



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: CITY ATTORNEY

Prepared by: Robert F. Epstein
City Attorney

City Manager Approval: _____

TOPIC: NINE-YEAR, ONE-QUARTER PERCENT TRANSACTIONS AND USE TAX BALLOT MEASURE

SUBJECT:

1. CITY ATTORNEY'S IMPARTIAL ANALYSIS OF THE SAN RAFAEL TRANSACTIONS AND USE TAX MEASURE
2. AUTHORIZE MAYOR AND/OR HIS DESIGNEE TO FILE BALLOT ARGUMENT IN FAVOR OF MEASURE

RECOMMENDATION:

1. Accept report on the City Attorney's Impartial Analysis of the San Rafael Transactions and Use Tax ballot measure on the November 3, 2020 General Municipal Election Ballot.
2. Authorize Mayor Phillips and/or his designee to prepare an argument in favor of the measure and to prepare a rebuttal argument in opposition to any arguments against the measure, to be published in the ballot materials for the November 3, 2020 General Municipal Election.

BACKGROUND:

On July 20, 2020, the City Council adopted [Resolution No. 14843](#), placing a transaction and use tax measure on the ballot for the General Municipal Election being held on November 3, 2020. The measure proposes the adoption of the "San Rafael Emergency Preparedness and Essential Services Protection Measure," a nine-year, one-quarter percent transactions and use tax. To pass, the measure must be approved by a simple majority of the votes cast by the City's electors voting on the tax measure.

Resolution No. 14843 also directed the City Attorney to prepare an impartial analysis of the measure to be filed with the City Clerk and printed in the voter information pamphlet.

Additionally, ballot arguments may be submitted in favor or against a ballot measure. Elections Code section 9282(b) provides:

For measures placed on the ballot by the legislative body, the legislative body, or a member or members of the legislative body authorized by that body, or an individual

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

voter who is eligible to vote on the measure, or bona fide association of citizens, or a combination of voters and associations, may file a written argument for or against any city measure.

ANALYSIS:

Impartial Analysis:

The City Attorney has prepared the attached impartial analysis for the Transactions and Use Tax ballot measure. The impartial analysis is not meant to advocate a position on the measure, but rather must show the effect of the measure on the existing law and the operation of the measure. The responsibility for preparation of the impartial analysis rests solely with the City Attorney. Therefore, the City Council does not approve the impartial analysis; rather it is presented to the Council merely for information.

Authorization to Prepare Ballot Arguments:

Since the City Council has placed the Transactions and Use Tax Measure on the ballot for the November General Municipal Election, staff recommends that the City Council authorize Mayor Phillips and/or his designee to prepare, sign and submit to the City Clerk a ballot argument in favor of the measure, and to prepare, sign and submit a rebuttal to any arguments filed against the measure, for inclusion in the voter information materials for the November 3, 2020 General Municipal Election.

FISCAL IMPACT:

None.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Accept the report on the Impartial Analysis; and authorize Mayor Phillips and/or his designee to prepare, sign and submit a ballot argument and rebuttal regarding the Transactions and Use Tax measure.
2. Accept the report on the Impartial Analysis; and authorize other Councilmembers to prepare, sign and submit a ballot argument and rebuttal regarding the Transactions and Use Tax measure.
3. Accept the report on the Impartial Analysis; and do not authorize the Mayor or any Councilmembers to prepare, sign and submit a ballot argument and rebuttal regarding the Transactions and Use Tax measure.

RECOMMENDED ACTION:

1. Accept the report on the City Attorney's Impartial Analysis of the Transactions and Use Tax measure; and
2. Authorize Mayor Phillips and/or his designee to prepare, sign and submit to the City Clerk a ballot argument in favor of the Transactions and Use Tax measure, and to prepare, sign and submit a rebuttal to any arguments filed against the measure, for inclusion in the voter information materials for the November 3, 2020 General Municipal Election.

ATTACHMENTS:

1. Impartial Analysis by the City Attorney for the San Rafael Transactions and Use Tax measure.
2. Resolution No. 14843, with Attachment A: Full Text of Ballot Measure.

**IMPARTIAL ANALYSIS
BY THE CITY ATTORNEY
MEASURE “ _ ”**

If approved by the voters, this measure, called the “San Rafael Emergency Preparedness and Essential Services Protection Measure,” would amend the San Rafael Municipal Code to establish a new retail transactions and use tax within the City of San Rafael (“City”).

This measure would set the rate of the new retail transactions and use tax at one-quarter of one percent (0.25%). At this rate, for example, a transaction amounting to \$100 in value would generate a tax of 25 cents. It is estimated that the measure, if passed, would generate an additional \$3.4 million in revenue to the City of San Rafael.

The proposed transactions and use tax would be in addition to San Rafael’s current sales tax of 9.0%; therefore, if approved by the voters the total sales tax rate in the City would be 9.25%.

The proposed transactions and use tax would be imposed upon the sale of all tangible personal property sold at retail within the City as well as on all tangible personal property purchased from any retailer outside the City for storage, use or other consumption within the City. This measure would authorize the City, as required by law, to contract with the California Department of Tax and Fee Administration to administer and collect the tax. A person subject to a City use tax is entitled to a credit against the tax for a transactions tax paid under any other state-administered transactions and use taxes law.

This measure requires all proceeds of the tax to be deposited into the City’s General Fund to be used for all general municipal governmental purposes in the City’s discretion.

This measure would provide several enumerated exemptions and exclusions from the transactions and use tax. It further would prohibit the issuance of any injunction against collection of the tax, and would provide for a citizens' oversight committee to be appointed by the San Rafael City Council to review the collection and expenditures of revenues generated by the tax. The measure would provide that the City's authority to impose this tax would expire nine (9) years following its operative date.

This measure has been placed on the ballot by the San Rafael City Council. The ordinance proposed by this measure will only become effective if approved by a simple majority of those electors voting on the measure.

A **YES** vote approves the measure.

A **NO** vote rejects the measure.



Robert F. Epstein
City Attorney of San Rafael

RESOLUTION NO. 14843

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DIRECTING THE SUBMISSION TO THE ELECTORS OF THE CITY OF SAN RAFAEL OF A BALLOT MEASURE, PROPOSING AN AMENDMENT TO THE MUNICIPAL CODE OF THE CITY OF SAN RAFAEL TO ADD A NEW CHAPTER 3.19A ADDING A NINE-YEAR, ONE-QUARTER PERCENT TRANSACTIONS AND USE TAX, AT THE GENERAL MUNICIPAL ELECTION TO BE HELD TUESDAY, NOVEMBER 3, 2020 AS CALLED BY RESOLUTION NO. 14814; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE

WHEREAS, by adoption of Resolution No. 14814 on June 15, 2020, the City Council of the City of San Rafael called for and ordered a General Municipal Election to be held in the City of San Rafael, County of Marin, State of California, on Tuesday November 3, 2020, and requested the Marin County Board of Supervisors to consolidate the General Municipal Election with any other election conducted on that date, and requested election services by the Registrar of Voters of Marin County, California; and

WHEREAS, due to the public health impacts of the COVID-19 pandemic, and restrictions put in place through public health orders of the State of California and the County of Marin, cities such as San Rafael, which rely heavily on sales tax, transaction and use tax, and transient occupancy tax, have suffered severe revenue reductions; and

WHEREAS, the City has developed a COVID-19 Economic Recovery Plan (CERP) to help guide the City in recovery from losses incurred as a result of the pandemic; and

WHEREAS, one of the items defined in the CERP is to evaluate and explore community interest in revenue-generating strategies to assist the City in recovering from the current financial crisis; and

WHEREAS, a sales tax is a consumption-based tax that scales with consumption and therefore costs residents less who are having financial difficulties and are consuming less; and

WHEREAS, groceries and prescription medicines are exempt from a sales tax which reduces the burden of such a tax on residents on fixed incomes; and

WHEREAS, the one-quarter percent increase will have the same effect of bringing the rate back to what it was prior to January 1, 2017 at 9.25%; and

WHEREAS, only one-quarter percent of local sales tax remains available under the statutory sales tax cap established in state law so the City has a very limited opportunity to capture this revenue stream for local use before it may be taken by overlapping county or other regional agencies; and

WHEREAS, the City contracted with Godbe Research and TBWBH Props and Measures to assess community opinions related to potential placement of revenue measures on the ballot for the November 3, 2020 General Municipal Election for approval by the voters; and

WHEREAS, the City Council has determined to submit to the voters at the General Municipal Election on November 3, 2020, a ballot measure proposing to impose an additional one-quarter of one percent (0.25%) transactions and use tax (sales tax) within the City, for a period of nine years, to help mitigate the City's financial losses arising from the pandemic.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

1. Pursuant to the laws of the State of California and the Charter of the City of San Rafael, the City Council hereby orders submitted to the electors of the City of San Rafael at the General Municipal Election to be held Tuesday, November 3, 2020, the following measure:

CITY OF SAN RAFAEL TRANSACTIONS AND USE TAX

MEASURE _____

<p>“San Rafael Emergency Preparedness and Essential Services Protection Measure. To preserve essential city services with funding that cannot be taken by Sacramento, including disaster/health emergency preparedness, repairing potholes/city streets, maintaining 911 emergency response times, city parks/playgrounds, crime prevention, preserving local services/programs for youth, families, seniors, homeless, and other city services, shall the City of San Rafael measure increasing the local sales tax rate by ¼%, for 9 years, providing \$3,400,000 per year, be adopted?”</p>	YES	_____
	NO	_____

2. A copy of the ordinance establishing a new transactions and use tax of one-quarter of one percent (0.25%) is attached hereto as Attachment “A”, and will be submitted as the full text of the measure to the electors of the City of San Rafael at the General Municipal Election to be held on Tuesday November 3, 2020.

3. The City Council requests that the consolidation and election services requested from the County of Marin by City Council Resolution No. 14814, which requests are incorporated herein by reference, shall also apply to the election on this ballot measure; and

4. The City Clerk is hereby authorized, instructed and directed to give such further or additional notice of said election in time, form, and manner as required by law.

5. Pursuant to Elections Code section 9285, the City Council of the City of San Rafael hereby directs the City Clerk to accept rebuttal arguments submitted to the Clerk within ten (10) days after the final date for filing direct arguments.

6. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Attorney to prepare an impartial analysis of the ballot Measure.

7. This Resolution of the City Council submitting to the electors of the City of San Rafael this ballot measure establishing a transactions and use tax at the General Municipal Election to be held Tuesday, November 3, 2020, shall be effective immediately upon adoption by a two-thirds vote of the City Council.

8. The City Clerk is directed to submit a certified copy of this Resolution to the Board of Supervisors of the County of Marin.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City on Monday, the 20th day of July, 2020 by the following vote, to wit:

AYES: COUNCILMEMBERS: Bushey, Colin, Gamblin, McCullough & Mayor Phillips

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None


LINDSAY LARA, City Clerk

ATTACHMENT “A” – FULL TEXT OF MEASURE

ORDINANCE NO. _____

**AN ORDINANCE OF CITY OF SAN RAFAEL ADDING
CHAPTER 3.19A TO THE SAN RAFAEL MUNICIPAL
CODE ENTITLED “TRANSACTIONS AND USE TAX”**

WHEREAS, due to the financial impact of the COVID-19 pandemic on the City of San Rafael, the City staff evaluated various mechanisms to increase revenue and maintain City operations in the COVID-19 Economic Recovery Plan (CERP); and

WHEREAS, it is projected that over the next 16 months, the City will experience approximately \$11,800,000 in revenue loss which accounts for 15% of the City’s budget; and

WHEREAS, the City Council and staff have been critically evaluating the City’s priorities and strategies for providing quality community services with new fiscal constraints. To increase efficiency and work on a leaner budget, the City has frozen 23 staff positions and has temporarily reduced compensation for most City staff. The City will continue to analyze which services are a priority, and the most cost-effective method of delivering these services; and

WHEREAS, after study of the financial issues facing the City, and after extensive efforts to gauge the public’s opinions and priorities through surveys of San Rafael residents, the City Council determined that the most prudent, reasonable and financially responsible action it can take to preserve the fiscal stability of San Rafael and to protect vital services and facilities in our City, is to place before the voters a ballot measure to increase the rate of the City’s transactions and use tax by one-quarter of one percent (0.25%); and

WHEREAS, a one-quarter of one percent (0.25%) increase in the City’s transactions and use tax can be expected to generate approximately \$3.4 million in additional revenues for the City; and

WHEREAS, the cost burden of a transactions and use tax falls on both City residents and visitors; and

WHEREAS, a sales tax can be structured as a general tax, thus, providing flexibility in the use of funds to address the uncertain and changing needs of the City due to the pandemic;

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF SAN RAFAEL DO
ORDAIN AS FOLLOWS:**

DIVISION 1. AMENDMENT TO MUNICIPAL CODE.

A new Chapter 3.19A is hereby added to the San Rafael Municipal Code to read as follows:

Chapter 3.19A

TRANSACTIONS AND USE TAX

3.19A.010 -- Definitions.

As used in this Chapter, "City" means the City of San Rafael and "tax" means the transactions and use tax imposed under the provisions of this Chapter.

3.19A.015 – Chapter 3.19 Not Affected.

The tax imposed by this Chapter is in addition to, and does not replace or amend, the provisions of the tax imposed pursuant to Chapter 3.19 of the San Rafael Municipal Code.

3.19A.020 – Operative Date.

"Operative Date" means the first day that the tax is imposed and collected. The Operative Date shall be April 1, 2021, unless a later Operative Date becomes effective under the provisions of Section 3.19A.040.

3.19A.030 – Purpose.

This Chapter is adopted to achieve the following, among other purposes, and the City Council 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 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.

B. To adopt a retail transaction 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 may 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 may 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.

3.19A.040 – 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 however, 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.

3.19A.050 – Imposition of Transactions Tax; 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 of San Rafael at the rate of one-quarter of one percent (0.25%) 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.

3.19A.060 – Place of Transaction.

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.

3.19A.070 – Imposition of Use Tax; Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of San Rafael of tangible personal property purchased from any retailer on and after the Operative Date for storage, use or other consumption in said territory at the rate of one-quarter of one percent (0.25%) 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.

3.19A.080 -- Proceeds of Tax.

The proceeds of the transactions and use tax imposed by this Chapter shall be deposited into the general fund of the City to be used for all general government purposes which may include, but are not limited to disaster and health emergency preparedness, repairing potholes and city streets, maintaining 911 emergency response times, City parks and playgrounds, crime prevention, preserving local services and programs for youth, families, seniors, homeless, and other City services. The tax imposed by this Chapter is intended to be and is, a general tax, the proceeds of which are to be spent as the City Council shall in its discretion, from time to time, determine.

3.19A.090 -- Adoption of Provisions of State Law.

Except as otherwise provided in this Chapter 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 Chapter as though fully set forth herein.

3.19A.100 -- 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:

1. When 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. When 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 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 provisions of Part 1 of Division 2 of the Revenue and Taxation 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.

3.19A.110 -- 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 Chapter.

3.19A.120 -- Exemptions and Exclusions.

A. There shall be excluded from the calculation 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.

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.

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 Chapter, 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.

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.

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.

3.19A.130 -- Amendments.

All amendments subsequent to the effective date of this Chapter 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 Chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter.

3.19A.140 -- 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 Chapter, 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.

3.19A.142 -- Annual Audit.

The proceeds resulting from this Transactions and Use Tax shall be deposited into the City's General Fund and become subject to the same independent annual audit requirements as other general fund revenue.

3.19A.144 -- Independent Citizen Oversight.

A City Transactions and Use Tax Committee, to be established by the City Council by Resolution, shall review the collection and expenditure of tax revenues

collected under the authority of this Chapter. The Committee shall consist of at least five members, who shall be residents of the City. The terms of the Committee members and their specific duties shall be established by resolution of the City Council.

3.19A.146 -- All Funds Staying Local.

All tax revenues collected under the authority of this Chapter shall be expended solely on local municipal services and shall not be used for any other purposes.

3.19A.150 -- Termination Date.

The authority to levy the tax imposed by this Chapter shall expire on March 31, 2030, or at the end of nine years from the Operative Date if the Operative Date is later than April 1, 2021 as provided in Section 3.19A.040.

DIVISION 2. CEQA.

The approval of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action nor does it authorize any private activity, but merely taxes such activity as otherwise occurs. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax are used for a purpose that would have either such effect, the City will undertake the required CEQA review for that project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required at this time.

DIVISION 3. EFFECTIVE AND OPERATIVE DATES.

This ordinance shall be effective ten days after the date on which the City Council has declared that the voters of the City of San Rafael have approved the ordinance by a vote of no less than a majority of the votes cast by the electors voting on the tax measure set forth in this ordinance at the General Municipal Election to be held on Tuesday, November 3, 2020, and the tax established herein shall become operative on April 1, 2021 or on such later date as provided in Section 3.19A.040.

DIVISION 4. CERTIFICATION AND PUBLICATION.

Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this ordinance and shall cause it to be published, in full or in summary form, according to law.