



Agenda Item No: 5.a
Meeting Date: July 20, 2020

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Finance Department

Prepared by: Nadine Atieh Hade,
Finance Director

City Manager Approval: _____ 

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

SUBJECT: RESOLUTION 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 NEW 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

RECOMMENDATIONS

Staff recommends City Council adopt the attached resolution placing a nine-year, one-quarter percent transactions and use tax (sales tax) on the ballot for November 3, 2020.

BACKGROUND:

The City of San Rafael, along with many other cities across Marin County and the Bay Area, has been greatly affected from the COVID-19 pandemic and related steep downturn in economic activity. Currently, the City is projecting an \$11.8 million deficit for the end of fiscal year 2019/20 and all of fiscal year 2020/21, putting many essential services at risk.

To face these challenges, the City has implemented a cost-cutting plan that includes actions such as: suspending or eliminating 23 regular positions and over 100 temporary positions through a voluntary retirement separation program and halting the recruitment for vacant positions, reducing city workers' hours and thereby hours open to the public one day per month, canceling or deferring projects and programs from street repair to recreation, and delaying critical infrastructure maintenance that has already been deferred for many years.

In addition to budget reductions, the City is further focused on evaluating options for generating new funding so essential services can be maintained. This cost reduction plan is described in more detail in the [COVID-19 Economic Recovery Plan \(CERP\) presented on May 18, 2020](#). Please see the CERP for a full description of the extent of the financial deficit, how city services are impacted, and plans to get to economic recovery.

_____ **FOR CITY CLERK ONLY**

Council Meeting: _____

Disposition: _____

The fiscal year 2020-21 budget was developed using the following guiding principles:

- Continually assess and improve efficiency in the delivery of services;
- Manage the size and compensation of the workforce to best deliver services given our current and anticipated financial realities;
- Seek additional revenues from all sources to meet the community's needs and expectations of a high-quality level of service; and
- Collaborate with other Marin governmental agencies to consider partnerships and/or regionalized services to leverage resources and improve efficiency.

ANALYSIS:

A nine-year, one-quarter percent (25 cents on a \$100.00 purchase) transactions and use (sales) tax was identified as a possible revenue source for several key reasons. Here are some examples:

- The cost burden of a sales tax is spread across both city residents, but also visitors who shop in San Rafael and rely on our infrastructure and essential services such as 911. Additionally, groceries and prescription medicine are exempt, therefore reducing the burden to residents on fixed incomes.
- A modest one-quarter of one percent sales tax increase would generate approximately \$3.4 million in locally-controlled funding and would make a meaningful difference toward addressing the City's revenue challenges.
- A sales tax can be structured as a general tax to provide flexibility in the use of funds to address the uncertain and changing needs of the community as the recovery from COVID-19 and related economic impacts evolve.
- Only one-quarter of one percent of local sales tax remains available under the statutory sales tax cap established in state law. The City has a very time-limited opportunity to capture this revenue stream and protect it for local use before it may be taken by other agencies.

In order to evaluate the possibility of placing a sales tax measure on the ballot, the City contracted with Godbe Research and TBWBH Props and Measures to assess community opinions and attitudes related to a potential voter-approved revenue measure that could be placed on the ballot as soon as the November 3, 2020 General Election. The survey was conducted May 11, 2020 through May 17, 2020 and the average survey length was 21 minutes.

The survey results indicate community support for a sales tax consistently above the simple majority threshold required for passage, which is 50% in favor +1 vote. The survey also provides clear guidance to the City regarding voter priorities for the use of funding various services as well as generally positive ratings of the City's response to COVID-19, delivery of services, and management of the budget. The survey results were presented in detail at the [June 15, 2020 Council Meeting](#).

What is the current sales tax rate in San Rafael and who receives the revenue?

The current sales tax rate in San Rafael is 9.0%. The California Sales and Use Tax is comprised of a standard statewide component and a local jurisdiction component. The statewide base sales tax rate is currently 7.25%. The City of San Rafael, like all other municipalities currently receives 1.0% of the statewide base rate. The local jurisdiction component allows municipalities and counties, through voter approval, to add additional district taxes. However, the combined rate of all district taxes in any county currently cannot exceed 2.00%. As the table below illustrates, local jurisdictions comprise 1.75% of the 9.0% sales tax rate in San Rafael. The City of San Rafael receives 0.75% of the local jurisdiction rate.

	Effective 1/1/2017
Sales Tax Distribution	
State General Fund	3.94%
County Health and Safety	1.56%
City of San Rafael – Statewide Base Rate	1.00%
San Rafael Transactions & Use Tax - 3/31/2034 - LOCAL	0.75%
County Public Safety (Prop 172)	0.50%
Transportation Authority of Marin (TAM) - 3/31/2049 - LOCAL	0.50%
County-Wide Transportation	0.25%
SMART in Marin County - 3/31/2029 - LOCAL	0.25%
Marin Parks/Open Space/Preservation - 3/31/2022 - LOCAL	0.25%
	<hr/> 9.00%

In 2013 when [Measure E](#) was passed, the Sales and Use Tax rate for the City of San Rafael was at 9.25%. This decreased to 9.0% effective January 1, 2017 due to a reorganization initiated at the State level. The one-quarter percent transactions and use tax will have the same effect of bringing the rate back to where it was prior to January 1, 2017.

The state of California contains approximately 150 incorporated cities that currently have a sales tax rate of 9.25% and over and 43 incorporated cities with rates at 10% or above up to 10.5%. Some nearby cities such as Alameda, El Cerrito, Millbrae, Pacifica, Dublin, Martinez and Hayward to name a few all have a sales tax rate of 9.25% or higher. Similar to the City of San Rafael, these cities rely heavily on sales tax as the number one revenue generator while other cities rely on higher property tax revenues as a result of higher home prices and more special assessment taxes.

How will the City of San Rafael benefit?

The one-quarter percent transactions and use tax is recommended for a nine-year period. The economic impacts of the COVID-19 pandemic and shelter in place orders have a significant negative impact on our local businesses and the revenues used to operate our city. To meet our financial challenges, the City took immediate cost cutting steps that created a balanced budget for fiscal year 2020-21, bridging a \$9 million gap due to revenue shortfalls. However, the City has used all of its one-time funds that had been accumulated over previous years and is budgeted to decrease its emergency reserve fund of 10% to 6.3%. The GFOA recommends at least a 10% emergency reserve and best practices call for 17%. Furthermore, the COVID-19 pandemic is expected to have a negative financial impact well past fiscal year 2021.

With 23 frozen positions and over 100 temporary positions unfilled as part of the budget cuts in the fiscal year 2020-21 budget, the City is unable to maintain essential services as they were prior to the COVID-19 pandemic. In order to continue priority operations, the City will need to generate additional revenues.

Top priority and essential service areas include:

- Providing disaster and health emergency preparedness
- Maintaining 9-1-1 emergency response times
- Repairing potholes and enhancing city streets
- Maintaining city parks and playgrounds
- Maintaining services and programs for youth, families and seniors

- Maintaining crime prevention programs and services
- Maintaining local services to help address the needs of individuals experiencing homelessness

In 2019, the City worked with an outside firm, Management Partners to create a 20-year financial model. While in the past, the City looked out a few/several years while financial planning, this was the first time that a robust model was created to estimate 20 years into the future. The model is quite comprehensive and allows the user to set assumptions such as the severity of anticipated future recessions, investment into city facilities over time, increase in property taxes due to anticipated development, etc.

Prior to the COVID-19 impact on the City's budget, the model showed a difficult financial period starting in Fiscal Year 2020-21 where the City would need to reduce expenditures and add revenues over a period of about the next 9-10 years. That period is made considerably more difficult with the massive revenue losses brought on by COVID-19, thus the need to eliminate positions, implement furloughs, cut services, seek new revenues, and the like.

In addition, the City expects to experience pension expense reductions of a large scale in fiscal year 2030-31. This is due to the unfunded liability from the Great Recession established in 2013 being fully paid down by 2030 as the amortization period is 17 years. As a result, the City expects savings of approximately \$12 million starting in the fiscal year 2030-31. The one-quarter percent transactions and use tax would sunset in March 2030, thus bridging the gap until the City is able to experience substantial decreases in expenses.

More information on the potential one-quarter percent can be found [at this webpage](#) which also includes a survey and Frequently Asked Questions that we will be regularly updating as comments and questions are received.

Recommended Actions

The purpose of this staff report is to (1) direct the submission to the City's voters 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 new nine-year, one-quarter percent transactions and use tax, at the General Municipal Election to be held Tuesday, November 3, 2020; and (2) direct the City Attorney to prepare an impartial analysis of the measure.

The Resolution before the Council includes the ballot measure language recommended by staff as follows:

“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?”

This is the language that would appear on the ballot itself; however, the full text of the ballot measure is the ordinance included as Attachment A to the Resolution, which would add the one-quarter percent transactions and use tax as new Chapter 3.19A of the Municipal Code. This ordinance would be printed in full in the voter information pamphlet for the election.

The Resolution also directs the City Attorney to prepare an impartial analysis of the proposed ballot measure to be filed with the City Clerk and printed in the voter information pamphlet. The impartial analysis is not meant to advocate a position on the measure, but rather must impartially disclose the effect of the measure on the existing law and the operation of the measure.

COMMUNITY OUTREACH:

Other than the aforementioned resident survey and the potential “sales tax” measure [website](#), the City also mailed an informational piece to all registered voters in San Rafael which included a brief feedback survey. Staff will additionally continue to engage in a proactive effort with the community and local stakeholders to collect feedback and provide information to the public to raise awareness of the city’s budget challenges and alternatives for protecting current service levels. This effort has included preparing and disseminating unbiased information and creating feedback channels to ensure the public has access to the information they need about the City’s budget situation and funding choices so that they can consider this issue and get their questions answered. This outreach effort focuses on the broad voting public as well as key community stakeholders like the local business community, neighborhood associations and others. The City utilizes existing communication channels such as email, social media such as Twitter, Facebook and Instagram, participation in local groups and organizations as well broader distribution methods like direct mail and print media.

FISCAL IMPACT:

If an increase of one-quarter percent transactions and use tax is placed on the November 3, 2020 ballot and approved by the voters, the City of San Rafael would expect to collect approximately \$3.4 million per year or approximately \$30.6 million in total. Proceeding with placing a sales tax measure on the November ballot would mean incurring certain costs such as the cost paid to the County Registrar of Voters to add this measure to the ballot which is approximately \$24,000 and the cost of preparing and disseminating future mailers and outreach materials.

OPTIONS:

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

1. Adopt the resolution and place the measure on the November 3, 2020 ballot.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt the Resolution of the City Council of the City of San Rafael:

1. Direct the submission to the voters 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 new nine-year, one-quarter percent transactions and use tax at the General Municipal Election to be held Tuesday, November 3, 2020; and
2. Directing the City Attorney to prepare an impartial analysis of the measure.

ATTACHMENTS:

1. Resolution with attached full text of ballot measure (Ordinance)
2. Proof of Publication

RESOLUTION NO.

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>“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>	<p>YES NO</p>	<p>_____ _____</p>
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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:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

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.

Marin Independent Journal

4000 Civic Center Drive, Suite 301

San Rafael, CA 94903

415-382-7335

legals@marinij.com

CITY OF SAN RAFAEL
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CITY CLERK, ROOM 209
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

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NOTICE OF PUBLIC HEARING

DATE/TIME/PLACE:

Monday, July 20, 2020 at 7:00 PM

Consistent with Executive Orders No.-25-20 and No. N-29-20 from the Executive Department of the State of California and the Marin County Shelter in Place Order, the San Rafael City Council hearing of July 20, 2020 will not be physically open to the public and the meeting will be streamed live to YouTube at

www.youtube.com/cityofsanrafael. Instructions on how to participate online will be available on the YouTube channel.

You will also be able to listen/speak by telephone. The number will be provided on agenda.

PURPOSE: To receive public comments and consider a resolution to place on the ballot for the November 3, 2020 General Municipal Election a measure to impose a quarter cent (1/4%) Transactions (Sales) and Use Tax, for funding general City services. The tax measure would be adopted upon approval of a majority of the City electors voting on the tax measure. If passed, the tax measure would have a duration of 9 years and would be in addition to the existing three-quarter cent (3/4%) Transactions (Sales) and Use Tax.

IF YOU CANNOT ATTEND: You may send a letter to Lindsay Lara, City Clerk, City of San Rafael, 1400 5th Ave, San Rafael, CA 94901 or by email Lindsay.Lara@cityofsanrafael.org.

FOR MORE INFORMATION:

You may contact the City Manager's office at

(415) 485-3070. Office hours are Monday through Friday, 8:30 a.m. to 5:00 p.m.

SAN RAFAEL CITY COUNCIL

/s/ Lindsay Lara

LINDSAY LARA City Clerk

No. 742 Jul 10, 2020

Marin Independent Journal

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PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

07/10/2020

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

Dated this 10th day of July, 2020.



Signature

PROOF OF PUBLICATION

Legal No. **0006501199**

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