



## Local Ballot Measure: U

# Measure U

## City of Petaluma

### Measure Question

City of Petaluma Local Recovery, Emergency Preparedness, and Essential Services Measure. To maintain emergency health/wildfire/natural disaster preparedness; rapid 911 emergency response; fire protection services/firefighting equipment; well-trained community police officers; streets/pothole repair; clean/safe public areas; support for local businesses/jobs; and other city services; shall the City of Petaluma adopt a measure establishing a 1¢ sales tax, providing approximately \$13,500,000 annually until ended by voters, requiring audits, citizen oversight, and all funds spent locally?

### What Your Vote Means

YES	NO
A “yes” vote on Measure U will authorize the City of Petaluma to increase the sales tax by 1%.	A “no” vote on Measure U will prohibit the City of Petaluma from imposing the proposed sales tax.

### For and Against Measure U

FOR	AGAINST
Dave Kahn Retired Petaluma Firefighter/Resident  Katherine Wells Chamber of Commerce Member  Kris Rebillot Senior Advisory Committee Chair  Anthy O’Brien 40+ Year Resident/Taxpayer  Ed Esponda Local Public Safety Advocate	SONOMA COUNTY TAXPAYERS’ ASSOCIATION Daniel A. Drummond, Executive Director



# Local Ballot Measure: U

## City Attorney's Impartial Analysis of Measure U

On August 3, 2020 the Petaluma City Council adopted Ordinance 2743 N.C.S placing Measure U on the November 3, 2020 general election ballot by a unanimous vote of the entire Council. Measure U would enact a 1¢ local transactions and use or sales tax on the sale and use of personal property in Petaluma, subject to exceptions specified in the measure. As a general tax, Measure U requires approval by a simple majority of the qualified Petaluma voters voting in the November 3, 2020 election. Measure U would remain in effect until amended or repealed by Petaluma voters.

Measure U would generate approximately \$13.5 million annually. City staff have recommended community-identified City service priorities for use of Measure U proceeds including: maintaining and preventing cuts to firefighting equipment/fire engines and adequate 24-hour staffing; ensuring public health, wildfire, natural disaster emergency preparedness and maintaining 911 emergency response times to ensure first responders can respond quickly to calls for services; continuing homeless prevention programs and community partnerships while ensuring our local businesses, public areas, and neighborhoods are safe, stable, and secure for everyone; maintaining properly trained community based public safety officers, community outreach programs, and ensuring adequate 24-hour staffing; keeping public areas safe and clean; supporting local business and job retention through recovery; enhancing street maintenance, repaving, and pothole repair on Petaluma's 396 miles of streets; addressing existing road hazards and improving road safety for drivers, bicyclists, and pedestrians, including maintaining safe routes to schools; and improving conditions of local roads by better addressing \$141 million in repairs backlog and preventing road ratings from further decreasing per the standard Pavement Condition Index. All Measure U proceeds would be placed in the Petaluma General Fund for general governmental purposes approved by the City Council. Measure U proceeds could therefore be used for purposes approved by the City Council other than those staff has recommended.

Measure U would require the appointment of a five-member citizen oversight committee. The oversight committee appointees must be Petaluma taxpayers and cannot be employees or elected officials of the City or members of other City bodies. Measure U requires the City's Finance Director to prepare biannual reports on all measure proceeds and their use and to submit the reports to the oversight committee and publish them on the City's website. The oversight committee would meet biannually to review and comment on the reports and its meetings and records would be subject to the Brown Act and the Public Records Act. Measure U would require tracking its proceeds and expenditures separately from other City tax receipts.

Measure U would raise the sales tax in Petaluma from 8.25% to 9.25%. In accordance with Revenue and Taxation Code Sections 7292.8 and 7292.9, the voters may approve Measure U without exceeding the limits on local transactions and use taxes in Revenue and Taxation Code Section 7251.1.

If approved by Petaluma voters, Measure U would become effective 10 days after the City Council declares the results of the November 3, 2020 election.

Dated: August 17, 2020

s/ Eric W. Danly  
City Attorney

**Continue to next page for arguments**



# Local Ballot Measure: U

Arguments and rebuttals are the opinions of the authors. They are printed exactly as submitted, including errors.

Argument in Favor of Measure U	Rebuttal to Argument in Favor of Measure U
<p>Yes on U – Keep Petaluma safe and prepared! Yes on U makes sure Petaluma is prepared for any future wildfire, natural disaster or public health and safety emergency.</p> <p>Petaluma has been spared from recent fires. Yes on U ensures our firefighters have the equipment and adequate 24-hour staffing they need to protect our community effectively and save lives in any emergency.</p> <p>Did you know? Calls for emergency response to the Fire Department continue to increase to record levels, going up 95% in the past decade! As calls continue to rise, emergency response times have also increased.</p> <p>Yes on U is transparent, accountable, and locally controlled. All Measure U funding must be used locally. Yes on U maintains vital city services that keep us safe including rapid 911 emergency response, fire protection, well-trained community-based police officers, homeless prevention programs that keep our community stable and secure, and safe, clean, well-maintained public spaces and streets.</p> <p>Yes on U makes our roads safer. Petaluma’s 396 miles are pitted with potholes and cracks and in dire need of maintenance. Our streets are rated the worst in the Bay Area! We must repair existing hazards and properly maintain our streets. Our local roads will only get more expensive to fix the longer they go without repair. We deserve safe streets, including for first responders who need to reach people quickly that need help.</p> <p>Yes on U is fiscally accountable, including Independent Citizens Oversight, mandatory financial audits, and public reporting to ensure funds are spent on our priorities. No Measure U can be taken by the State!</p> <p>Yes on U was developed after receiving input from thousands of Petaluma residents! Join a unanimous City Council, community leaders, and neighbors in voting Yes on U to keep Petaluma safe and prepared!</p> <p>s/ Dave Kahn Retired Petaluma Firefighter/Resident</p> <p>s/ Katherine Wells Chamber of Commerce Member</p> <p>s/ Kris Rebillot Senior Advisory Committee Chair</p> <p>s/ Ed Esponda Local Public Safety Advocate</p> <p>s/ Anthony O'Brien 40+ Year Resident/Taxpayer</p>	<p>Join us in telling Petaluma city officials: “No, Not Now!” to higher taxes in this time of uncertainty and chaos, especially ones that will never end. Vote No on Measure U.</p> <p>Don’t they realize that people who have lost their jobs, businesses that have closed, farmers struggling to survive, seniors, and students all need help, especially financially? They don’t need a forever tax.</p> <p>The pandemic and recession have caused record high unemployment, and tens of thousands of Sonoma County residents can barely pay their monthly living expenses. We taxpayers have to live within our means and so should Petaluma.</p> <p>Local governments need to tighten their belts, adjust their spending like the rest of us, and not ask for new taxes this year. 2020 is the wrong time to ask voters for more money.</p> <p>Any new tax should only be considered when people are back to work and businesses have reopened. We are united and stand strong in our opposition to taxes like Measure U that will push people into poverty and cause more businesses and nonprofits to close forever, creating more job losses and higher unemployment.</p> <p>When we say “No, Not Now,” we hear strong agreement from others in the community who want relief for those most impacted by COVID-19. They don’t want additional financial burdens brought on by tax measures like this one, which asks for more money from its residents than nearly any other city in Sonoma County.</p> <p>Send city officials a clear, strong message: Vote No on Measure U on November 3<sup>rd</sup>.</p> <p>s/ Bryant R. Moynihan Former Petaluma Councilmember</p> <p>NORTH BAY LEADERSHIP COUNCIL s/ Cynthia Murray, CEO</p> <p>s/ John Mills</p> <p>s/ Pierre Miremont</p> <p>NCBE s/ Keith Woods, CEO</p>



# Local Ballot Measure: U

Arguments and rebuttals are the opinions of the authors. They are printed exactly as submitted, including errors.

Argument Against Measure U	Rebuttal to Argument Against Measure U
<p>Measure U is a double whammy, both a pension tax and a forever tax. The city council put this measure on the ballot because its pension obligations are out of control and, quite frankly, it is easier for them to extract more money from you than deal with the problem.</p> <p>Moreover, this tax never goes away. If approved, you will never have the opportunity to approve or reject the city council's spending decisions. For generations to come, the city council will never need to justify to voters how they spent your money. Goodbye to transparency and accountability.</p> <p>Oh sure, council members are telling you this tax remains "until ended by voters." That seemingly benign phraseology belies the near impossibility of average citizens getting a measure on the ballot to allow that option.</p> <p>Unless you and an army of volunteers intend to spend a month camped out in front of the grocery store and post office collecting signatures, plan on hiring professional paid signature gatherers to get the necessary signatures.</p> <p>Plan also on hiring expensive political consultants and attorneys to guide you through the legal process and draft the ballot language and other necessary paperwork. And should you manage to do all that, remember you still need to run a campaign supporting your measure. It is a daunting task and few voters have the time or resources to see it through. Your council members are relying on that to shield them from future scrutiny.</p> <p>Council members are employing a sneaky strategy to deal with the pension problem. By exploiting your unfamiliarity with the ballot measure process, they hope to never need your approval again.</p> <p>You deserve better from your elected representatives.</p> <p>Be informed. Vote No on Measure U.</p> <p style="text-align: center;">SONOMA COUNTY TAXPAYERS' ASSOCIATION s/ Daniel A. Drummond, Executive Director</p>	<p>Don't be misled by the irrational ranting and tired rhetoric of an opponent who disregards the facts!</p> <p>The truth is, the Argus-Courier even cited "The City has done exactly what the Sonoma County Taxpayers Association recommended it do" to control costs. (July 30, 2020)</p> <p>Our City has a proud tradition of strong fiscal stewardship – Yes on U upholds this tradition with Independent Citizen Oversight, audits, and spending priorities based on community input to ensure funds are used efficiently and as promised to voters. Measure U was drafted after months of consultation with the community – thousands of Petaluma residents participated!</p> <p>Yes on U will keep Petaluma safe and protect our quality of life, period. Now more than ever – with the growing threat of wildfires, a public health crisis, hazardous streets, and businesses and residents in need of support – we must prevent cuts to vital services our community expects and deserves. There will not be adequate help from State or Federal government – we are on our own.</p> <p>Petaluma is a fiscally responsible, transparent, and accountable city. Yes on U honors this tradition with locally-controlled funding that keeps our tax dollars local to benefit residents.</p> <p>We need Measure U. When we maintain our quality of life, health, and safety all members of the community — residents and businesses alike – benefit. Join us in voting Yes on U!</p> <p>Get the facts: <a href="http://cityofpetaluma.org">cityofpetaluma.org</a></p> <p>s/ Dave Kahn Retired Petaluma Firefighter/Resident</p> <p>s/ Marcus Benedetti Local Business Executive</p> <p>s/ Sue Conley Co-Founder, Cowgirl Creamery</p> <p>s/ Elece Hempel Resident &amp; Taxpayer Advocate</p> <p>s/ Chris Aluia Petaluma Downtown Association Member</p>



# Local Ballot Measure: U

## Full Text of Measure U

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PETALUMA  
ADDING A NEW CHAPTER 4.18 ENTITLED "TRANSACTIONS AND  
USE TAX" TO THE PETALUMA MUNICIPAL CODE TO IMPOSE A  
ONE-CENT, GENERAL TRANSACTIONS AND USE TAX TO BE  
ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND  
FEE ADMINISTRATION**

### FINDINGS

**WHEREAS**, the City of Petaluma has had General Fund budgetary challenges for many years, at least since the Great Recession approximately a decade ago, and the City's response to the Great Recession was a multi-faceted approach that attempted to retain the most critical services while balancing expenditures with available revenues, utilizing strategies including the following:

- Reductions to, elimination of and contracting-out of various General Fund services;
- Reduction of 26% of General Fund staff positions;
- Negotiation of various concessions with our employee bargaining units; including furloughs, pension cost-sharing, and no cost-of-living-adjustments for up to 7 consecutive years; and
- Spending down of nearly all the City's General Fund reserves; and

**WHEREAS**, after the Great Recession, from approximately 2013 to 2018, the City continued to make the necessary decisions to balance its General Fund each year during a period that saw few staff compensation increases, and although some key positions were added back to the General Fund over time; and the City accomplished a slow build-up of reserves, the General Fund budget was balanced during this time by little-to-no investment in technology, roads, facilities and other key infrastructure components; and

**WHEREAS**, the City has not had the benefit of a dedicated, locally-approved revenue measure to bolster City services and improve infrastructure maintenance and investment; and

**WHEREAS**, since the beginning of the COVID-19 pandemic, the City has been working to provide essential City services to residents and businesses and provide additional COVID support where possible, such as the implementation of a rental assistance program, small business loan program, and assistance with permitting outdoor dining and other business modifications to support the economy; nonetheless, due to the sheltering orders and corresponding business shutdowns, the City is anticipating a revenue loss of \$2.7 million in Fiscal Year 2019/2020 and an additional \$2.0 million loss in Fiscal Year 2020/2021, with future fiscal years expected to see estimated revenues down approximately \$1.3 million annually on an ongoing basis; and

**WHEREAS**, since 2019, the City has been engaged in a two-pronged effort to: (1) gather as much community feedback as possible about City services and priorities, including online and paper surveys, in-person workshops, emails and phone calls, and statistically-valid professionally-conducted public opinion research; and (2) to conduct comprehensive analysis and educate the community on the City's long-term fiscal challenges and the level of revenue / investment required by the City's General Fund to maintain quality-of-life services and infrastructure; and

**WHEREAS**, the City Council and City staff have employed a multi-faceted community outreach effort to engage the Petaluma community to gather their feedback about City services, projects, goals and priorities, which efforts have taken many forms over the past eighteen months and have included input from thousands of Petaluma residents, businesses and other stakeholders, including:

- Over 300 participants at City workshops (e.g. Goals and

Priorities Workshop, Parks Measure M Workshop, Housing Priorities Workshop, etc.);

- 2,131 respondents to online surveys;
- Over 1,000 respondents to paper mail-in surveys;
- 3,617 unique visitors to the City's [www.cityofpetaluma.org/jointheconvo](http://www.cityofpetaluma.org/jointheconvo) web page;
- 800 participants in statistically-valid, professionally conducted public opinion research; and

**WHEREAS**, the extensive community feedback the City has received makes clear that the community's interests and spending priorities for enhanced locally-controlled funding include:

- Maintaining and preventing cuts to firefighting equipment/fire engines and adequate 24-hour staffing;
- Ensuring public health, wildfire, natural disaster emergency preparedness and maintaining 911 emergency response times to ensure first responders can respond quickly to calls for services;
- Continuing homeless prevention programs and community partnerships while ensuring our local businesses, public areas, and neighborhoods are safe, stable, and secure for everyone;
- Maintaining properly trained community based public safety officers, community outreach programs, and ensuring adequate 24-hour staffing;
- Keeping public areas safe and clean; supporting local business and job retention through recovery;
- Enhancing street maintenance, repaving, and pothole repair on Petaluma's 396 miles of streets;
- Addressing existing road hazards and improving road safety for drivers, bicyclists, and pedestrians, including maintaining safe routes to schools; and
- Improving conditions of local roads by better addressing \$141 million in repairs backlog and preventing road ratings from further decreasing per the standard Pavement Condition Index; and

**WHEREAS**, staff has been engaged in a Fiscal and Organizational Sustainability ("FOS") effort consisting of significant research and analysis into all facets of the City's General Fund finances as well as a series of informational workshops to present the data and findings on each topic to the City Council and the public to identify options and solutions to ensure that City services, programs and infrastructure are provided and maintained in a sustainable way, with the FOS process analyzing what the City should be investing in order to be sustainable in the long run, and then identifying the amount of revenue necessary to achieve those goals; and

**WHEREAS**, per the forecast presented during the Fiscal Year 2020/21 budget process, the City has an average structural General Fund deficit over the lifetime of the 5-Year General Fund Forecast of approximately \$6.4 million annually, with an initial projected annual deficit of \$5.1 million in Fiscal Year 2021/2022, increasing to a projected annual deficit of \$7.7 million in Fiscal Year 2025/2026, which means that in order to continue to fund the existing core services, programs and staffing levels currently funded by the General Fund, given reasonable growth assumptions on revenues and expenditures, the City would need approximately an additional \$6.4 million annually, assuming no new programs or staff positions are added, or, stated differently, if the City takes no other action to ameliorate its financial situation, the City will need to cut approximately \$6.4 million permanently from its annual budget to stay balanced; and

**WHEREAS**, the City of Petaluma maintains a vast array of infrastructure for the benefit of its constituents, including streets, sidewalks, storm drains, bridges, parks, pathways, islands & medians, buildings and facilities, but in efforts to balance the annual budget, the City has invested very-little-to-zero General Fund dollars to maintain this infrastructure over time, which has resulted in hundreds of millions of dollars in deferred maintenance for these facilities, including:



# Local Ballot Measure: U

## Full Text of Measure U (Cont.)

- Petaluma's having the worst roads in the entire nine-county Bay Area; to bring the road condition up to a pavement condition index of "Good / 70" would require an investment of more than \$100 million;
- The City's three antiquated fire stations require nearly \$10 million in improvements to seismic, accessibility and functional adequacy for these important public safety facilities to remain viable; and

**WHEREAS**, the Petaluma community has indicated that maintaining public health, wildfire, and natural disaster emergency preparedness; ensuring firefighters have the equipment they need; maintaining 911 emergency response times, fire protection services, and well-trained community-based police officers; supporting local businesses through recovery; repairing roads and fixing potholes; and keeping public spaces safe and clean are top community priorities; and

**WHEREAS**, although Petaluma has been spared from recent wild fires, the City needs to continue to ensure the Petaluma Fire Department has the equipment and adequate staffing it needs to protect Petaluma effectively in any emergency; and

**WHEREAS**, Petaluma's 396 miles of roadways are in dire need of maintenance and are rated the worst in the Bay Area, and the City's roads will only get more expensive to fix the longer they go without repair, and Petaluma residents deserve safe streets, including for first responders who need to reach people quickly that need help; and

**WHEREAS**, as the financial fallout from the COVID-19 pandemic continues, the City needs to maintain homeless prevention programs that keep our community safe, stable, and secure; and

**WHEREAS**, calls for emergency response to the Fire Department continue to increase to record levels, have gone up 95% in the past decade, and as calls for services continue to rise, emergency response times have also increased; and

**WHEREAS**, the City must ensure Petaluma is fiscally stable and prepared for any future wildfire, natural disaster or public health and safety emergency; the City cannot depend on adequate state or federal funding to address local emergency preparedness and recovery needs; and as a result, the City must effectively address its own unique local needs and ensure local control with funding that cannot be taken by the State; and

**WHEREAS**, ideally, the City would be able to invest upwards of \$10 million annually to maintain all of its infrastructure categories and take care of the significant backlog of deferred maintenance; however, as a reasonable middle ground, staff is suggesting an annual investment target of approximately \$4.6 million to significantly reduce existing maintenance needs; and

**WHEREAS**, the City Manager's Office and City departments have identified a number of areas that do not appear sustainable without additional staff to continue maintaining community needs and priorities that City residents expect and deserve; and, although staff identified approximately 29 new staff positions that would be required to bolster and augment the City's General Fund operations to ensure they are sustainable, the City Manager recommends 19 new positions for the General Fund at a cost of approximately \$2.2 million annually that would not provide significant new services to the community but would help to provide resiliency, reliability, and proactivity to existing services to ensure that they are sustainable; and

**WHEREAS**, the City's FOS process has identified that the City needs more than \$15 million in additional annual revenue to provide sustainable, high-quality services and ensure that City infrastructure is reliably maintained, and, accordingly, staff recommends placing a one-cent general purpose sales tax on the November 3, 2020 ballot, which is estimated to generate approximately \$13.5 million annually to be spent in

alignment with the FOS recommendations and community-identified spending priorities; and

**WHEREAS**, the measure that has been prepared for placement before Petaluma voters at the November 3, 2020 general election includes strict transparency and accountability requirements, including: independent citizen oversight, biannual independent financial audits, all funds spent locally, and no funding that can be taken by the State; and

**WHEREAS**, Section 7285.9 of the California Revenue and Taxation Code provides that the governing body of any city may levy, increase or extend a transactions and use tax for general purposes at a rate of 0.125 percent or a multiple thereof, if the ordinance proposing that tax is approved by a two-thirds vote of all members of that governing body and the tax is approved by a majority vote of the qualified voters of the city voting in an election on the issue, if the transactions and use tax conforms to the Transactions and Use Tax Law in Part 1.6 (commencing with Section 7251) of the California Revenue and Taxation Code; and

**WHEREAS**, Section 7251.1 of the California Revenue and Taxation Code provides that the combined rate of all transactions and use taxes in any county may not exceed 2 percent; and

**WHEREAS**, current sales tax rates in Sonoma County are as follows:

Cloverdale	8.25%
Cotati	9.25%
Healdsburg	8.75%
Petaluma	8.25%
Rohnert Park	8.75%
Santa Rosa	9.00%
Sebastopol	9.00%
Sonoma	8.75%
Sonoma County	8.25%
Windsor	8.25%; and

**WHEREAS**, in accordance with California Revenue and Taxation Code section 7251.1, the Petaluma voters may adopt a local transactions and use tax of up to 1.0% to be applicable in the City; and

**WHEREAS**, imposition of a one-cent transactions and use tax in Petaluma would generate approximately \$13.5 million annually; and

**WHEREAS**, in accordance with Article 13C, Section 2, of the California Constitution, any tax imposed for general governmental purposes the proceeds of which are placed in the general fund and available for expenditure for any and all governmental purposes is a general tax, including where such proceeds are monitored and tracked separately from other tax receipts (*see, e.g., Weisblat v. City of San Diego* (2009) 176 CA4th 1022); and

**WHEREAS**, Subdivision (b) of Section 2 of Article XIII C of the California Constitution requires that elections to approve a general tax must be consolidated with a regularly-scheduled general election for members of the governing body of the local Government; and

**WHEREAS**, November 3, 2020 is the date of the City's next regular municipal election for members of the City Council; and

**WHEREAS**, Section 4 of Article III of the Petaluma City Charter provides that except as otherwise specified in the charter, all regular and special City elections are to be held in accordance with the California Elections Code, as amended; and

**WHEREAS**, Section 76 of Article XII of the Petaluma City Charter provides that ordinances may be enacted by and for the city pursuant to Division 4 of Chapter 3 of Article 1 of the California Elections Code, as amended; and,



# Local Ballot Measure: U

## Full Text of Measure U (Cont.)

**WHEREAS**, in accordance with Section 76A of Article XII of the Petaluma City Charter and California Revenue and Taxations Code section 7285.9, if the transactions and use tax measure to be submitted to Petaluma voters pursuant to this ordinance is approved by a unanimous vote of the City Council Members present and by a majority vote of qualified City voters, the measure would impose a one-cent general tax based on the retail sales price of personal property sales and use; and

**WHEREAS**, this ordinance is not a project subject to the requirements of the California Environmental Quality Act ("CEQA") or its Guidelines in accordance with paragraph (2) of subdivision (c) of Section 15060 of the CEQA Guidelines, because this ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and in accordance with paragraph (4) of subdivision (b) of Section 15378 of the CEQA Guidelines, because this ordinance involves the creation of government funding mechanisms and other government fiscal activities that do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment;

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

**Section 1. Chapter 4.18** entitled "Transactions and Use Tax" is hereby added to Title 4 of the Petaluma Municipal Code, to read as follows:

**4.18.010 TITLE.** This chapter is entitled "Transactions and Use Tax" and shall be applicable in the incorporated territory of the city.

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

**4.18.030 PURPOSE.** This chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the city to adopt this chapter 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 California Department of Tax and Fee Administration 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 California Department of Tax and Fee Administration 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 chapter.

**4.18.040 CONTRACT WITH STATE.** Prior to the operative date, the city shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this chapter; provided, that if the city shall not have contracted with the California Department of Tax and Fee Administration 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.

**4.18.050 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 1.0% 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 chapter.

**4.18.060 PLACE OF SALE.** For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

**4.18.070 USE TAX RATE.** An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of this chapter for storage, use or other consumption in said territory at the rate of 1.0% 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.

**4.18.080. 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.

**4.18.090. 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 the city shall be substituted therefor. 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 Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against the city or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, 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;



# Local Ballot Measure: U

## Full Text of Measure U (Cont.)

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.

1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

**4.18.100 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.

### **4.18.110 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 chapter.

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 chapter.

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 the 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 chapter.

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 chapter.

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 chapter 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.



# Local Ballot Measure: U

## Full Text of Measure U (Cont.)

**4.18.120 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.

**4.18.130 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.

**4.18.140 USE OF TAX PROCEEDS AND ACCOUNTABILITY MEASURES.**

A. The proceeds of the tax imposed pursuant to this chapter shall be placed in the city's General Fund and available for expenditure for any and all governmental purposes, including such purposes as: maintaining and preventing cuts to firefighting equipment/fire engines and adequate 24-hour staffing; ensuring public health, wildfire, natural disaster emergency preparedness and maintaining 911 emergency response times to ensure first responders can respond quickly to calls for services; continuing homeless prevention programs and community partnerships while ensuring our local businesses, public areas, and neighborhoods are safe, stable, and secure for everyone; maintaining properly trained community based public safety officers, community outreach programs, and ensuring adequate 24-hour staffing; keeping public areas safe and clean; supporting local business and job retention through recovery; enhancing street maintenance, repaving, and pothole repair on Petaluma's 396 miles of streets; addressing existing road hazards and improving road safety for drivers, bicyclists, and pedestrians, including maintaining safe routes to schools; and improving conditions of local roads by better addressing \$141 million in repairs backlog and preventing road ratings from further decreasing per the standard Pavement Condition Index, among other purposes. The proceeds of the tax imposed pursuant to this chapter and expenditures using such proceeds shall be monitored and proceeds tracked separately from other city tax receipts.

B. The city council shall appoint an independent citizen oversight committee consisting of five members to review and report on the use of proceeds of the tax imposed pursuant to this chapter. The committee members shall be city residents who pay the tax imposed pursuant to this chapter and who are not employees or elected officials of the city or members of any other city body. The city will provide administrative support necessary for the oversight committee to carry out its functions.

C. The city's finance director will oversee preparation of biannual reports for submission to the oversight committee and publication on the city's website on all tax proceeds collected pursuant to this chapter and use of the proceeds. The citizen oversight committee will meet biannually to review and comment on the reports. The meetings and records of the oversight committee will be open to the public in accordance with Article 1, Section 3, subdivision (b) of the California Constitution, and the requirements of the Ralph M. Brown Act, California Government Code Section 54950 and following, and the California Public Records Act, California Government Code Section 6250 and following, as amended from time to time.

**Section 3. 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.

**Section 4. EFFECTIVE DATE.** This ordinance relates to the levying and collecting of city transactions and use taxes and shall take effect immediately.

**Section 5. TERMINATION DATE.** The authority to levy the tax imposed by this ordinance shall expire when such authority is suspended or terminated in accordance with applicable law.

PASSED AND ADOPTED by the qualified electors of the City of Petaluma, State of California, on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

Attest: \_\_\_\_\_