

EXHIBIT A

ORDINANCE NO. 1094

AN ORDINANCE OF THE VOTERS OF THE CITY OF SANGER
ADDING ARTICLE VI TO CHAPTER 66 OF THE SANGER CITY CODE, ENACTING A SPECIAL
3/4 CENT TRANSACTIONS AND USE TAX FOR PUBLIC SAFETY

THE PEOPLE OF THE CITY OF SANGER DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Article VI is hereby added to Chapter 66 of the Sanger City Code, to read as follows:

Sec. 66-200. Title.

This ordinance shall be known as the Sanger Police, Fire, Paramedic 9-1-1 Emergency Response and Gang/Drug Prevention Special Transactions and Use Tax Ordinance. The City of Sanger hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Sec. 66-201. 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.

Sec. 66-202. 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 special retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

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

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the 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.

Sec. 66-203. 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.

Sec. 66-204. Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a special tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 0.75% 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. Such tax shall be in addition to any other transactions tax imposed by this Code or applicable State law.

Sec. 66-205. 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.

Sec. 66-206. Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 0.75% 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. Such special tax shall be in addition to any other use tax imposed by this Code or applicable State law.

Sec. 66-207. 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.

Sec. 66-208. 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 of the Revenue and Taxation Code and in the definition of that phrase in Section 6203.

Sec. 66-209. 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.

Sec. 66-210. 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.

Sec. 66-211. Amendments.

A. 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 unless any increase in the rate of this tax is first approved by 2/3 of the voters of the City of Sanger voting on such question.

B. Pursuant to California Elections Code Section 9217 or any successor statute, the City Council of the City of Sanger may amend or repeal this ordinance and any of its exhibits, but not increase or extend the rate of tax imposed herein, without a vote of the people.

Sec. 66-212. 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.

Sec. 66-213. 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.

Sec. 66-214. Use of Tax Proceeds and Expenditure Plan.

All proceeds of the tax levied and imposed hereunder shall be accounted for and paid into a special Public Safety Trust Fund or account designated for use by the City of Sanger only for the Police, Fire, Paramedic, 9-1-1 Emergency, and Gang/Drug Prevention Services set forth in the Program Guidelines and Public Safety Expenditure Plan for the administration and expenditure of the tax proceeds, attached to this Ordinance as Exhibit "1." The Public Safety Expenditure Plan may be amended from time to time by a majority vote of the City Council, so long as the funds are utilized for these public safety services. For the purposes of this Part, "Public Safety Services" means (a) obtaining, furnishing, operating, and/or maintaining police protection equipment or apparatus, paying the salaries and benefits of police protection personnel, and such other police protection service expenses, including capital expenses, as are deemed necessary by the City Council for the benefit of the residents of the City; (b) obtaining, furnishing, operating, and/or maintaining fire protection equipment or apparatus, paying the salaries and benefits of fire protection personnel, and such other fire protection service expenses, including capital expenses, as are deemed necessary by the City Council for the benefit of the residents of the City. No revenues collected pursuant to the tax levied hereby may be spent on department administrators' salaries, General Fund operating expenses in effect at the time this ordinance becomes effective, or projects not a part of the Public Safety Measure Police and Fire Expenditure Plan. It is the intent of the People that revenues collected hereunder shall supplement, rather than supplant, existing City expenditures for Public Safety.

Sec. 66-215. Citizen's Oversight Committee Established; Composition

There is hereby established in the City of Sanger a Citizen's Oversight Committee to monitor the expenditures of special revenue collected pursuant to this Chapter only and to report to the City Council.

A. Consistent with established regulations and practices in the City of Sanger, members of the Citizen's Oversight Committee shall be appointed by the Mayor with the advice and consent of the City Council. The Committee shall consist of five members. All Committee members must be residents of the City of Sanger. The Committee members shall not be current City of Sanger employees, officials, contractors or vendors of the City. Past employees, officials or vendors shall be eligible to serve on the Committee, provided that there are no conflicts of interest as determined by the City Attorney.

B. Candidates for Committee membership shall be solicited through an open application process that is promoted through a broad-based recruitment process. Any Sanger resident of voting age is eligible to apply for Committee membership, subject to the appointment categories specified herein. The Sanger Police and Fire Chiefs will review applications and provide input to the Mayor and Council on applicants. All applications will be reviewed by the Mayor and City Council, who will collectively have the authority to make all final decisions on Committee membership.

Sec. 66-216. Terms of Office; Vacancies; Compensation

A. Of the members of the Committee first appointed, three shall be appointed for terms of two years, and two for three years. Their successors shall be appointed for terms of two years. No Committee member shall serve more than three consecutive terms.

B. Committee members whose terms expire shall continue to serve until their successor is appointed and qualified. If a vacancy occurs other than by expiration of a term, it shall be filled by appointment for the unexpired portion of the term.

C. Absence from four consecutive regular meetings without the formal consent of the Committee shall be deemed to constitute retirement of such Committee member from the Committee, and the position of such retired member shall be deemed vacant.

D. Committee members shall serve at the pleasure of the City Council and may be removed from office in the sole determination, with or without cause, notice, hearing or appeal, by the City Council.

E. Committee members shall receive a fee of \$25.00 for each meeting of the Committee which they attend.

Sec. 66-217. Meetings; Officers; Rules of Procedure; Quorum

A. The Committee may adopt rules and regulations to govern proceedings and shall set a time for regular meetings which shall be held at least once each month. A chairman, vice-chairman and secretary will be elected.

B. The Committee shall elect a chairman, vice-chairman and secretary. Their respective duties shall be as are usually carried out by such officers. Officers shall hold office for one year and until their successors are elected.

C. A majority of the Committee shall constitute a quorum for the transaction of business.

D. Committee meetings are subject to all open-meeting laws, and must be noticed and open to the public. Committee minutes and reports are a matter of public record and must be made available to the public in the manner provided by law.

E. Orientation and training is mandatory for all Committee members. Each Committee member shall attend such orientation and training prior to their first regular Committee meeting.

Sec. 66-218. Powers and Duties

A. The Citizen's Oversight Committee shall review expenditures of special revenue collected pursuant to this Chapter only to determine whether such funds are expended for the purposes specified in the then-current Public Safety Measure Police and Fire Expenditure Plan, and issuing reports on their findings to the City Council at least annually. Committee members may also review the annual financial or performance audits performed by an independent auditor. The Committee shall confine its oversight specifically to revenues generated under this Chapter. Revenue generated through other sources shall be outside the jurisdiction of the Committee.

B. In order to preserve the integrity and independence of the oversight process, Committee members shall not play a formal role in contracting, project management, or any other aspect of the Public Safety Measure funding.

C. The Committee is not charged with decision-making on spending priorities, schedules, project details, funding source decisions, financing plans, or tax rate assumptions. The Committee shall serve in an advisory-only role to the City Council. The Committee shall have no jurisdiction other than that delegated to it by the City Council pursuant to this Chapter.

D. The City Manager or his designee shall provide any reasonable administrative or technical assistance required by the Committee to fulfill its responsibilities or publicize its findings.

Section 1. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or void for any other reason.

Section 2. Effective Date. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance and approval by the voters at the Presidential Primary Election to be held on February 5, 2008, and shall expire after ten years following the effective date.

Section 3. The City Clerk shall certify the passage of this ordinance, publish the same as required by applicable law, and forward a copy of the adopted ordinance to the Board of Equalization.


Michael A. Montelongo, Mayor

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ATTEST:

I BARBARA M. MERGAN, City Clerk of the City of Sanger, California, do hereby certify that the foregoing ordinance was introduced on a motion of Councilmember McCann, seconded by Councilmember Neri, at a regular meeting of the Sanger City Council held on the 17th day of January, 2008, and was duly adopted by the Sanger City Council at a Regular Meeting of said City Council on the 31st day of January, 2008, by the following roll call vote:

AYES:	COUNCILMEMBERS:	Montelongo, Castellano, Neri, Pena
NOES:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	McCann


Barbara M. Mergan, City Clerk

APPROVE AS TO LEGAL FORM:

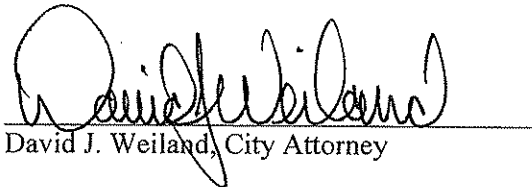

David J. Weiland, City Attorney

EXHIBIT 1

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANGER ADOPTING
PROGRAM GUIDELINES AUTHORIZING THE ACCOUNTING FOR TAX
PROCEEDS LEVIED FOR PUBLIC SAFETY PURPOSES AND FOR THE ADOPTION
OF AN EXPENDITURE PLAN**

WHEREAS, the citizens of the City of Sanger have voted to approve the levy and collection of a special tax for public safety purposes; and

WHEREAS, the City Council desires that the revenues collected pursuant to the special tax be deposited into a special account designated for use by the City of Sanger only for the Public Safety Purposes set forth in the Program Guidelines and Public Safety Expenditure Plan adopted by the City Council for the administration and expenditure of such tax revenues; and

WHEREAS, pursuant to the Program Guidelines and Public Safety Expenditure Plan, no revenues collected pursuant to the special tax levy may be spent on department administrator's salaries, General Fund operating expenses or on projects not a part of the Public Safety Expenditure Plan; and

WHEREAS, it is the intent of the voters that revenues collected pursuant to the special tax shall supplement, rather than supplant, existing City expenditures for Public Safety.

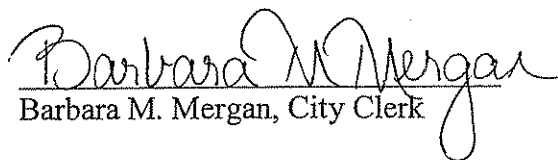
NOW, THEREFORE, the City Council of the City of Sanger hereby resolves finds and orders as follows:

1. The above recitals are true and correct and are hereby adopted as the official policies of the City of Sanger.
2. The Public Safety Expenditure Plan may be amended from time to time by a majority vote of the City Council, so long as the funds are utilized for public safety, police and fire protection services.
3. "Public Safety" is hereby defined to mean (a) obtaining, furnishing, operating, and/or maintaining police protection equipment or apparatus, paying the salaries and benefits of police protection personnel, and such other police protection service expenses as are deemed necessary by the City Council for the benefit of the residents of the City; and (b) obtaining, furnishing, operating, and/or maintaining fire protection equipment or apparatus, paying the salaries and benefits of fire protection personnel, and such other fire protection service expenses as are deemed necessary by the City Council for the benefit of the residents of the City.

* * * * *

I hereby certify that the foregoing is a full, true and correct copy of a Resolution duly and regularly adopted and passed by the City Council for the City of Sanger, California, at a regular meeting held on the 31st day of January, 2008, by the following vote:

AYES:	COUNCILMEMBERS:	Montelongo, Castellano, Neri, Pena
NOES:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	McCann


Barbara M. Mergan, City Clerk