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**Exhibit A to City Council Resolution No. 35-22**

**ORDINANCE NO. 2578**

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO  
ADDING CHAPTER 3.90 TO THE CHICO CITY MUNICIPAL CODE TO  
ESTABLISH A ONE PERCENT GENERAL PURPOSE TRANSACTIONS  
AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA  
DEPARTMENT OF TAX AND FEE ADMINISTRATION**

**Section 1.** The Chico Municipal Code is hereby revised to add Chapter 3.90 as set forth below, thereby enacting a local transactions and use (sales) tax within the City of Chico, to be administered by the California Department of Tax and Fee Administration.

**CHAPTER 3.90 – CITY SERVICES TRANSACTION AND USE (SALES) TAX**

**3.90.1010 - TITLE.** This chapter shall be known as the City of Chico Transactions and Use Tax Ordinance. The City of Chico hereinafter shall be called "City." This chapter shall be applicable in the incorporated territory of the City.

**3.90.020 - OPERATIVE DATE.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the City Council declares the results of the election held on November 8, 2022.

**3.90.030 - PURPOSE.** This chapter 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

1 be operative if a majority of the electors voting on the measure vote to approve the imposition of  
2 the tax at an election called for that purpose.

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

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

13 D. To adopt a retail transactions and use tax ordinance that can be administered in a manner  
14 that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division  
15 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes,  
16 and at the same time, minimize the burden of record keeping upon persons subject to taxation  
17 under the provisions of this chapter.

18  
19 **3.90.040 - CONTRACT WITH STATE.** Prior to the operative date, the City shall contract with  
20 the California Department of Tax and Fee Administration to perform all functions incident to the  
21 administration and operation of this transactions and use tax ordinance; provided, that if the City  
22 shall not have contracted with the California Department of Tax and Fee Administration prior to  
23 the operative date, it shall nevertheless so contract and in such a case the operative date shall be  
24 the first day of the first calendar quarter following the execution of such a contract.

25  
26 **3.90.050 - TRANSACTIONS TAX RATE.** For the privilege of selling tangible personal  
27 property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City

1 at the rate of 1% of the gross receipts of any retailer from the sale of all tangible personal property  
2 sold at retail in said territory on and after the operative date of this chapter.

3  
4 **3.90.060 - PLACE OF SALE.** For the purposes of this chapter, all retail sales are consummated  
5 at the place of business of the retailer unless the tangible personal property sold is delivered by the  
6 retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-  
7 state destination. The gross receipts from such sales shall include delivery charges, when such  
8 charges are subject to the state sales and use tax, regardless of the place to which delivery is made.  
9 In the event a retailer has no permanent place of business in the State or has more than one place  
10 of business, the place or places at which the retail sales are consummated shall be determined  
11 under rules and regulations to be prescribed and adopted by the California Department of Tax and  
12 Fee Administration.

13  
14 **3.90.070 - USE TAX RATE.** An excise tax is hereby imposed on the storage, use or other  
15 consumption in the City of tangible personal property purchased from any retailer on and after the  
16 operative date of this chapter for storage, use or other consumption in said territory at the rate of  
17 1% of the sales price of the property. The sales price shall include delivery charges when such  
18 charges are subject to state sales or use tax regardless of the place to which delivery is made.

19  
20 **3.90.080 - ADOPTION OF PROVISIONS OF STATE LAW.** Except as otherwise provided in  
21 this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division  
22 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section  
23 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this  
24 chapter as though fully set forth herein.

25  
26 **3.90.090 - LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF**  
27 **USE TAXES.** In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation  
28 Code:

1 A. Wherever the State of California is named or referred to as the taxing agency, the name  
2 of this City shall be substituted therefor. However, the substitution shall not be made when:

3 1. The word "State" is used as a part of the title of the State Controller, State Treasurer,  
4 State Treasury, or the Constitution of the State of California;

5 2. The result of that substitution would require action to be taken by or against this City  
6 or any agency, officer, or employee thereof rather than by or against the California Department of  
7 Tax and Fee Administration, in performing the functions incident to the administration or  
8 operation of this chapter.

9 3. In those sections, including, but not necessarily limited to sections referring to the  
10 exterior boundaries of the State of California, where the result of the substitution would be to:

11 a. Provide an exemption from this tax with respect to certain sales, storage, use  
12 or other consumption of tangible personal property which would not otherwise be exempt from  
13 this tax while such sales, storage, use or other consumption remain subject to tax by the State under  
14 the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

15 b. Impose this tax with respect to certain sales, storage, use or other consumption  
16 of tangible personal property which would not be subject to tax by the state under the said provision  
17 of that code.

18 4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737,  
19 6797 or 6828 of the Revenue and Taxation Code.

20 B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged  
21 in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

22 1. "A retailer engaged in business in the District" shall also include any retailer that,  
23 in the preceding calendar year or the current calendar year, has total combined sales of tangible  
24 personal property in this state or for delivery in the State by the retailer and all persons related to  
25 the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a  
26 person is related to another person if both persons are related to each other pursuant to Section  
27 267(b) of Title 26 of the United States Code and the regulations thereunder.

1 **3.90.100 - PERMIT NOT REQUIRED.** If a seller's permit has been issued to a retailer under  
2 Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be  
3 required by this chapter.

4  
5 **3.90.110 - EXEMPTIONS AND EXCLUSIONS.**

6 A. There shall be excluded from the measure of the transactions tax and the use tax the  
7 amount of any sales tax or use tax imposed by the State of California or by any city, city and  
8 county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the  
9 amount of any state-administered transactions or use tax.

10 B. There are exempted from the computation of the amount of transactions tax the gross  
11 receipts from:

12 1. Sales of tangible personal property, other than fuel or petroleum products, to  
13 operators of aircraft to be used or consumed principally outside the county in which the sale is  
14 made and directly and exclusively in the use of such aircraft as common carriers of persons or  
15 property under the authority of the laws of this State, the United States, or any foreign government.

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

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

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

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

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

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

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

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

18                   2. Other than fuel or petroleum products purchased by operators of aircraft and used  
19 or consumed by such operators directly and exclusively in the use of such aircraft as common  
20 carriers of persons or property for hire or compensation under a certificate of public convenience  
21 and necessity issued pursuant to the laws of this State, the United States, or any foreign  
22 government. This exemption is in addition to the exemptions provided in Sections 6366 and  
23 6366.1 of the Revenue and Taxation Code of the State of California.

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

26                   4. If the possession of, or the exercise of any right or power over, the tangible  
27 personal property arises under a lease which is a continuing purchase of such property for any

1 period of time for which the lessee is obligated to lease the property for an amount fixed by a lease  
2 prior to the operative date of this chapter.

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

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

14 7. "A retailer engaged in business in the City" shall also include any retailer of any  
15 of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section  
16 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of  
17 the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing  
18 with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any  
19 purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

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

25  
26 **3.90.120 - NEW REVENUE USE RESTRICTION.** Any new revenues generated by the passage  
27 and collection of this transaction and use tax shall be available for any general fund purpose(s).  
28

1 **3.90.130 - AMENDMENTS.** All amendments subsequent to the effective date of this chapter to  
2 Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which  
3 are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code,  
4 and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall  
5 automatically become a part of this chapter, provided however, that no such amendment shall  
6 operate so as to affect the rate of tax imposed by this chapter.

7  
8 **3.90.140 - ENJOINING COLLECTION FORBIDDEN.** No injunction or writ of mandate or  
9 other legal or equitable process shall issue in any suit, action or proceeding in any court against  
10 the State or the City, or against any officer of the State or the City, to prevent or enjoin the  
11 collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any  
12 tax or any amount of tax required to be collected.

13  
14 **3.90.150 - SEVERABILITY.** If any provision of this chapter or the application thereof to any  
15 person or circumstance is held invalid, the remainder of the chapter and the application of such  
16 provision to other persons or circumstances shall not be affected thereby.

17  
18 **3.90.160 - EFFECTIVE DATE AND SUBMISSION TO VOTERS.** Pursuant to California  
19 Government Code section 53724 and Revenue and Taxation Code section 7285.9, this Ordinance  
20 was duly approved for placement on the ballot by a minimum two-thirds (2/3) supermajority of all  
21 members of the City Council. This chapter relates to the levying and collecting of the City  
22 transactions and use taxes and shall take effect immediately. Pursuant to California Elections Code  
23 section 9217, this Ordinance shall be deemed adopted and take effect only if approved by a  
24 majority of the eligible voters of the City of Chico voting at the General Municipal Election of  
25 November 8, 2022. It shall be deemed adopted when the City Council has certified the results of  
26 that election by resolution and shall take effect ten (10) days thereafter.



1 **3.90.170 - TERMINATION AND AMENDMENT.** The authority to levy the tax imposed by  
2 this chapter shall continue indefinitely until this chapter is repealed. The City Council may amend  
3 this chapter to reduce the rate of the taxes, either permanently or for a set period of time, without  
4 a further vote of the people. However, as required by Article XIIC of the Constitution of the State  
5 of California, no amendment to this chapter may increase the rates of the taxes above what is  
6 authorized by this chapter unless such amendment is submitted to and approved by the voters.

7  
8 **3.90.180 - DECLARATION.** The proceeds of the taxes imposed by this chapter may be used for  
9 any lawful purpose of the City, as authorized by ordinance, resolution or action of the City Council  
10 or by ordinance adopted by the electorate of the City. These taxes do not meet the criteria  
11 established by Section (d) of Article XIIC of the Constitution of the State of California for special  
12 taxes, and are general taxes imposed for general government purposes.

13  
14 **3.90.190 - ACCOUNTABILITY.** The City's expenditure of the proceeds of the taxes imposed  
15 by this chapter shall be reviewed annually in conjunction with, and as part of the City's usual  
16 annual financial audit, and the results of such review shall be made available for inspection by the  
17 public.

18  
19 **Section 2.** Upon approval by the voters, the City Clerk shall certify to the passage and adoption  
20 of this Ordinance and shall cause it to be published according to law.

21  
22 \*\*\*\*\*


23 It is hereby certified that this Ordinance was duly adopted by the voters at the November 8, 2022  
24 election and took effect 10 days following adoption of a resolution declaring the results of the  
25 election at a regular meeting of the City Council held on December 6, 2022: by the  
26 following vote:

1 AYES: Bennett, Brown, Morgan, O'Brien, Tandon, Reynolds, Coolidge  
2 NOES: None  
3 ABSENT: None  
4 ABSTAIN: None  
5 DISQUALIFIED: None  
6

7 ATTEST:

APPROVED AS TO FORM:

8  
9  
10   
11 Deborah R. Presson, City Clerk

  
Vincent C. Ewing, City Attorney\*

12  
13  
14 \*Pursuant to The Charter of the  
15 City of Chico, Section 906(E)  
16