



# City of San Leandro

Meeting Date: July 7, 2014

## Staff Report

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**File Number:** 14-270

**Agenda Section:** ACTION ITEMS

**Agenda Number:** 10.B.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** City Council

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** Staff Report for City Council Consideration of Placing a Ballot Measure  
Requesting Voter Authorization to Extend Measure Z

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### SUMMARY AND RECOMMENDATIONS

It is recommended that the City Council:

- 1) By motion, adopt by majority vote the attached resolution placing a measure on the November 4, 2014 ballot asking San Leandro voters to extend its existing, voter-approved local transactions and use ("sales tax") measure at the half-cent (0.5%) rate, with a 30 year sunset provision, and direct staff to prepare the related ballot filing procedures for the temporary sales tax measure, including urging the Alameda County Registrar of Voters to assign "Z" as the measure letter.
- 2) By motion, and in conformance with California Revenue and Taxation Code section 7285.9, adopt by a 2/3 vote of all of the members of the City Council (5 affirmative votes) the attached ordinance codifying the proposed measure at the half-cent rate for 30 years, contingent upon authorization by the voters of the measure described in item 1) above.
- 3) By motion, adopt by majority vote the attached ordinance rescinding the existing Measure Z sales tax, codified as San Leandro Municipal Code Chapter 2-19, contingent upon authorization by the voters of the proposed measure described in item 1) above.

### BACKGROUND

In November 2010, San Leandro voters authorized Measure Z, a local funding measure for local services, with revenue that cannot be taken by Sacramento. Measure Z has provided a reliable, voter-approved funding source for public safety and other essential City services. Measure Z is scheduled to expire. Preserving current levels of public safety, library, youth and anti-gang programs in the City, while addressing significant street and road repair needs are some of the many challenges the City faces in the current economy.

Although the broader regional economy and the stability of the City's general fund budget have improved since the adoption of this measure in 2010, the City of San Leandro continues to face many financial and operational challenges in the years ahead. While Measure Z revenues support current service levels, these funds do not sufficiently address a growing backlog of unfunded public safety, infrastructure, and other program and service needs. Continuation of Measure Z at the ½ cent rate is necessary to maintain the City's ability to provide the level of services San Leandro residents have consistently said they wanted.

On November 18, 2013, the City Council appointed an *Ad Hoc Committee on Community Priorities and Potential Revenue Measures* in order to further explore the above issues and to guide the work of consultants retained by the City to explore the viability of extending Measure Z. On December 2, 2013, the City Council also authorized the development and execution of a public opinion survey designed to gauge community service priorities as well as the potential viability of extending Measure Z. The results of this survey were subsequently presented to the City Council during the February 1, 2014 planning session.

**Public Opinion and Community Survey Results:**

Public opinion survey results indicated strong community support for renewing and expanding the City's existing sales tax measure (73.5%) in order to protect and maintain local services such as:

- Maintaining 9-1-1 emergency response times
- Maintaining neighborhood patrol officers
- Maintaining library programs for children, adults & families
- Enhancing anti-gang and law enforcement efforts
- Maintaining fire prevention services
- Maintaining school resource officers & crossing guards
- Repairing potholes and cracks, maintaining residential streets
- Maintaining investigation & gang suppression officers

Since the implementation of the survey, City staff distributed both electronic and mailed community surveys to a broad cross-section of community residents in order to collect additional public input on the specific City programs and services that are of highest importance to the community. To date, approximately 900 survey responses have been sent back to the City (more than 700 respondents were also surveyed telephonically). Top service priorities outlined in electronic and mailed survey responses generally mirrored the results of the public opinion poll outlined above.

Receiving the highest levels of support:

- Maintaining Neighborhood Patrol Officers;
- Maintaining 9-1-1 Emergency Response Times;
- Repairing Potholes and Cracks; and
- Maintaining Neighborhood Streets.

### **Analysis**

Based upon analysis provided by the City's Finance Department, San Leandro can be considered a "sales tax importer", in that a majority of local sales tax is paid by out-of-town shoppers coming to local destinations. Any extension of Measure Z would not be a property tax - and as visitors to San Leandro pay a majority of the sales tax revenue, visitors are paying well over half of its proceeds. In short, there is good evidence that costs that are generated by out-of-town visitors who use San Leandro's local services such as streets, sidewalks, parks and police protection are underwritten through Measure Z and would be through, if approved by the voters, a subsequent extension. An extension measure would also enable the City to address the community's concern for repairing local streets, which only become more expensive to repair over time if left unaddressed. Independent experts have determined that San Leandro's streets are presently in the second worst condition of any city in Alameda County. Lastly, the proposed measure would also continue to provide San Leandro with a guaranteed source of local funding for vital City services that cannot be taken by Sacramento.

The revenue measure to be submitted to the voters, if approved, would establish a half-cent, or 0.5% local rate on retail transactions and sales. The revenue would be collected at point of sale and subsequently remitted to the City by the State Board of Equalization. The measure is approved if the measure receives at least a majority of affirmative votes of eligible City voters.

According to the reports of the independent Measure Z Citizens Oversight Committee, annual audits of the usage of existing Measure Z revenues verify the City's careful financial stewardship of Measure Z dollars. Nevertheless, while Measure Z revenues support current service levels, these funds do not sufficiently address a growing backlog of unfunded public safety, infrastructure, and other program and service needs.

### **Proposed Ballot Question:**

Should the City Council decide to place the measure on the November 4, 2014 ballot, the following draft ballot language is recommended to be used in the upcoming election. It has been reviewed and is recommended by the City's consultants, and is approved by the City Attorney; it meets the specific legal and technical requirements of the Elections Code for placement of a transactions and use tax measure. Staff therefore recommends that no changes be made to the proposed ballot language. The City Council may authorize the Mayor or a subcommittee of the City Council to file an argument in favor of the measure and a rebuttal to an argument filed against it and to work with an independent campaign committee or other third-parties on the preparation of the argument and rebuttal.

*To protect/ maintain local services, including: 911 emergency response; neighborhood police patrols/ anti-gang enforcement; library programs for children, adults/ families; after school programs for children/ teens including, homework assistance/ reading programs; school police officers/ crossing guards; repairing potholes/ maintaining residential streets; and other City services, shall the City of San Leandro extend Measure Z and set the sales tax at ½ cent for 30 years, with citizens oversight, annual audits, all funds for San Leandro, no funds for Sacramento?*

YES      NO

**Fiscal Impacts and Spending Priorities Discussion:**

If adopted by voters, conservative estimates indicate the proposed measure would generate approximately \$8.0 million per year, or approximately \$240 million over the proposed 30 year duration of the measure. If the proposed measure is authorized by the voters, staff recommends that the City Council consider appropriating portions of the new funds towards the following programs and service priorities, which survey responses have indicated are of highest priority to community residents:

- Repairing and maintaining neighborhood streets in San Leandro
- Upgrading Library services and facilities, including meeting rooms, audio/visual equipment, and programs for local youth
- Public Safety Facility upgrades
- Investments in technology and innovation infrastructure
- Additional investments in the City's Capital Improvement Program (CIP)
- Enhancement of anti-gang and law enforcement efforts
- Maintaining library programs for children, adults and families
- Maintaining neighborhood patrol officers
- Maintaining 9-1-1 emergency response times
- Maintaining school police officers
- Maintaining fire prevention services
- Maintaining programs for children and teens such as after-school programs, homework assistance and reading at the library
- Connecting additional City facilities to Lit San Leandro high-speed fiber
- Upgrading and maintaining Park and playground equipment
- Improvements to Marina Boulevard
- City Facility Security Improvements
- Aquatic facility upgrades
- Stormwater Infrastructure Improvements
- Mitigation efforts to Address Sea level Rise
- Information Technology upgrades
- Adding, Maintaining, or Upgrading bicycle and pedestrian lanes/pathways

The cost of placing the measure on the November 2014 election ballot is estimated to be \$16,500. Funds are available in the Elections account 010-11-031 for this purpose.

**Budget Authority:**

\$110,000 has been budgeted in 010-11-031 in the FY 2014-15 General Fund budget for the conduct of the November 2014 General Municipal election.

**Conclusion:**

This report provides an overview of the proposed temporary transactions and use (sales) tax measure for consideration by the City Council for the November 4, 2014 election. If the City Council wishes to proceed to place the measure on the ballot, then staff recommends that the City Council take three separate votes:

- 1) Approve by majority vote the resolution to place the measure on the ballot and direct staff to take all necessary steps to do so;

- 2) Approve by a 2/3 vote of all of the members of the City Council the proposed ordinance to extend the existing transactions and use tax at the ½ cent (0.5%) rate, with a 30 year sunset provision, and citizens' oversight, all as further described in this staff report and the attached Ordinance; and
- 3) Approve by majority vote for first reading the proposed ordinance to rescind in its entirety the existing transactions and use tax, Chapter 2-19 of the San Leandro Municipal Code, contingent upon passage of the ballot measure.

**PREPARED BY:** Eric Engelbart, Assistant to the City Manager, City Manager's Office



# City of San Leandro

Meeting Date: July 7, 2014

## Resolution - Council

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**File Number:** 14-281

**Agenda Section:** ACTION ITEMS

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** City Council

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** RESOLUTION Establishing November 4, 2014 as the Date for an Election on a Proposed Ballot Measure Seeking Voter Approval Relating to the Enactment of a One-Half of One-Percent (0.5%) Transactions and Use (Sales) Tax for Thirty Years, Establishing the Policies and Procedures for Such an Election and Requesting that the County of Alameda Conduct Such an Election (adds to the November 2014 ballot the subject measure at a cost of approximately \$16,500)

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WHEREAS, at an election held on November 2, 2010, a majority of the voters of the City of San Leandro approved a local funding measure that provided revenue that could not be taken by the State commonly known as "Measure Z"; and

WHEREAS, Measure Z has been critical in maintaining essential City services, such as 911 emergency response, police patrols, and fire protection, among other programs; and

WHEREAS, Measure Z is set to expire on the seventh anniversary of the operable date thereof, unless extended by a majority of the voters of the City; and

WHEREAS, the City of San Leandro has carefully evaluated how to deal with this potential loss of funds, while continuing to provide the quality of life services that community residents rely upon; and

WHEREAS, the City of San Leandro has taken substantial steps to reduce costs and protect services, including reducing by approximately 20% the overall size of the City workforce since 2008, instituting local and statewide pension reform, including new, reduced-benefit pension tiers and increasing the required contributions of all City employees; and.

WHEREAS, the City has deferred maintenance in its public facilities including neighborhood streets, roads, and infrastructure due to lack of funding so that other services could be maintained; and

WHEREAS, independent experts rate San Leandro's streets as the second worst in the County and its Pavement Condition Index has dropped roads from "fair" to "at-risk," and if repairs are not made to City roads, they will become more intrusive to residents and substantially more expensive to repair; and

WHEREAS, the Measure Z Independent Citizens Oversight Committee has issued clean audits concerning the City's usage of existing Measure Z revenues; and

WHEREAS, an Independent Professional Public Opinion Survey was undertaken in January 2014, interviewing a random sample of approximately 700 San Leandro respondents, including interviews conducted in Spanish and Cantonese; and

WHEREAS, on February 1, 2014, the results of the Community Outreach Survey were presented to the City Council; and

WHEREAS, without Measure Z, the City of San Leandro will not be able to maintain all existing programs, will not be able to adequately maintain infrastructure or facilities, and will not be able to maintain the service levels currently in place; and

WHEREAS without additional revenue the City cannot provide the level of services that over 1,000 residents have identified as priorities, including programs such as library programs for children, adults and families, after-school and summer programs for youth and teens; and

WHEREAS, without the ongoing funding Measure Z provides, the City will have to consider cuts to neighborhood patrol officers, fire prevention services, 911 emergency response services, and school officers and crossing guards; and

WHEREAS, funds from the continuation of Measure Z will enhance anti-gang and law enforcement efforts; and

WHEREAS, even with the existing Measure Z revenues, the City of San Leandro does not have adequate financial resources to address a growing backlog of unfunded public safety, infrastructure, and other program and service needs; and

WHEREAS, the tax to be submitted to the voters, if approved, would be imposed on the sale of tangible personal property, and the storage, use, or other consumption of such property. The tax rate would be one-half of one percent (i.e. 0.5%, or one half-cent for each dollar) of the sales price of the tangible personal property. The tax revenue would be collected by the State Board of Equalization and remitted to the City. The tax would be in effect for thirty (30) years and would then expire automatically unless extended by the voters; and

WHEREAS, a continuation of Measure Z will ensure that all money raised will be controlled locally for local services, and cannot be taken away by Sacramento; and

WHEREAS, a continuation of Measure Z would continue to include annual audits and oversight by the City's Independent Citizens' Oversight Committee of community members to ensure Measure Z funds are spent and accounted for properly; and

WHEREAS, the San Leandro City Council is authorized by California Elections Code Section 9222 to place measures before the voters; and

WHEREAS, Elections Code Sections 9281 through 9287 set forth the procedures for arguments in favor of and in opposition to any City measure and for rebuttal arguments; and

WHEREAS, it is desirable that the election be consolidated with the statewide election to be held on the same date and that within the City, the precincts, polling places and election officers of the two elections be the same, and that the Registrar of Voters of the County of Alameda canvass the returns of the General Election and that the election be held in all respects as if there were only one election; and

WHEREAS, based on all of the information presented at the July 7, 2014 regular meeting of the City Council, both written and oral, including the staff reports, minutes and other relevant materials, the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378 subdivisions (2) and (4) of subdivision (b), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated by reference.

2 **Call Election; Placement of Measure on the Ballot.** Pursuant to California Constitution Article XIII C, Section 2; Government Code Section 53724; and Elections Code Section 9222, the City Council of the City of San Leandro hereby calls an election at which it shall submit to the qualified voters of the City a measure that, if approved, would adopt a temporary general transactions and use tax, as authorized by Revenue and Taxation Code section 7285.9. This measure shall be designated by letter by the Alameda County Registrar of Voters. Pursuant to Elections Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 4, 2014. Further, the City Council urges the Alameda County Registrar of Voters to assign the title of "Z" to the measure.

3. **Ballot Language.** The question to be presented to the voters shall be as follows:

To protect/ maintain local services, including: 911 emergency response; neighborhood police patrols/ anti-gang enforcement; library programs for children, adults/ families; after school programs for children/ teens including, homework assistance/ reading programs; school police officers/ crossing guards; repairing potholes/ maintaining residential streets; and other City services, shall the City of San Leandro extend Measure Z and set the sales tax at ½ cent for 30 years, with citizens oversight, annual audits, all funds for San Leandro, no funds for Sacramento?

YES      NO

4. **Proposed Ordinance.** The ordinance authorizing the general tax to be approved by the voters pursuant to Sections 2 and 3 of this Resolution is as set forth in Attachment 1 hereto. The City Council approved, by a 2/3 vote of all members of the City Council, the



ordinance, the form thereof, and its submission to the voters of the City at the November 4, 2014 election as required by Revenue and Taxation Code section 7285.9, subject to the approval of a majority of the voters voting on the measure at the election called by the adoption of this resolution. The entire text of the ordinance attached hereto, shall be made available to the public upon request. The ordinance specifies that the rate of the transactions and use tax shall be one-half of one-percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies that the rate of the use tax shall be one half of one percent (0.5%) of the sales price of tangible personal property stored, used, or otherwise consumed in the City and that the tax shall be in effect for thirty (30) years. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

**5. Publication of Measure.** The City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of San Leandro in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

**6. Request to Consolidate and Conduct Election and Canvass Returns.**

(a) Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Alameda is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide Election on Tuesday, November 4, 2014 for the purpose of placing the measure set forth in Sections 2 and 4 on the ballot.

(b) The County of Alameda Registrar of Voters is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election and only one form of ballot shall be used.

(c) The Board of Supervisors is requested to issue instructions to the County of Alameda Registrar of Voters to take any and all steps necessary for the holding of the consolidated election.

(d) The City of San Leandro requests that the County of Alameda Registrar of Voters assign "Z" as the measure letter for consideration by the voters.

(e) The City of San Leandro recognizes that additional costs will be incurred by the County of Alameda by reason of this consolidation and agrees to reimburse the County for any costs.

**7. Submission of Ballot Argument and Impartial Analysis**

(a) The City Clerk shall set the dates for filing of the arguments for and against the ballot measure.

(b) The City Clerk shall set the dates for filing the rebuttal arguments for and against the measure.

(c) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The City Attorney shall prepare an impartial analysis of the measure.

(f) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the

authors of the argument against and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

**8. Effective Date** This Resolution shall become effective immediately upon its passage and adoption and the City Clerk is directed to send certified copies of this Resolution to the Alameda County Board of Supervisors and the Alameda County Registrar of Voters.

**9 CEQA** The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code 21000 *et. seq.* "CEQA" and 14 Cal. Code Reg. Section 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. 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 were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore under CEQA Guidelines section 15060, review under CEQA is not required.

**ORDINANCE NO. 2014-**

**ORDINANCE OF THE PEOPLE OF THE CITY OF SAN LEANDRO  
ENACTING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE  
STATE BOARD OF EQUALIZATION**

WHEREAS, Section 7285.9 of the California Revenue and Taxation Code authorizes cities to levy, increase or extend a transactions and use tax (“sales tax” or “sales and use tax”) at a rate of 0.125% (or any multiple thereof) to be expended for general purposes, which transactions and use tax is subject to the approval by a two-thirds majority vote of all the members of the City Council and by a majority vote of the qualified voters of the City voting in an election on the issue; and

WHEREAS, Article XIII C, section 2 of the California Constitution requires that a general tax must be approved by a majority vote of the qualified voters of the City voting in an election on the issue, and that said election shall be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, a majority of the voters of the City of San Leandro approved a one-quarter cent (0.25%) Transactions and Use (Sales) Tax, which expires March 2018; and

WHEREAS, this local funding that cannot be taken by the State has ensured that current service levels for public safety, parks, libraries, and other City services and programs are maintained with a reliable source of voter-approved funding; and

WHEREAS, although this funding maintains current service levels, it does not allow the City to address a growing backlog of unfunded public safety, infrastructure, and other program and service needs; and

WHEREAS, upon expiration of the current sales and use tax measure, the City of San Leandro faces an ongoing budget deficit in the magnitude of approximately \$4 million annually, which would result in drastic reductions in many of the City’s existing services, facilities and programs such as cuts to neighborhood patrol officers, fire prevention services, 911 emergency response services, school officers and crossing guards unless additional sources of revenue can be found; and

WHEREAS, thousands of people visit San Leandro every day and existing, voter-approved local funding ensures that those visitors pay their fair share for police, fire, street repair and other services visitors use when they are in San Leandro; and

WHEREAS, any voter-approved funding would continue to include annual audits and oversight by the City’s Independent Citizens’ Oversight Committee of community members to ensure funds are spent properly; and

WHEREAS, at its July 7, 2014 regular meeting, the City Council considered calling a special election to seek voter approval of a proposed new temporary general transactions and use tax (sales tax), as authorized by Revenue and Taxation Code section 7285.9; and

WHEREAS, at that meeting, the City Council concluded that all of the information presented indicated that to obtain the revenue necessary to maintain and enhance service levels, the City Council should call an election to ask the voters of the City to approve a ballot measure for a local transactions and use (sales) tax extension for thirty (30) years, the revenue from which would be used to support general municipal services, including but not limited to significant City street and road infrastructure projects; and

WHEREAS, on the basis of the foregoing, the City Council determined that it was appropriate to place a measure regarding a temporary general transactions and use (sales) tax before the voters at the November 4, 2014 general election; and

WHEREAS, the tax, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property. The tax rate would be one-half of one percent (0.5%) (i.e. one half-cent for each dollar) of the sales price of tangible personal property. The tax revenue would be collected by the State Board of Equalization and remitted to the City. The tax would be in effect for 30 years, and would then expire automatically, unless extended by the voters. The tax is approved if the measure receives at least a simple majority of affirmative votes of qualified City voters.

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SAN LEANDRO AS FOLLOWS:

## **SECTION 1. AMENDMENT OF CODE**

Title 2 of the San Leandro Municipal Code is hereby amended to add a new Chapter 2-19 and shall read as follows:

### **“CHAPTER 19 TRANSACTIONS AND USE TAX**

#### **Section 2-19-100. Title.**

This ordinance shall be known as the City of San Leandro Transactions and Use Tax Ordinance. The City of San Leandro hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

#### **Section 2-19-105. Operative Date.**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**Section 2-19-110. Purpose.**

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the California 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 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 transactions 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 can 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 can 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.

**Section 2-19-115. 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, 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.

**Section 2-19-120. 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 at the rate of 0.5% 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 of this ordinance.

**Section 2-19-125. Place of Sale.**

For the purposes of this ordinance, 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.

**Section 2-19-130. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 0.5% 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.

**Section 2-19-135. Adoption of Provisions of State Law.**

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

**Section 2-19-140. 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 therefore. However, the substitution shall not be made when:

(1) 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) 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 Ordinance.

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

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

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

(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.

**Section 2-19-145. 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 ordinance.

**Section 2-19-150. Exemptions and Exclusions.**

(a) There shall be excluded from the measure 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 of this ordinance.

(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 of this ordinance.

(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 ordinance, 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 of this ordinance.

(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 of this ordinance.

(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.

#### **Section 2-19-155. Amendments.**

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

#### **Section 2-19-160. 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 ordinance, 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.

**Section 2-19-165. Citizens Oversight Committee.**

There shall be a five-person committee of members of the public to review and report on the revenue and expenditure of funds from the tax adopted by this Chapter. Prior to the operative date, the City Council shall adopt a resolution establishing the composition of the committee and defining the scope of its responsibilities. Also prior to the operative date, the City Council shall appoint at least a quorum of the members of the committee; the City Council shall complete the appointment of members of the committee by the end of fiscal year 2015.

**Section 2-19-170. Termination Date.**

The authority to levy the tax imposed by this ordinance shall expire on the thirtieth (30<sup>th</sup>) anniversary of the last day of the calendar quarter following the operative date.”

**SECTION 2. ENVIRONMENTAL COMPLIANCE.**

The findings for this ordinance in compliance with the California Environmental Quality Act (“CEQA”) are the same as those set forth in the City’s Resolution calling for an election on this Ordinance. The CEQA findings in that Resolution are incorporated herein by reference.

**SECTION 3. SEVERABILITY.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

**SECTION 4. EFFECTIVE DATE.**

This ordinance relates to the levying and collecting of a City transactions and use tax and shall take effect immediately.



# City of San Leandro

Meeting Date: July 7, 2014

## Ordinance

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**File Number:** 14-278

**Agenda Section:** ACTION ITEMS

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** City Council

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** ORDINANCE of the People of the City of San Leandro Enacting a Transactions and Use Tax to Be Administered by the State Board of Equalization (requires a two-thirds vote of the City Council to place a measure enacting a 0.5% transactions and use tax for 30 years)

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WHEREAS, Section 7285.9 of the California Revenue and Taxation Code authorizes cities to levy, increase or extend a transactions and use tax ("sales tax" or "sales and use tax") at a rate of 0.125% (or any multiple thereof) to be expended for general purposes, which transactions and use tax is subject to the approval by a two-thirds majority vote of all the members of the City Council and by a majority vote of the qualified voters of the City voting in an election on the issue; and

WHEREAS, Article XIII C, section 2 of the California Constitution requires that a general tax must be approved by a majority vote of the qualified voters of the City voting in an election on the issue, and that said election shall be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, a majority of the voters of the City of San Leandro approved a one-quarter cent (0.25%) Transactions and Use (Sales) Tax, which expires March 2018; and

WHEREAS, this local funding that cannot be taken by the State has ensured that current service levels for public safety, parks, libraries, and other City services and programs are maintained with a reliable source of voter-approved funding; and

WHEREAS, although this funding maintains current service levels, it does not allow the City to address a growing backlog of unfunded public safety, infrastructure, and other program and service needs; and

WHEREAS, upon expiration of the current sales and use tax measure, the City of San Leandro faces an ongoing budget deficit in the magnitude of approximately \$4 million annually, which would result in drastic reductions in many of the City's existing services,

facilities and programs such as cuts to neighborhood patrol officers, fire prevention services, 911 emergency response services, school officers and crossing guards unless additional sources of revenue can be found; and

WHEREAS, thousands of people visit San Leandro every day and existing, voter-approved local funding ensures that those visitors pay their fair share for police, fire, street repair and other services visitors use when they are in San Leandro; and

WHEREAS, any voter-approved funding would continue to include annual audits and oversight by the City's Independent Citizens' Oversight Committee of community members to ensure funds are spent properly; and

WHEREAS, at its July 7, 2014 regular meeting, the City Council considered calling a special election to seek voter approval of a proposed new temporary general transactions and use tax (sales tax), as authorized by Revenue and Taxation Code section 7285.9; and

WHEREAS, at that meeting, the City Council concluded that all of the information presented indicated that to obtain the revenue necessary to maintain and enhance service levels, the City Council should call an election to ask the voters of the City to approve a ballot measure for a local transactions and use (sales) tax extension for thirty (30) years, the revenue from which would be used to support general municipal services, including but not limited to significant City street and road infrastructure projects; and

WHEREAS, on the basis of the foregoing, the City Council determined that it was appropriate to place a measure regarding a temporary general transactions and use (sales) tax before the voters at the November 4, 2014 general election; and

WHEREAS, the tax, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property. The tax rate would be one-half of one percent (0.5%) (i.e. one half-cent for each dollar) of the sales price of tangible personal property. The tax revenue would be collected by the State Board of Equalization and remitted to the City. The tax would be in effect for 30 years, and would then expire automatically, unless extended by the voters. The tax is approved if the measure receives at least a simple majority of affirmative votes of qualified City voters.

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SAN LEANDRO AS FOLLOWS:

**SECTION 1. AMENDMENT OF CODE**

Title 2 of the San Leandro Municipal Code is hereby amended to add a new Chapter 2-19 and shall read as follows:

**“CHAPTER 19  
TRANSACTIONS AND USE TAX**

**Section 2-19-100. Title.**

This ordinance shall be known as the City of San Leandro Transactions and Use Tax

Ordinance. The City of San Leandro hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

**Section 2-19-105. Operative Date.**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**Section 2-19-110. Purpose.**

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the California 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 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 transactions 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 can 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 can 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.

**Section 2-19-115. 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, 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.

**Section 2-19-120. 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 at the rate of 0.5% 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 of this ordinance.

**Section 2-19-125. Place of Sale.**

For the purposes of this ordinance, 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.

**Section 2-19-130. Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 0.5% 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.

**Section 2-19-135. Adoption of Provisions of State Law.**

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

**Section 2-19-140. 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 therefore. However, the substitution shall not be made when:

(1) 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) 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 Ordinance.

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

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

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

(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.

**Section 2-19-145. 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 ordinance.

**Section 2-19-150. Exemptions and Exclusions.**

(a) There shall be excluded from the measure 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 of this ordinance.

(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 of this ordinance.

(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 ordinance, 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 of this ordinance.

(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 of this ordinance.

(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.

**Section 2-19-155. Amendments.**

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

**Section 2-19-160. 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 ordinance, 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.

**Section 2-19-165. Citizens Oversight Committee.**

There shall be a five-person committee of members of the public to review and report on the revenue and expenditure of funds from the tax adopted by this Chapter. Prior to the operative date, the City Council shall adopt a resolution establishing the composition of the committee and defining the scope of its responsibilities. Also prior to the operative date, the City Council shall appoint at least a quorum of the members of the committee; the City Council shall complete the appointment of members of the committee by the end of fiscal year 2015.

**Section 2-19-170. Termination Date.**

The authority to levy the tax imposed by this ordinance shall expire on the thirtieth (30th) anniversary of the last day of the calendar quarter following the operative date.”

**SECTION 2. ENVIRONMENTAL COMPLIANCE.**

The findings for this ordinance in compliance with the California Environmental Quality Act (“CEQA”) are the same as those set forth in the City’s Resolution calling for an election on this Ordinance. The CEQA findings in that Resolution are incorporated herein by reference.

**SECTION 3. SEVERABILITY.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

**SECTION 4. EFFECTIVE DATE.**

This ordinance relates to the levying and collecting of a City transactions and use tax and shall take effect immediately.





# City of San Leandro

Meeting Date: July 7, 2014

## Ordinance

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**File Number:** 14-293

**Agenda Section:** ACTION ITEMS

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** City Council

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** ORDINANCE of the City Council of the City of San Leandro Rescinding in Its Entirety San Leandro Municipal Code Chapter 2-19 upon the Approval by a Majority Vote of the Eligible Voters Within the City of San Leandro of the Ballot Measure (Measure \_\_\_ ) on the November 4, 2014 Ballot Establishing a Temporary Transactions and Use Tax Within the City of San Leandro

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### RECITALS

WHEREAS, it is the intent of the City Council of the City of San Leandro to place before the eligible voters of the City a measure (Measure \_\_\_ ) to extend at the one half of one percent rate (0.5%) a temporary transactions and use tax upon the City's November 4, 2014 election ballot; and

WHEREAS, if the measure passes by a majority vote of the eligible voters of the City, then Measure \_\_\_, as a measure of the people of the City of San Leandro, shall immediately go into effect; and

WHEREAS, pursuant to the enactment of Measure \_\_\_ by ordinance, Chapter 2-19 of the San Leandro Municipal Code, and all of its provisions should, by the action taken hereto, be rescinded in its entirety; and

WHEREAS, if Measure \_\_\_ on the November 4, 2014 ballot is not passed by a majority vote of the eligible voters of the City, then it is the City Council's stated intent that the existing ordinance shall remain in full force and effect.

NOW THEREFORE, the City Council of the City of San Leandro does ordain as follows:

Section 1. The Recitals above are true and correct, and made a part hereof.

Section 2. San Leandro Municipal Code Chapter 2-19 shall be rescinded in its entirety,

and shall have no further force and effect if and only upon the passage of Measure \_\_\_\_ on the City of San Leandro November 4, 2014 ballot.

If Measure \_\_\_\_ does not pass, then this Ordinance shall not become effective, and shall have no force or effect.

Section 3. Effective Date. The effective date of this Ordinance shall be the same as the effective date of the Ordinance that enacts Measure \_\_\_\_ on the City of San Leandro November 4, 2014 ballot.

Section 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.