

1 EXHIBIT "A"

2 **ORDINANCE NO. \_\_\_\_**

3 **AN ORDINANCE OF THE PEOPLE OF THE CITY OF SUISUN CITY ADDING**  
4 **CHAPTER 3.14 TO THE SUISUN CITY CODE IMPOSING A GENERAL**  
5 **TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD**  
6 **OF EQUALIZATION, SUBJECT TO APPROVAL OF A MAJORITY OF THE**  
7 **ELECTORS VOTING ON THE TAX MEASURE AT THE GENERAL MUNICIPAL**  
8 **ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016**

9 **WHEREAS**, Article XIIIIC, Section 2 of the California Constitution authorizes a city  
10 to impose a general tax if approved by a majority vote of the qualified electors; and

11 **WHEREAS**, Part 1.6 (commencing with Section 7251) of Division 2 of the California  
12 Revenue and Taxation Code, and Section 7285.9 of the California Revenue and Taxation  
13 Code, authorizes a city to adopt a transactions and use (sales) tax ordinance, which shall be  
14 operative if a majority of the electors voting on the measure vote to approve the imposition of  
15 the tax at an election called for that purpose; and

16 **WHEREAS**, in response to the Great Recession, as well as the elimination of the  
17 Redevelopment Agency and other state take-aways, the City of Suisun City dramatically  
18 tightened its belt; and

19 **WHEREAS**, this belt tightening included: reducing staffing by 20%; deferring  
20 building, parks and street maintenance; and postponing vehicle replacement; and

21 **WHEREAS**, in addition there are huge funding shortfalls for such critical needs as  
22 updating the police and fire communications system, replacing a 35-year old  
23 accounting/budget/payroll/HR/purchasing/billing/permit system, fully funding the dredging of  
24 the Suisun Marina, replacing playground equipment at parks; and

25 **WHEREAS**, continuing to try to operate with reduced staffing has a negative impact  
26 on public service delivery in all departments of the City; and

27 **WHEREAS**, as a solution to the fiscal constraints on general services, the City  
28 Council desires to submit to the voters a proposal to enact a one-cent per dollar (i.e., 1.0%)  
transaction and use tax in the City of Suisun City, with the funds to be deposited in the City's  
General Fund and be used for general City purposes and services, including but not limited to  
maintain rapid 911 emergency response times, neighborhood police patrols, youth crime and  
gang prevention programs, fire prevention and protection, fixing potholes, maintaining City  
streets and streetlights, maintaining City parks and street trees, and other vital City services;  
and

**WHEREAS**, by taking this step to keep the City safe by keeping crime rates low, to  
maintain or reduce emergency response times, and to enhance the City's maintenance of its

1 critical public facility infrastructure, the City can protect property values and protect the  
2 progress the City has made to date, and keep it moving in the right direction; and

3 **WHEREAS**, funds from this proposed measure are subject to strict fiscal  
4 accountability and transparency provisions, including annual independent audits and  
5 publishing of expenditure reports to ensure funds are spent efficiently and effectively; and

6 **WHEREAS**, California Constitution Article XIII C, Section 2, provides any general  
7 tax must be submitted to the electorate and approved by a majority vote of the electorate; and

8 **WHEREAS**, California Constitution Article XIII C, Section 2, provides that an  
9 election regarding a general tax must be consolidated with a regularly scheduled general  
10 municipal election for members of the City Council; and

11 **WHEREAS**, a general municipal election on Tuesday, November 8, 2016, has been  
12 called by Resolution No. 2016-40, adopted on June 21, 2016; and

13 **WHEREAS**, on the basis of the foregoing, the City Council hereby determines it is  
14 appropriate to place a measure before the voters at the November 8, 2016, general municipal  
15 election regarding adopting a general City transactions and use tax.

16 **NOW THEREFORE**, on the basis of the foregoing, the People of the City of Suisun  
17 City at the November 8, 2016, general municipal election do hereby Ordain as follows:

18 **SECTION 1.** A new Chapter 3.14 is hereby added to the Suisun City Code to read as  
19 follows:

20 Chapter 3.14  
21 GENERAL TRANSACTIONS AND USE TAX

22 3.14.010 Title of ordinance. This Chapter shall be known as the General  
23 Transactions and Use Tax Ordinance. This Chapter shall be applicable only in the  
24 incorporated territory of the City.

25 3.14.020 Basic definitions. As used in this Chapter, "City" means the City of Suisun  
26 City and "tax" means the transactions and use tax (general tax) imposed under the provisions  
27 of this Chapter.

28 3.14.030 Operative date. "Operative Date" means the first day that the tax is  
imposed. The "operative date" means the first day of the first calendar quarter commencing  
more than 110 days after the effective date of this Chapter, such effective date being as set  
forth below, and shall expire ten years thereafter.

3.14.040 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

1 and Section 7285.9 of Part 1.7 of Division 2, which authorizes the City to adopt this tax  
2 ordinance which shall be operative only 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.

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

7 C. To adopt a retail transactions and use tax ordinance that imposes a general tax  
8 and provides a measure therefore that may be administered and collected by the State Board  
9 of Equalization 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 State Board of Equalization in administering and collecting the California State Sales and Use  
12 Taxes.

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

18 3.14.050 Contract with state. Prior to the operative date, the City shall contract with  
19 the State Board of Equalization to perform all functions incident to the administration and  
20 operation of this transactions and use tax ordinance; provided however, that if the City shall  
21 not have contracted with the State Board of Equalization prior to the operative date, it shall  
22 nevertheless so contract and in such a case the operative date shall be the first day of the first  
23 calendar quarter following the execution of such a contract.

24 3.14.060 Transaction tax rate. For the privilege of selling tangible personal property  
25 at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at  
26 the rate of one-cent per dollar (1.0%) of the gross receipts of any retailer from the sale of all  
27 tangible personal property sold at retail in said territory on and after the operative date of this  
28 Chapter.

3.14.070 Place of sale. For the purposes of this Chapter, 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.

3.14.080 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 Chapter for storage, use or other consumption in said territory at  
the rate of one-cent per dollar (1.0%) of the sales price of the property. The sales price shall

1 include delivery charges when such charges are subject to State sales or use tax regardless of  
2 the place to which delivery is made.

3 3.14.090 Proceeds of taxes. The proceeds of the transactions and use tax imposed by  
4 this Chapter shall be deposited into the General Fund of the City to be used for all general  
5 government purposes which may include, but are not limited to, fire and police protection,  
6 street and sidewalk repair and maintenance, park repair and maintenance, recreational  
7 programs, building and code enforcement services, planning and zoning services, capital  
8 equipment requirements, public infrastructure, repair and replacement of City facilities,  
9 capital improvement projects, operational expenses, fiduciary responsibilities, administration,  
10 indebtedness, and general obligations of the City. The tax imposed by this Chapter is  
11 intended to be and is, a general tax, the proceeds of which are to be spent as the City Council  
12 shall in its discretion, from time to time, determine.

13 3.14.100 Adoption of provisions of state law. Except as otherwise provided in this  
14 Chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division  
15 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with  
16 Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made  
17 a part of this Chapter as though fully set forth herein.

18 3.14.110 Limitations on adoption of state law and collection of use taxes. In  
19 adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

20 A. Wherever the State of California is named or referred to as the taxing agency,  
21 the name of the City shall be substituted therefore. However, the substitution shall not be  
22 made when:

23 1. The word "State" is used as a part of the title of the State Controller,  
24 State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the  
25 Constitution of the State of California.

26 2. The result of that substitution would require action to be taken by or  
27 against this City or any agency, officer, or employee thereof rather than by or against the State  
28 Board of Equalization, in performing the functions incident to the administration or operation  
of this Chapter.

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.

1                   4.     In Sections 6701, 6702 (except in the last sentence thereof), 6711,  
2 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

3                   B.     The word "City" shall be substituted for the word "State" in the phrase "retailer  
4 engaged in business in this State" in Section 6203 and in the definition of that phrase in  
5 Section 6203 of the Revenue and Taxation Code.

6                   3.14.120 Permit not required. If a seller's permit has been issued to a retailer under  
7 Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be  
8 required by this Chapter.

9                   3.14.130 Exemptions and exclusions.

10                  A.     There shall be excluded from the calculation of the transactions tax and the use  
11 tax the amount of any sales tax or use tax imposed by the State of California or by any city,  
12 city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax  
13 Law or the amount of any State-administered transactions or use tax.

14                  B.     There are exempted from the computation of the amount of transactions tax the  
15 gross receipts from:

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

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

25                   a.     With respect to vehicles (other than commercial vehicles)  
26 subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of  
27 the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities  
28 Code, and undocumented vessels registered under Division 3.5 (commencing with Section  
29 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under  
30 penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal  
31 place of residence; and

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

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

1           4.     A lease of tangible personal property which is a continuing sale of such  
2 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 Chapter.

3           5.     For the purposes of subparagraphs (3) and (4) of this section, the sale or  
4 lease of tangible personal property shall be deemed not to be obligated pursuant to a contract  
5 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           C.     There are exempted from the use tax imposed by this Chapter, the storage, use  
7 or other consumption in this City of tangible personal property:

8           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.

9           2.     Other than fuel or petroleum products purchased by operators of  
10 aircraft and used or consumed by such operators directly and exclusively in the use of such  
11 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  
12 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.

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

15          4.     If the possession of, or the exercise of any right or power over, the  
16 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 Chapter.

17          5.     For the purposes of subparagraphs (3) and (4) of this section, storage,  
18 use, or other consumption, or possession of, or exercise of any right or power over, tangible  
19 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  
20 terminate the contract or lease upon notice, whether or not such right is exercised.

21          6.     Except as provided in subparagraph (7), a retailer engaged in business  
22 in the City shall not be required to collect use tax from the purchaser of tangible personal  
23 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  
24 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.

25          7.     "A retailer engaged in business in the City" shall also include any  
26 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  
27 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  
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1 retailer shall be required to collect use tax from any purchaser who registers or licenses the  
2 vehicle, vessel, or aircraft at an address in the City.

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

8 3.14.140 Changes in law. All amendments subsequent to the effective date of this  
9 Chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use  
10 taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue  
11 and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue  
12 and Taxation Code, shall automatically become a part of this Chapter, provided however, that  
13 no such amendment shall operate so as to affect the rate of tax imposed by this Chapter.

14 3.14.150 Enjoining collection forbidden. No injunction or writ of mandate or other  
15 legal or equitable process shall issue in any suit, action or proceeding in any court against the  
16 State or the City, or against any officer of the State or the City, to prevent or enjoin the  
17 collection under this Chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of  
18 any tax or any amount of tax required to be collected.

19 3.14.160 Annual audit. The proceeds resulting from this Transactions and Use Tax  
20 shall be deposited into the City's General Fund and become subject to the same independent  
21 annual audit requirements as other general fund revenue. In addition the City's independent  
22 auditor shall complete a General Transactions and Use Tax Compliance and Internal Control  
23 Audit Report. Such report shall review whether the tax revenues collected pursuant to this  
24 Chapter are collected, managed, and expended in accordance with this Chapter.

25 3.14.170 All funds staying local. All tax revenues collected under the authority of  
26 this Chapter shall be expended solely on local municipal services, and shall not be used for  
27 any other purposes.

28 3.14.180 Effective date. This Chapter levying the tax described herein shall be  
effective ten (10) days after the date on which the City Council has declared that the voters of  
the City of Suisun City have approved the Chapter by a vote of no fewer than a majority of  
the votes cast by the electors voting on the tax measure set forth in this Chapter at that general  
municipal election to be held on Tuesday, November 8, 2016.

3.26.190 Penalties. Without limiting any remedies available at law or equity, any  
person violating any of the provisions of this Chapter shall be deemed guilty of a  
misdemeanor.

3.14.200 Amendments. The tax rate in this Chapter may only be increased by a vote  
of the People of the City of Suisun City; provided, however, that the City Council may amend  
this Chapter to otherwise implement or advance the purpose and intent of this Chapter.

1           3.14.210 Severability. If any provision of this Chapter or the application thereof to  
2 any person or circumstance is held invalid, the remainder of the Chapter and the application  
of such provision to other persons or circumstances shall not be affected thereby.

3           3.14.220 Suisun City oversight committee. The City Council shall establish a Suisun  
4 City General Tax Oversight Committee to review the expenditure of the revenues collected  
5 pursuant to this Chapter. The committee shall consist of five members appointed by the City  
6 Council. The committee members shall be residents and taxpayers in the City. The terms of  
the committee members, as well as their specific duties shall be set forth in a resolution  
adopted by the City Council. Such resolution may be amended by resolution of the Council.

7           **SECTION 2. SEVERABILITY.** If any section, subsection, sentence, clause or  
8 phrase of this ordinance or the application thereof to any person or circumstance is for any  
9 reason held to be invalid, such decision shall not affect the validity of the remaining portions  
10 of this ordinance. The People of the City of Suisun City hereby declared that they would have  
11 passed each subsection, subdivision, paragraph, sentence, clause, or phrase thereof,  
irrespective of the fact that any one or more subsection, subdivision, paragraph, sentence,  
clause, or phrase be declared unconstitutional.

12           **SECTION 3. CEQA REVIEW.** The adoption of this ordinance is not a "project"  
13 subject to the requirements of 19 the California Environmental Quality Act (CEQA) (Public  
14 Resources Code Section §§ 21000 *et seq.*). CEQA Guideline 15378(b)(4) provides that the  
15 creation of government funding mechanisms or other government fiscal activities that do not  
involve any commitment to a specific project that may result in a potentially significant  
physical impact on the environment are not projects subject to the requirements of CEQA.

16           **SECTION 4. NOTICE OF PUBLICATION.** This Ordinance shall be posted in  
17 compliance with Municipal Code Section 1.12.010 and applicable law.

18           **SECTION 5. EXECUTION.** The Mayor of the City of Suisun City is hereby  
19 authorized and shall attest to the adoption of the Ordinance by the voters of the City of Suisun  
20 City by signing where indicated below.  
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1 **CERTIFICATION**

2 Ordinance No. \_\_\_\_ was submitted to the People of the City of Suisun City at the November  
3 8, 2016, general municipal election. It was approved by the following vote of the electors:

4 YES: \_\_\_\_\_

5 NO: \_\_\_\_\_

6 I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED by  
7 the People of the City of Suisun City, California voting on the 8th day of November, 2016.

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\_\_\_\_\_  
Pete Sanchez  
Mayor

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11 **ATTEST**

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\_\_\_\_\_  
Linda Hobson, CMC  
City Clerk

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