voters, if approved, would be imposed on retail transactions involving and use of personal property. The tax rate would be one percent (1.0%) of the value of the property. The tax revenue would be collected by the State Board of Equalization and remitted to the City. The revenues would be audited annually by an independent auditor and a public expenditure report would be issued annually regarding the use of the revenues from the tax. The new revenues will be devoted to the City of Salinas and its residents and cannot be taken by the State. The tax shall be approved if the measure receives at least a majority of affirmative votes; and

**WHEREAS**, Elections Code Section 9282 sets forth the procedures for arguments in favor of or in opposition of any City measure; and

**WHEREAS**, Elections Code Section 9285 sets forth the procedures for rebuttal arguments; and

**WHEREAS**, based on all of the information presented at the July 21, 2009 meeting, both written and oral, including the staff reports, minutes, and other relevant materials, the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378, subdivisions (2) and (4) of subdivision (b), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

**BE IT RESOLVED BY THE COUNCIL OF SALINAS** as follows:

**SECTION I.** The foregoing Recitals are true and correct and are hereby adopted by the City Council. Based on those Recitals, the Council unanimously finds as follows:

1. Since January 2008 Salinas has experienced a significant increase in gang and youth violence and related crime in the City, with 35 gang-related homicides in the City. The Police Department estimates that there are more than 3,500 gang members and associates in the City. This year, according to Police Department sources, there has been a 67% increase in the number of gun-related gang crimes. Gang related homicides in Salinas have increased nearly 50% in the past ten years.
2. In comparison to 8 similarly sized cities, Salinas ranks near the bottom in its ratio of officers per one thousand population, yet maintains the second highest violent crime rate. Significant reductions in police personnel over the past twenty years has exacerbated the problem and significantly reduced the Police Department's ability to secure the city. Nineteen years ago there were 137 police officers or 1.3 per thousand on the Police Department. Today there are 168 officers or 1.1 officers per thousand population. By contrast, neighboring Carmel has 3.41 officers per thousand population, over 3x the strength of the Salinas force. Given the well-documented crime history of Salinas, and as documented by the Chief of Police in his 90-Day Report to the Council received today and incorporated by reference, the City does not have nearly enough personnel to keep the City safe.

3. As documented and requested by the Chief of Police, the City needs over 80 sworn officers to add to existing force of 168 in order to establish a true Community Oriented Policing program and raise the Salinas Police Department officer-per-thousand ratio to 1.6 (the same ratio that existed in 1997).
4. In addition, the City is experiencing an existing and immediate funding crisis, which is the result of factors largely outside of its control, including the worldwide recession that began in December 2007, reduced property values, increasing foreclosures, high unemployment, increasing gang and youth violence, unpredictable decreases in revenue from existing taxes and fees, increases in charges by the County of Monterey, and State takeaways of local revenue.
5. The City has taken significant steps to reduce its operational costs. It has eliminated or not filled 41.5 positions in FY 2009-10 and dramatically reduced services, resulting in a 7.5% decrease in the City's General Fund/Measure V budget, or \$7.3 million. These reductions have increased police response times and further exacerbated our public safety crisis.
6. The City has used General Fund and Measure V Fund reserves to balance the FY 2009-10 budget. The City anticipates having \$152,503 of General Fund reserves (0.2%) and \$248,051 of Measure V reserves (2.4%) at the end of 2009-10. These are well below the City Council's adopted financial policies that provide that the City "strive" to maintain a five (5%) percent General Fund Operating Reserve. The City further estimates a \$5.7 million shortfall in its FY 2010-11 budget. Without a new revenue source that is in effect by July 1, 2010, the City will be unable to fund this shortfall from reserves and will have to make significant reductions in services, in the range of reducing staffing by approximately 68.75 positions for FY 2010-11.
7. Because of changes in State law, particularly the approval of Propositions 62 and 218, the City has very few means available for increasing General Fund revenue. The approval of Measure V in 2005 enabled the City to restore services but not to the level that raised the per capita spending to the average of comparable cities. The Measure V tax revenues are not sufficient in light of the significant reductions in sales tax, property tax and other general fund revenues.
8. Absent a new source of General Fund revenue, the City will have to reduce staff and service levels for FY 2010-11. The City has relied on its reserves over the last several years to bridge the gap between available revenues and adequate services but the City will have inadequate reserves to do so for FY 2010-11. Absent new General Fund revenue, the City will face decreasing police and fire services, along with other City services. (*See* FY 2010-11 Budget Balancing Plan for details of service reductions.)
9. Unless staff and service levels are at least partially restored, public facilities and property will not be properly maintained, public safety standards will degrade, crime and violence will increase, the City's children will not have adequate and safe educational and recreational opportunities, businesses and families will be discouraged from moving to or remaining in Salinas, and the health, safety, and welfare of the residents of Salinas will be

endangered.

10. Because of that threat to the public health, safety, and welfare, an emergency exists in the City, as the term "emergency" is used in Article XIII C, section 2(b) of the California Constitution. The City must immediately address that emergency by ensuring that the City has the resources necessary to preserve the public health, safety, and welfare.
11. The identified emergency necessitates that the City Council submit another tax measure to the voters of Salinas at the November 3, 2009 election, even though such an election would not be consolidated with a general election for a member of the Council.
12. The next Council election will not occur until November 2010, and new tax revenue from a measure approved by the voters at that election would not be received until July 2011, too late to address the City's immediate public safety and other needs. The need to submit a tax measure to the voters is therefore imminent and can first be presented to the voters at the November 3, 2009 election.
13. Article XIII C, section 2(b) of the California Constitution permits the City, in emergency situations unanimously declared by the Council, to seek voter approval for a general tax at an election that is not consolidated with an election for a member of the Council.

**SECTION II.** Pursuant to California Constitution Article XIII C, Section 2; Government Code Section 53724; Elections Code Section 9222; and the Charter of the City of Salinas, the City Council of the City of Salinas hereby calls an election at which it shall submit to the qualified voters of the City, a measure that, if approved, would adopt a general transactions and use tax, as authorized by Revenue and Taxation Code section 7285.9. This measure shall be designated by letter by the Monterey County Elections Department. Pursuant to Election Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 3, 2009.

**SECTION III.** The ordinance authorizing the general tax to be approved by the voters pursuant to Section II is as set forth in Exhibit A hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 3, 2009 election, as required by Revenue and Taxation Code section 7285.9, subject to the approval of a majority of the voters voting on the measure at the election called by the adoption of this resolution. The entire text of the ordinance attached hereto as Exhibit A shall be printed in the voter information portion of the sample ballot. The ordinance specifies that the rate of the transactions tax shall be one percent (1.0%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies that the rate of the use tax shall be one percent (1.0%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

**SECTION IV.** The proposed transactions and use tax ordinance shall be submitted to the voters on the ballot in the form of the following question:

**“Salinas Safe Neighborhoods /Essential Services Measure.**

To protect residents by increasing youth gang/violence prevention; after-school recreation/mentoring; expanding job training; hiring more police to patrol neighborhoods/schools; retaining firefighters/paramedics; establishing community policing; prostitution prevention; crime fighting technology; and protecting essential services, shall Salinas’s transactions and use (otherwise known as sales) tax be increased one cent, requiring independent audits, citizens oversight, public expenditure reports, with all funds only for Salinas, not for Sacramento?”

**SECTION V.** The official ballot to be used at said election shall conform to the provisions of the Charter of said City and the laws of the State of California with relation thereto.

**SECTION VI.** The City Attorney shall prepare an impartial analysis of the ballot measures not to exceed five hundred words in length showing the effect of the measures on the existing law and the operation of the measure.

**SECTION VII.** The deadline for filing arguments for the ballot measure with the City Clerk shall be August 14, 2009 and the argument shall not exceed 300 words in length. Rebuttal arguments shall be filed with the City Clerk by August 24, 2009 and shall not exceed 250 words in length. The Mayor is hereby authorized to prepare a written argument in favor of the proposed ordinance, not to exceed 300 words, on behalf of the City Council. At the Mayor’s discretion, the argument may also be signed by bona fide associations or by individual voters who are eligible to vote. Pursuant to Section 9285 of the California Elections Code, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut.

**SECTION VIII.** The City authorizes the Registrar of Voters to consolidate this election with the established election on November 3, 2009 for the ease and convenience of the registered voters and to take advantage of any cost savings possible by such consolidation.

**SECTION IX.** The City Clerk may request the assistance of the County of Monterey Election Department in regard to said General Municipal Election, as the City Clerk deems necessary, and the City shall pay the incurred cost of such assistance.

**SECTION X.** In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in the Californian, a daily newspaper of general circulation, printed, published, and circulated in the City of Salinas and hereby designated for that purpose

by the Council of Salinas. The City Clerk may request that the County of Monterey Elections Department to prepare and publish the required notice.

**SECTION XI.** The election on the measure set forth in Section IV shall be held and conducted, the votes canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars not prescribed in this resolution, the election shall be held as prescribed in the Charter of the City. In all particulars not provided for in the Charter, the election shall be held in accordance with the Elections Code of the State of California. The Board of Supervisors of the County of Monterey is authorized to canvas the returns of that election with respect to the votes cast in the City of Salinas and certify the results to the City Council. At the next regular meeting of the City Council occurring after the returns of the election have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.

**SECTION XII.** The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the measure on the election ballot.

**SECTION XIII.** This Resolution shall be forthwith entered upon the minutes of this Council and kept and maintained by the City Clerk of Salinas, as provided in Section 34 of the Charter of said City.


**SECTION XIV.** The City Clerk is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit a copy hereof so certified to the Board of Supervisors and the Registrar of Voters of Monterey County.

PASSED AND ADOPTED this 21st day of July 2009, by the following vote:

AYES: Councilmembers Barnes, Barrera, De La Rosa, Lutes, Sanchez, Villegas, and Mayor Donohue

NOES: None

ABSENT:None

  
MAYOR DENNIS DONOHUE

ATTEST:

  
CITY CLERK

ORDINANCE NO. \_\_\_\_\_ (N.C.S.)

**AN ORDINANCE OF THE VOTERS OF THE CITY OF SALINAS  
IMPOSING A GENERAL TRANSACTIONS AND USE TAX TO BE ADMINISTERED  
BY THE STATE BOARD OF EQUALIZATION AND REQUIRING TAX REVENUES  
BE SPENT FOR CITY OF SALINAS SERVICES AND PROGRAMS ONLY, ANNUAL  
AUDITS AND ANNUAL PUBLIC EXPENDITURE REPORTS**

**BE IT ORDAINED BY THE VOTERS OF THE CITY OF SALINAS:**

**SECTION 1. FINDINGS.** The voters of the City of Salinas hereby find as follows:

- a. Since January 2008 Salinas has experienced a significant increase in gang and youth violence and related crime in the City, with 35 gang-related homicides in the City. The Police Department estimates that there are more than 3,500 gang members and associates in the City. This year, according to Police Department sources, there has been a 67% increase in the number of gun-related gang crimes. Gang related homicides in Salinas have increased nearly 50% in the past ten years.
- b. In comparison to 8 similarly sized cities, Salinas ranks near the bottom in its ratio of officers per one thousand population, yet maintains the second highest violent crime rate. Significant reductions in police personnel over the past twenty years has exacerbated the problem and significantly reduced the Police Department's ability to secure the city. Nineteen years ago there were 137 police officers or 1.3 per thousand on the Police Department. Today there are 168 officers or 1.1 officers per thousand population. By contrast, neighboring Carmel has 3.41 officers per thousand population, over 3x the strength of the Salinas force. Given the well-documented crime history of Salinas, the City does not have nearly enough personnel to keep the City safe.
- c. As documented and requested by the Chief of Police, the City needs over 80 sworn officers to add to existing force of 168 in order to establish a true Community Oriented Policing program and raise the Salinas Police Department officer-per-thousand ratio to 1.6 (the same ratio that existed in 1997).
- d. In addition, the City is experiencing an existing and immediate funding crisis, which is the result of factors largely outside of its control, including the worldwide recession that began in December 2007, reduced property values, increasing foreclosures, high unemployment, increasing gang and youth violence, unpredictable decreases in revenue from existing taxes and fees, increases in charges by the County of Monterey, and State takeaways of local revenue.
- e. The City has taken significant steps to reduce its operational costs. It has eliminated or not filled 41.5 positions in FY 2009-10 and dramatically reduced services, resulting in a 7.5% decrease in the City's General Fund/Measure V budget, or \$7.3 million. These reductions have increased police response times and further exacerbated our public safety crisis.

- f. The City has used General Fund and Measure V Fund reserves to balance the FY 2009-10 budget. The City anticipates having \$152,503 of General Fund reserves (0.2%) and \$248,051 of Measure V reserves (2.4%) at the end of 2009-10. These are well below the City Council's adopted financial policies that provide that the City "strive" to maintain a five (5%) percent General Fund Operating Reserve. The City further estimates a \$5.7 million shortfall in its FY 2010-11 budget. Without a new revenue source that is in effect by July 1, 2010, the City will be unable to fund this shortfall from reserves and will have to make significant reductions in services, in the range of reducing staffing by approximately 68.75 positions for FY 2010-11.
- g. Because of changes in State law, particularly the approval of Propositions 62 and 218, the City has very few means available for increasing General Fund revenue. The approval of Measure V in 2005 enabled the City to restore services but not to the level that raised the per capita spending to the average of comparable cities. The Measure V tax revenues are not sufficient in light of the significant reductions in sales tax, property tax and other general fund revenues.
- h. Absent a new source of General Fund revenue, the City will have to reduce staff and service levels for FY 2010-11. The City has relied on its reserves over the last several years to bridge the gap between available revenues and adequate services but the City will have inadequate reserves to do so for FY 2010-11. Absent new General Fund revenue, the City will face decreasing police and fire services, along with other City services.
- i. Unless staff and service levels are at least partially restored, public facilities and property will not be properly maintained, public safety standards will degrade, crime and violence will increase, the City's children will not have adequate and safe educational and recreational opportunities, businesses and families will be discouraged from moving to or remaining in Salinas, and the health, safety, and welfare of the residents of Salinas will be endangered.
- j. Because of that threat to the public health, safety, and welfare, an emergency exists in the City, as the term "emergency" is used in Article XIII C, section 2(b) of the California Constitution. The City must immediately address that emergency by ensuring that the City has the resources necessary to preserve the public health, safety, and welfare.
- k. The identified emergency necessitates that the City Council submit another tax measure to the voters of Salinas at the November 3, 2009 election, even though such an election would not be consolidated with a general election for a member of the Council.
- l. The next Council election will not occur until November 2010, and new tax revenue from a measure approved by the voters at that election would not be received until July 2011, too late to address the City's immediate public safety and other needs. The need to submit a tax measure to the voters is therefore imminent and can first be presented to the voters at the November 3, 2009 election.

- m. Article XIII C, section 2(b) of the California Constitution permits the City, in emergency situations unanimously declared by the Council, to seek voter approval for a general tax at an election that is not consolidated with an election for a member of the Council.

**SECTION 2. AMENDMENT OF CODE.** "Article VIII. Transactions and Use Tax" shall be added to the Salinas City Code and shall read as follows:

"Section 32-80. TITLE. This ordinance shall be known as the Salinas Safe Neighborhoods and Essential Services Transactions and Use Tax Ordinance. The City of Salinas hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 32-81. OPERATIVE DATE. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

Section 32-82. PURPOSE. This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

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.

Section 32-83. CONTRACT WITH STATE. Prior to the operative date, the City shall contract with the State Board of Equalization 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 State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 32-84. 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 1% (one percent) 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 32-85. 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 State Board of Equalization.

Section 32-86. 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 1% (one percent) 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 32-87. 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 32-88. 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 State Board of Equalization, 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 32-89. 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 32-90. 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 county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

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

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

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

Section 32-91. 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. The foregoing amendments shall not require voter approval.

The following amendments to this ordinance must be approved by the voters of the City of Salinas: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; or imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of the preceding paragraph). The

City Council may otherwise amend this ordinance without submitting the amendment to voters for approval.

Section 32-92. 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 32-93. ANNUAL AUDITS, EXPENDITURE REPORT AND OVERSIGHT COMMITTEE. Annually, the City Council retains an independent auditor to conduct an audit of and provide audited financial statements for all of the City's financial activities. The auditor shall include an accounting of the revenue received from the tax and expenditures thereof in the audited financial statements. The auditor's report shall be presented to the Council at a public meeting and made available to the public. The City Manager and Chief of Police shall annually prepare and present to the Council and the public a report in conjunction with the budget that reviews the status and performance of the programs and services funded wholly or partially with proceeds of the tax. Additionally, the Mayor and City Council shall each annually appoint one member of the public to serve as an oversight committee for the revenue that the City receives from the tax enacted by this article and to recommend the use thereof. The City Manager shall provide staff for the committee, and the Finance Director shall provide all relevant data regarding revenue from the tax and expenditure thereof.

Section 32-94. REFUNDS AND CREDITS; SUITS AND LEGAL PROCEEDINGS.

a. Refunds of and credits for any tax paid pursuant to this article may be made only as provided for in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

b. Suits and proceedings for the recovery of any amount alleged to have been erroneously or illegally determined or collected pursuant to this article may be maintained in any court only as provided for in Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code. A judgment shall not be rendered in favor of the plaintiff in any action brought against the State Board of Equalization to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount."

**SECTION 3. USE OF TAX REVENUE.** The tax approved by this ordinance is a general tax. The City may use the revenue from the tax for any general governmental purpose, including without limitation youth gang/ violence prevention programs, after-school recreation and mentoring programs, expanding and improving job training programs, hiring more police to patrol neighborhoods and schools, retaining firefighters/paramedics, establishing community policing, crime fighting technology, prostitution prevention, and protecting other essential services. The revenue from the tax shall only be used for services and programs that benefit the residents of the City.

**SECTION 4. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The voters of the City of Salinas hereby declare that they would have adopted each and every provision of this ordinance irregardless of the invalidity of any other provision.

**SECTION 5. CODIFICATION.** Upon adoption of this ordinance pursuant to the voter approval referenced in Section 2, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this ordinance in the Salinas City Code.

**SECTION 6. EFFECTIVE DATE.** If this ordinance is approved by a majority of the voters voting on the issue at the November 3, 2009 election, pursuant to Elections Code Section 9217, this ordinance shall become effective ten (10) days after the Council declares the results of the election, and the tax shall become operative on the "operative date," as defined in Section 2 of this ordinance.

**SECTION 7. PUBLICATION.** The Clerk of the City of Salinas is hereby directed to cause the following summary of the ordinance to be published by one (1) insertion in The Salinas Californian, a newspaper of general circulation published and circulated in the City of Salinas:

Contingent upon majority voter approval, this ordinance adopts a one percent (one cent) transactions and use tax on the sale or consumption of tangible personal property within the City of Salinas. The ordinance requires independent annual audits, annual public expenditure reports and establishes a citizens oversight committee. The tax revenues will only be spent on services and programs for the City of Salinas and its residents.

APPROVED by the following vote of the Voters of the City of Salinas on November 3, 2009:

ADOPTED by Declaration of the vote by the City Council of the City of Salinas on \_\_\_\_\_, 2009:

AYES:

NOES:

ABSENT:

ABSTAINED:

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DENNIS DONOHUE, Mayor

# PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Monterey

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of *The Salinas Californian*, a newspaper of general circulation, printed and published daily except Sunday in the City of Salinas, County of Monterey and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Monterey, State of California; that the notice, of which the annexed is a printed copy (set in type no smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

July 11, 2009

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed July 11, 2009

at Salinas, California.

*C. Clark*

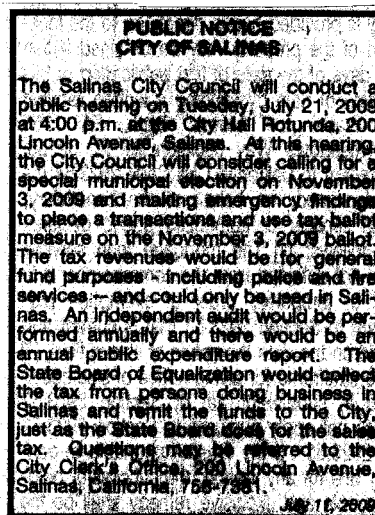
Signature

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**Public Hearing: July 21, 2009 at 4pm**

**Re: Special Municipal Election ...**

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*This space is for the County Clerk's Filing Stamp*

# PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Monterey

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of *The Salinas Californian*, a newspaper of general circulation, printed and published daily except Sunday in the City of Salinas, County of Monterey and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Monterey, State of California; that the notice, of which the annexed is a printed copy (set in type no smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

July 18, 2009

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed July 18, 2009

at Salinas, California.

*C. Clark*

Signature

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*Public Hearing: July 21, 2009 at 4 p.m.  
Special Municipal Election on Nov. 3, 2009*

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