



**SAN RAFAEL CITY COUNCIL STAFF REPORT**

**Department: City Clerk**

**Prepared by: Lindsay Lara, City Clerk**

**City Manager Approval:** \_\_\_\_\_

**TOPIC: NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION RESULTS**

**SUBJECT: RESOLUTION DECLARING CANVASS OF VOTES CAST AND RESULTS OF THE CONSOLIDATED GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 3, 2020, TO INCLUDE RESULTS OF BALLOT MEASURE R - TRANSACTIONS AND USE TAX**

**RECOMMENDATION:**

Adopt a resolution declaring the results of the Consolidated General Municipal Election held on November 3, 2020.

**BACKGROUND:**

A General Municipal Election was held in the City of San Rafael on Tuesday, November 3, 2020. Sections 10262 through 10264 of the California Elections Code require that upon certification of the results of an election by the County Elections Office, the City Council shall meet to declare the results of the election. The City Council is required to adopt a resolution (Attachment 1) and the City Clerk is required to enter a statement of the results into the minutes.

On December 2, 2020, Marin County Chief Elections Officer Lynda Roberts certified the results of the election and the Official Report is included as Exhibit A to the resolution. According to the Official Report, the qualified electors cast ballots at said election for the Offices of Mayor, City Councilmember Districts 1 & 4, City Attorney, City Clerk & Assessor, and Board of Education Trustees Area 1, as well as Measure R as follows:

Candidate	Election	Votes Received	Percentage of Votes Received
Kate Colin	Mayor	22,570	86.27%
Rachel Kertz	Councilmember District 4	3,359	44.10%
Maika Llorens Gulati	Councilmember District 1	1,960	100%
Robert Epstein	City Attorney	20,133	100%

**FOR CITY CLERK ONLY**

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_

<b>Lindsay Lara</b>	City Clerk & Assessor	20,025	100%
<b>Gina Daly</b>	Board of Education, Area 1	3,887	56.02%
<b>N/A</b>	Measure R	16,216	61.66%

Pursuant to Sections 5326 and 5328 of the Education Code, an election was not held in the San Rafael Elementary School District and the San Rafael High School District in Trustee Area 3 and 5 on Tuesday, the 3rd day of November 2020 due to lack of opposition. The following people who were nominated for Trustee Area positions 3 and 5 on the San Rafael Board of Education will assume office by operation of law, for full terms of four years each, and will be sworn in on Monday, December 7, 2020 and seated on December 11, 2020:

Linda Jackson, Trustee Area 3  
Marina Palma, Trustee Area 5

**FISCAL IMPACT:**

There is no fiscal impact associated with this item.

**RECOMMENDED ACTION:**

Adopt a resolution declaring the results of the consolidated general municipal election held on November 3, 2020.

**ATTACHMENTS:**

1. Resolution
2. Exhibit A to Resolution: Official November 3, 2020 Election Results
3. Exhibit B to Resolution: Ordinance No. 1986 (Measure R)

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DECLARING CANVASS OF RETURNS AND RESULTS OF CONSOLIDATED GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 3, 2020, TO INCLUDE RESULTS OF BALLOT MEASURE R - TRANSACTIONS AND USE TAX**

**WHEREAS**, in pursuance of law and the Charter of the City of San Rafael, there was held in said City on Tuesday, the 3rd day of November 2020, a consolidated general municipal election to elect municipal officers, at which election the offices to be filled and the candidates for such offices were as follows:

<b>Mayor:</b> Kate Colin Mahmoud Shirazi	<b>Councilmember District 1:</b> Maika Llorens Gulati
<b>Councilmember District 4:</b> John Gamblin Rachel Kertz Greg Knell	<b>Board of Education Trustee, Area 1</b> Gina Daly Samantha Ramirez

**WHEREAS**, pursuant to Sections 5326 and 5328 of the Education Code, an election was not held in the San Rafael Elementary School District and the San Rafael High School District on Tuesday, the 3rd day of November 2020 for Board of Education Trustee Areas 3 and 5, as only the following two persons were nominated for the two Trustee positions on the San Rafael Board of Education in Trustee Areas 3 and 5, and they will therefore assume office on the San Rafael Board of Education by operation of law for a full term of four years each, and will be sworn in on Monday, December 7, 2020:

**For Trustees, San Rafael Board of Education:**

Linda Jackson, Trustee Area 3  
Marina Palma, Trustee Area 5

**WHEREAS**, the following measure was submitted to the electors of the City of San Rafael at the consolidated municipal election held on Tuesday, November 3, 2020:

MEASURE R – TRANSACTIONS AND USE TAX

**“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?”

**WHEREAS**, said consolidated general municipal election was held on Tuesday, November 3, 2020, in accordance with law and the votes thereat received and canvassed, and the returns thereof ascertained, determined and declared in all respects as required by law.

**NOW, THEREFORE BE IT RESOLVED** that the City Council of the City of San Rafael resolves as follows:

1. That the total number of ballots cast in the precincts and vote by mail ballots for the City of San Rafael was 30,036 out of 33,774;
  
2. That said General Municipal election was held for the purpose of electing one Mayor, one District 1 Councilmember, one District 4 Councilmember, one City Attorney, one City Clerk and Assessor, and trustee for San Rafael Board of Education Trustee Area 1, for terms expiring upon the election of the successor thereto at the general election in November 2024;
  
3. That the names and results of the persons voted for at said election for Mayor are:

NAME	NUMBER OF VOTES RECEIVED
KATE COLIN	22,570 (86.27%)
MAHMOUD SHIRAZI	3,591 (13.73%)

4. That the name and results of the person voted for at said election for Councilmember District 1 is:

NAME	NUMBER OF VOTES RECEIVED
MAIKA LLORENS GULATI	1,960 (100%)

5. That the names and results of the persons voted for at said election for Councilmember District 4 are:

NAME	NUMBER OF VOTES RECEIVED
RACHEL KERTZ	3,359 (44.10%)
GREG KNELL	2,257 (29.63%)
JOHN GAMBLIN	2,001 (26.27%)

6. That the name and results of the person voted for at said election for City Attorney is:

NAME	NUMBER OF VOTES RECEIVED
ROBERT EPSTEIN	20,133 (100%)

7. That the name and results of the person voted for at said election for City Clerk and Assessor is:

NAME	NUMBER OF VOTES RECEIVED
LINDSAY LARA	20,025 (100%)

8. That the total number of ballots cast in the precincts and vote by mail ballots for the Board of Education was 8,642 out of 9,590;

9. That the name and results of the person voted for at said election for Board of Education Trustee Area 1 are:

NAME	NUMBER OF VOTES RECEIVED
GINA DALY	3,887 (56.02%)
SAMANTHA RAMIREZ	3,051 (43.98%)

9. That the City Council does declare and determine that:

- Kate Colin was elected as Mayor for a term expiring upon the election and swearing-in of a successor thereto at the General Municipal election in November 2024;
- Maika Llorens Gulati was elected as Councilmember District 1 for a term expiring upon the election and swearing-in of a successor thereto at the General Municipal election in November 2024;
- Rachel Kertz was elected as Councilmember District 4 for a term expiring upon the election and swearing-in of a successor thereto at the General Municipal election in November 2024;
- Robert Epstein was elected as City Attorney for a term expiring upon the election and swearing-in of a successor thereto at the General Municipal election in November 2024;
- Lindsay Lara was elected as City Clerk and Assessor for a term expiring upon the election and swearing-in of a successor thereto at the General Municipal election in November 2024;
- Measure R was approved by the electors of San Rafael; and
- Gina Daly was elected as a member of the Board of Education for a term expiring upon the election and swearing-in of a successor thereto at the General Municipal election in November 2024;

10. That the City Clerk shall deliver to each person elected a certification of election signed by her and duly authenticated; she shall also administer to the persons elected the oath of office as prescribed in the State Constitution of the State of California and shall have those persons subscribe thereto and file it in the office of the City Clerk. Each person so elected shall be inducted into the office to which he or she has been elected; and

11. That the City Clerk shall enter in the records of the City Council a statement of the results of said election, showing (1) the whole number of votes cast in the city; (2) the names of the persons voted upon; (3) the office for which each person was voted for; (4) the number of votes given at each precinct to each person; and (5) the number of votes given in the city to each person. These results are attached as Exhibit A to the resolution.

**BE IT FURTHER RESOLVED** by the Council of the City of San Rafael, as follows:

1. That the City Clerk of the City of San Rafael is hereby instructed to enter this resolution in the Minutes of the City Council as a statement of the results of said election regarding Measure R;
2. That the whole number of votes cast at said election was 26,301 votes;
3. That more than a majority of all the votes cast on said Measure R were in favor of said Measure (per Exhibit "A", attached) and said Measure carried;
4. That all vote by mail ballots have been duly received and canvassed in time, form and manner as required by law;
5. That, accordingly, the City Council hereby declares, that the voters of the City of San Rafael have approved Ordinance No. 1986, attached as Exhibit "B", by a majority of the votes cast by the electors voting on Measure R at the consolidated general municipal election held Tuesday, November 3, 2020; and
6. That Ordinance No. 1986 levying a Transactions and Use Tax is hereby effective on the tenth day following adoption of this Resolution, and the tax established herein shall become operative on April 1, 2021 or on such later date as provided in Section 3.19A.040 of the Ordinance.

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 meeting of the Council of said City held on Monday, the 7<sup>th</sup> day of December 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:

\_\_\_\_\_  
LINDSAY LARA, City Clerk

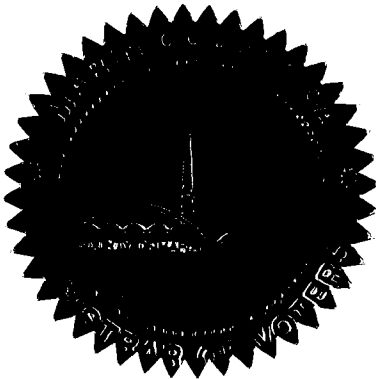
# CERTIFICATE OF ELECTION

*I, Lynda Roberts, the Registrar of Voters for the County of Marin,  
of the State of California, do hereby certify the canvass and statement of the  
votes cast in the Presidential General Election, held on November 3, 2020.*

*The results of said canvass are detailed in the Statement of Votes,  
filed and retained with the Marin County Elections Department.*

*The Official Final Results summary is provided herewith.*

*IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my official seal on this the 2nd day of December, 2020.*



s/ *Lynda Roberts*  
County of Marin, Registrar of Voters



**MARIN COUNTY ELECTIONS DEPARTMENT  
GENERAL ELECTION, NOVEMBER 3, 2020  
Official Final Election Results  
City of San Rafael Mayor**

Precincts Reported: 112 of 112 (100.00%)

Voters Cast: 158,103 of 175,220 (90.23%)

Cards Cast: 158,103

### **City of San Rafael Mayor (Vote for 1)**

Precincts Reported: 22 of 22 (100.00%)

		Total	
Times Cast		30,036 / 33,774	88.93%
Candidate	Party	Total	
<b>KATE COLIN</b>		22,570	86.27%
MAHMOUD A. SHIRAZI		3,591	13.73%
Total Votes		26,161	

**MARIN COUNTY ELECTIONS DEPARTMENT**  
**GENERAL ELECTION, NOVEMBER 3, 2020**  
**Official Final Election Results**  
**City of San Rafael Council District 1**

Precincts Reported: 112 of 112 (100.00%)

Voters Cast: 158,103 of 175,220 (90.23%)

Cards Cast: 158,103

**City of San Rafael Council District 1 (Vote for 1)**

Precincts Reported: 4 of 4 (100.00%)

		Total	
Times Cast		2,781 / 3,430	81.08%
Candidate	Party	Total	
<b>MAIKA LLORENS GULATI</b>		1,960	100.00%
Total Votes		1,960	

**MARIN COUNTY ELECTIONS DEPARTMENT  
 GENERAL ELECTION, NOVEMBER 3, 2020  
 Official Final Election Results  
 City of San Rafael Council District 4**

Precincts Reported: 112 of 112 (100.00%)

Voters Cast: 158,103 of 175,220 (90.23%)

Cards Cast: 158,103

**City of San Rafael Council District 4 (Vote for 1)**

Precincts Reported: 6 of 6 (100.00%)

	Total	
Times Cast	9,329 / 10,412	89.60%

Candidate	Party	Total	
<b>RACHEL KERTZ</b>		3,359	44.10%
GREG KNELL		2,257	29.63%
JOHN A. GAMBLIN		2,001	26.27%
Total Votes		7,617	

**MARIN COUNTY ELECTIONS DEPARTMENT**  
**GENERAL ELECTION, NOVEMBER 3, 2020**  
**Official Final Election Results**  
**City of San Rafael City Attorney**

Precincts Reported: 112 of 112 (100.00%)

Voters Cast: 158,103 of 175,220 (90.23%)

Cards Cast: 158,103

**City of San Rafael City Attorney (Vote for 1)**

Precincts Reported: 22 of 22 (100.00%)

		Total	
Times Cast		30,036 / 33,774	88.93%
Candidate	Party	Total	
<b>ROBERT F. EPSTEIN</b>		20,133	100.00%
Total Votes		20,133	

MARIN COUNTY ELECTIONS DEPARTMENT  
GENERAL ELECTION, NOVEMBER 3, 2020  
Official Final Election Results  
City of San Rafael Clerk and Assessor

Precincts Reported: 112 of 112 (100.00%)

Voters Cast: 158,103 of 175,220 (90.23%)

Cards Cast: 158,103

**City of San Rafael Clerk and Assessor (Vote for 1)**

Precincts Reported: 22 of 22 (100.00%)

	Total	
Times Cast	30,036 / 33,774	88.93%

Candidate	Party	Total	
<b>LINDSAY LARA</b>		20,025	100.00%
Total Votes		20,025	

**MARIN COUNTY ELECTIONS DEPARTMENT**  
**GENERAL ELECTION, NOVEMBER 3, 2020**  
**Official Final Election Results**  
**Measure R**

Precincts Reported: 112 of 112 (100.00%)

Voters Cast: 158,103 of 175,220 (90.23%)

Cards Cast: 158,103

**Measure R City of San Rafael (Vote for 1)**

Precincts Reported: 22 of 22 (100.00%)

		Total	
Times Cast		30,036 / 33,774	88.93%
Candidate	Party	Total	
<b>Yes</b>		16,216	61.66%
No		10,085	38.34%
Total Votes		26,301	

**MARIN COUNTY ELECTIONS DEPARTMENT**  
**GENERAL ELECTION, NOVEMBER 3, 2020**  
**Official Final Election Results**  
**San Rafael Board of Education Governing Board Member, Trustee Area 1**

Precincts Reported: 112 of 112 (100.00%)

Voters Cast: 158,103 of 175,220 (90.23%)

Cards Cast: 158,103

**San Rafael Board of Education Governing Board Member, Trustee Area 1 (Vote for 1)**

Precincts Reported: 5 of 5 (100.00%)

		Total	
Times Cast		8,642 / 9,590	90.11%
Candidate	Party	Total	
<b>GINA DALY</b>		3,887	56.02%
SAMANTHA RAMIREZ		3,051	43.98%
Total Votes		6,938	

**ORDINANCE NO. 1986**

**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.

DECLARED APPROVED BY THE CITY COUNCIL ON DECEMBER 7, 2020

\_\_\_\_\_  
GARY O. PHILLIPS  
Mayor