

CITY OF SEBASTOPOL  
CITY COUNCIL  
AGENDA ITEM

**Meeting Date:** August 8, 2023

**To:** Honorable Mayor and City Councilmembers

**From:** Ad Hoc Committee for Ballot Measure Question/Polling of Community  
Mayor Hinton/Councilmember Zollman/City Attorney  
Assistant City Manager/City Clerk

**Subject:** Resolution Calling an Election to ask the Voters of the City of Sebastopol to Approve A Transactions and Use Tax of One-Quarter Cent (0.25%); (2) Approving the Ballot Question and Form of the Ordinance to be Submitted to the Voters; (3) Requesting that the Sonoma County Board of Supervisors Consolidate the Special Election with Any Other Election to be Held on November 7, 2023; (4) Directing the County Elections Department to Conduct the Election on the City’s Behalf; (5) Setting Deadlines for Submission of Arguments and Rebuttal Arguments; and Providing for an Impartial analysis by the City Attorney; and (6) Approval of Resolution for Budget Amendment of \$5000 for education and outreach for Said Ballot Measure

**Recommendation:** That the City Council Approve the Item Above for the November 7, 2023 Election

**Funding:** Currently Budgeted:  Yes \* No  Not Applicable

\*Account Code: 100-14-01-4210 (\$60,000) & 124-13-01-4210 (\$40,000)  
 Costs authorized in City Approved Budget:  Yes (Finance Initialed AK)  No (Finance Exempt)  
 Please see fiscal impact below for Authorization of Additional \$10,000 to Total Costs

**INTRODUCTION/PURPOSE:**

This item is to request that the City Council Discuss and Consider Approval of the following actions:

- 1) Resolution Calling an Election to ask the Voters of the City of Sebastopol to Approve A Transactions and Use Tax of One-Quarter Cent (0.25%); Approving the Ballot Question and Form of the Ordinance to be Submitted to the Voters; (this requires a 2/3 vote of the council or 4 Councilmembers voting in the affirmative;
- 2) Requesting that the Sonoma County Board of Supervisors Consolidate the Special Election with Any Other Election to be Held on November 7, 2023;
- 3) Directing the County Elections Department to Conduct the Election on the City’s Behalf;
- 4) Setting Deadlines for Submission of Arguments and Rebuttal Arguments;
- 5) Providing for an Impartial analysis by the City Attorney;
- 6) Approval of Resolution for Budget Amendment of \$5000 for education and outreach for Said Ballot Measure

**BACKGROUND:**

At the July 18, 2023 City Council Meeting, the City Council received a request for consideration of placement of a ballot measure on the November 7, 2023 Special Election. At this meeting, the Council approved an Ad Hoc Council committee of Mayor Hinton and Councilmember Zollman and authorized the City Manager to enter into a contract with Rosatti Consulting for polling with an amount not to exceed \$10,000.

On August 1, 2023, the City Council received the polling results from Dennis Rosatti. Based upon the results, and upon further Council deliberations, and in recognition of the city's deficit and potential future service reductions, as well as the need to maintain essential services, the Council directed staff to bring forward a report for presenting a ballot measure to voters at the November 7, 2023 Election.

**DISCUSSION:**

Revenue and Taxation Code § 7285.91 provides authority for a special transactions and use tax. Such a tax would, like regular sales tax, be imposed on retailers, and would be paid by the general public. It would be collected by the California Department of Tax and Fee Administration from retailers and remitted to the City.

Cities Authority to levy tax; specific purposes. Revenue and Taxation Code (R&T) section 7285.91(a) states that the ordinance proposing the tax must be "approved by a two-thirds vote of all members of the governing body and is subsequently approved by a two-thirds vote of the qualified voters of the City voting in an election of the issue. For the Council to approve the ordinance, four (4) councilmembers would need to vote in the affirmative (yes on the ordinance) to have the ordinance be submitted to the voters in the special election.

The proposed ballot question is included in the resolution calling the election and was created based upon the discussion at the City Council meeting and would need to be approved tonight for submission to the Voters for the November 7, 2023 Election.

The DRAFT Question Proposed is:

"Shall the measure (Ordinance (#)) to maintain Sebastopol's parks, senior center, pool, library and mental and behavioral programs, and other City funded community services, and to enhance and provide continued support for Sebastopol's fire services, by establishing a 0.25% transaction and use (sales) tax, for 10 years, providing approximately \$750,000 annually, subject to an annual audit, be adopted?"

City has proposed draft titles of the ordinance for Council consideration:

- City Community and Fires Services Act
- City Community Programs and Fire Services Act

If the ordinance is adopted, then under Elections Code section 9217, "The ordinance shall be considered as adopted upon the date that the vote is declared by the legislative body." Under R&T Code section 7265, the ordinance will be operative on "the first day of a calendar quarter . . . commencing more than 110 days after the adoption of the ordinance." It would be assumed that the City would want the ordinance to become operative on April 1, 2024; therefore, the ordinance has to be adopted by December 13, 2023 (110 days before the operative date). It is anticipated that the election results will be received from the County registrar of voters prior to that date. However if there's any delay in the

certification of the results of the election, there’s a small risk of implementation of the tax being delayed by a quarter.

**CITY COUNCIL AND/OR GENERAL PLAN GOALS:**

Goal 5 - Provide Open and Responsive Municipal Government Leadership

Goal 1 - Maintain the long term financial stability and sustainability of the City of Sebastopol and Operate City government in a fiscally responsible and responsive manner

1.1 Develop and Implement Sound Financial Management Policies and Procedures

Goal EV 7: Maintain a Stable and Self-Sustaining Fiscal Base in Order to Generate the Resources Necessary to Provide Desired City Services and Support New Growth that is Consistent with the City’s Values and Goals

**ENVIRONMENTAL IMPACT:**

This action is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and no further environmental review is required.

**PUBLIC COMMENT:**

As of the writing of this staff report, the city has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report, such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

**PUBLIC NOTICE:**

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

**FISCAL IMPACT:**

Funding has been allocated in the approved FY 23-24 City Operating Budget as follows.

- 1. Ballot Measure (Ballot Question and Ordinance) \$30,000
- 2. Strategist /Marketing, Education and Outreach \$30,000
- 3. County Election Costs \$40,000
- Total \$100,000

The proposed fiscal impact is proposed as follows:

- 1. Ballot Measure (Ballot Question and Ordinance) \$30,000
- 2. Strategist /Marketing, Education and Outreach \$10,000 \*
- 3. County Election Costs \$55,000 (Estimated)
- Total \$95,000

\*A not to exceed amount of \$10,000 was approved at the July 18<sup>th</sup> 2023 to Dennis Rosatti, Rosatti Consulting for Polling Services.

The City Council, at the August 1, 2023 City Council meeting, directed staff to return with a budget amendment for an additional \$10,000 to be added funded to the total costs for this measure for outreach and education; requiring a budget amendment of \$5,000. If approved, City staff would research local consultants who have demonstrated deliverables in outreach and education for other similar special elections/measures and contract with the successful consultant.

City staff has also reached out to our current City auditor regarding the question of an audit for this ballot measure. They indicated that this type of audit would be a separate contract as it can't be rolled into the current City contract. The audit will produce its own management discussion and analysis, audit opinion, financial statement, note disclosures etc. Because they do not know what the criteria will be for such audit as it depends on the ballot measure language, the cost ranges from \$5K to 15K as it also depends on the number of transactions they have to review.

**RECOMMENDATION:**

That the City Council Approve the following actions:

- 1) Resolution Calling an Election to ask the Voters of the City of Sebastopol to Approve A Transactions and Use Tax of One-Quarter Cent (0.25%);
- 2) Approving the Ballot Question and Form of the Ordinance to be Submitted to the Voters; (this requires a 2/3 vote of the council or 4 Councilmembers voting in the affirmative
- 3) Requesting that the Sonoma County Board of Supervisors Consolidate the Special Election with Any Other Election to be Held on November 7, 2023;
- 4) Directing the County Elections Department to Conduct the Election on the City's Behalf;
- 5) Setting Deadlines for Submission of Arguments and Rebuttal Arguments;
- 6) Providing for an Impartial analysis by the City Attorney;
- 7) Approval of Resolution for Budget Amendment of \$5000 for education and outreach for Said Ballot Measure

**ATTACHMENT(S):**

Resolution(s):

1. Calling for Election/Ordinance
2. Budget Amendment

RESOLUTION NO. XXXX-2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL CALLING A SPECIAL MUNICIPAL ELECTION TO ASK THE VOTERS OF THE CITY OF SEBASTOPOL TO APPROVE A BALLOT MEASURE TO ENACT A ¼ cent (0.25%) TRANSACTIONS AND USE TAX THAT WOULD BE A SPECIAL TAX TO BE USED TO MAINTAIN SEBASTOPOL'S PARKS, SENIOR CENTER, POOL, LIBRARY AND MENTAL AND BEHAVIORAL PROGRAMS, AND OTHER CITY FUNDED COMMUNITY SERVICES, AND TO ENHANCE AND PROVIDE CONTINUED SUPPORT FOR SEBASTOPOL'S FIRE SERVICES;

APPROVING THE FORM OF THE ORDINANCE TO BE SUBMITTED TO THE VOTERS; REQUESTING THAT THE SONOMA COUNTY BOARD OF SUPERVISORS CONSOLIDATE THE ELECTION WITH ANY OTHER ELECTION CONDUCTED ON SAID DATE OF NOVEMBER 7, 2023; AND DIRECTING THE COUNTY ELECTION'S DEPARTMENT TO CONDUCTED THE ELECTION ON THE CITY'S BEHALF

**WHEREAS**, Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 of the Revenue and Taxation Code authorize the City of Sebastopol to levy a Transactions and Use Tax ("TUT"); and

**WHEREAS**, pursuant to Section 9222 of the Elections Code the City Council may submit to the voters, without a petition therefor, a measure to enact an ordinance, to be voted upon at any succeeding regular or special city election; and

**WHEREAS**, pursuant to Section 53724 of the Government Code the City Council may submit to the voters a measure to enact a special tax; and

**WHEREAS**, Fiscal Sustainability is important to ensure the City provides quality services while maintaining finances at a credible and serviceable level that is sustainable given projected long-term resources and obligations; and

**WHEREAS** the tax is intended as one step in addressing the critical budget challenges faced by the City of Sebastopol; including a shortfall in the FY 23-24 budget of \$1.677 Million which is currently covered by reserves; and

WHEREAS, without action taken to address this structural deficit, projection of expenses outpacing revenues will lead to a structural deficit and the City of Sebastopol reserves would be depleted over the next five years; and

**WHEREAS**, revenues generated by this voter-approved funding source are locally controlled and cannot be taken by the State; and

**WHEREAS**, pursuant to Elections Code Section 10002, the governing body of any city may by resolution request the Board of Supervisors of the county to permit the county elections official to render specified services to the city relating to the conduct of an election, subject to the city reimbursing the county in full for the services performed upon presentation of a bill to the city; and

**WHEREAS**, the City Council desires to give the voters of the City of Sebastopol the opportunity at a special election on November 7, 2023 to decide whether to enact a TUT at a rate of 0.25%.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Sebastopol that:

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

**Section 2.** The City Council is authorized to present a measure for a special tax to the voters for their consideration pursuant to Elections Code Section 9222 and Government Code section 53724.

**Section 3.** The City Council hereby calls a special election for November 7, 2023 at which it shall submit to the qualified voters of the City of Sebastopol a measure that, if approved, will impose a TUT of 0.25% for Ten Years. This measure shall be designated by letter by the Sonoma County Registrar of Voters.

**Section 4.** The ballot language for the proposed measure shall be as follows:

"Shall the measure (Ordinance (#)) to maintain Sebastopol's parks, senior center, pool, library and mental and behavioral programs, and other City funded community services, and to enhance and provide continued support for Sebastopol's fire services, by establishing a 0.25% transaction and use (sales) tax, for 10 years, providing approximately \$750,000 annually, subject to an annual audit, be adopted?"	<b>YES</b>	
	<b>NO</b>	

**Section 5.** The full text of the proposed measure to be submitted to the voters is attached as Exhibit A (the “Measure”) hereto. If two-thirds of qualified voters voting on the Measure vote in favor of it, the Measure shall be deemed adopted and shall be in full force and effect ten (10) days after the date the vote is declared by the City Council of the City of Sebastopol.

**Section 6.** The City Clerk is hereby directed to cause notice of the measure to be published once in a newspaper of general publication in the City, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

**Section 7.** The City Council hereby requests that the Sonoma County Registrar of Voters conduct a special election for this measure on November 7, 2023. The City of Sebastopol recognizes that the County will incur additional costs because of this special election and agrees to reimburse the County for those costs. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City’s cost of placing the measure on the ballot for this special election.

**Section 8.** The City Clerk is authorized, instructed, and directed to work with the Office of the Registrar of Voters as needed in order to properly and lawfully conduct the election and to provide all notices and information required by law. The ballots to be used in the election shall be in form and content as required by law. The Office of the Registrar of Voters is authorized to canvass the returns of the special election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections. The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Sonoma County and the Registrar of Voters of Sonoma County.

**Section 9.** The schedule and requirements for arguments and the City Attorney’s impartial analysis is as follows:

- a. The last day for submission of primary arguments for or against the measure shall be by 5:00 p.m. on August 22, 2023.
- b. The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on September 1, 2023.
- c. Primary 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 primary arguments.
- e. Pursuant to California Elections Code Section 9280, the City Council hereby directs

the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and file the impartial analysis with the City Clerk by September 1, 2023.

- f. Any measure, city attorney's impartial analysis, or primary argument filed, will be available for public examination in the City Clerk's Office for not less than ten calendar days from the deadline for the filing of the arguments and analyses. Any rebuttal argument filed will be available for public examination in the City Clerk's office for not less than ten calendar days from the deadline for filing rebuttal arguments.
- g. Arguments may be changed or withdrawn up to the filing deadline. Arguments received prior to the deadline are confidential until the deadline.
- h. 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 primary arguments. Each rebuttal argument shall immediately follow the primary argument, which it seeks to rebut.
- i. As provided in Section 9282 of the California Elections Code, any and all members of the City Council are hereby authorized to act as an author of any ballot argument prepared in connection with the election, including a rebuttal argument, and the City establishes August 22, 2023 as the deadline to file arguments for or against the measure with the City Clerk, and September 1, 2023, as the deadline to file rebuttal arguments with the City Clerk.
- j. The deadline for public examination of all ballot measure material is September 11, 2023

**Section 10.** The jurisdictional boundaries of the City of Sebastopol have not changed since the last general municipal election.



**Section 11.** 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. §§ 15000 et seq., “CEQA Guidelines”), based on the general rule set forth in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This resolution places a measure on the ballot that, if approved, raises a tax, but it can be said with certainty that there is no possibility that this measure will have a significant effect on the environment.

IN COUNCIL DULY APPROVED AND ADOPTED this 8<sup>th</sup> day of August, 2023.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:

City of Sebastopol Council:

VOTE:

Ayes:

Noes:

Absent:

Abstain:

Approved: \_\_\_\_\_  
Mayor Neysa Hinton

Attest: \_\_\_\_\_  
Mary Gourley, MMC, Assistant City Manager / City Clerk

Approved as to Form: \_\_\_\_\_  
Larry McLaughlin, City Attorney

**EXHIBIT A**

**[Attach Ordinance]**

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

**AN ORDINANCE OF THE CITY OF SEBASTOPOL IMPOSING  
A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE  
CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

Section 1. TITLE. This ordinance shall be known as the **Special City Community and Fire Services Act (or Special City Community Programs and Fire Services Act)** Transactions and Use Tax Ordinance. The City of Sebastopol hereinafter shall be called “City.” This ordinance shall be applicable in the incorporated territory of the City.

Section 2. 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 3. 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 Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if two-thirds 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 ordinance.

Section 4. 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 transactions and use tax ordinance; 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.

Section 5. 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 0.25% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 6. 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 California Department of Tax and Fee Administration.

Section 7. 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 0.25% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 8. 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 9. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made 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 this 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 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.

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.

Section 10. 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 11. 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 12. AMENDMENTS. All amendments subsequent to the date that the voters approve 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 13. SPECIAL TAX. The transactions and use tax imposed by this ordinance is a special tax for the purpose of funding Sebastopol's parks, senior center, pool, library and mental and behavioral programs, other City funded community services, and Sebastopol's fire services.

A. The proceeds from the special tax imposed by this ordinance may only be spent on Sebastopol's parks, senior center, pool, library and mental and behavioral programs, other City funded community services, and Sebastopol's fire services. This paragraph constitutes the expenditure plan required by Revenue and Taxation Code section 7285.91(c).

B. A special account shall be created, called the **Special City Community and Fire Services Act (or Special City Community Programs and Fire Services Act)** Account, and all of the proceeds from this special tax shall be placed in this account.

C. Every year that this special tax is collected, the Finance Director shall submit to the City Council a report stating the amount of funds collected and expended and the status of any project funded by this special tax.

Section 14. 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 15. 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 16. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall be considered as adopted upon the date that the vote is declared by the legislative body.” The ordinance will be operative on the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance.

Section 17. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire on the tenth anniversary of the Operative Date (which is expected to be April 1, 2024).

CERTIFICATION:



**EXHIBIT B**

**TO BE INCLUDED IN THE VOTER PAMPHLET**

The proposed Sales Tax Measure for \_\_\_\_\_ shall be submitted to the voters on the ballot in the form of the following question:

<b>MEASURE _____ :</b>		
"Shall the measure (Ordinance (#)) to maintain Sebastopol's parks, senior center, pool, library and mental and behavioral programs, and other City funded community services, and to enhance and provide continued support for Sebastopol's fire services, by establishing a 0.25% transaction and use (sales) tax, for 10 years, providing approximately \$750,000 annually, subject to an annual audit, be adopted?"		<b>YES</b>
		<b>NO</b>

The full text of the proposed Ordinance shall be available for review at the Office of the City Clerk, 7120 Bodega Ave, Sebastopol, CA 95472, during City Office Hours.

The full text of the proposed Ordinance will also be available on the City of Sebastopol website at [www.cityofsebastopol.org](http://www.cityofsebastopol.org). or <https://ci.sebastopol.ca.us>

RESOLUTION NUMBER: XXXX--2023

CITY OF SEBASTOPOL

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL AUTHORIZING A BUDGET AMENDMENT FOR EDUCATION AND OUTREACH FOR BALLOT MEASURE TO BE SUBMITTED TO THE VOTERS OF THE CITY OF SEBASTOPOL AT THE SPECIAL NOVEMBER 7, 2023 ELECTION

WHEREAS, the City of Sebastopol City Council discussed and approved Calling a Special Election to ask the Voters of the City of Sebastopol to Approve A Transactions and Use Tax of One-Quarter Cent (0.25%); and

WHEREAS, Funding has been allocated in the approved FY 23-24 City Operating Budget as follows.

- 1. Ballot Measure (Ballot Question and Ordinance) \$30,000
- 2. Strategist /Marketing, Education and Outreach \$30,000
- 3. County Election Costs \$40,000
- Total \$100,000

WHEREAS, the proposed fiscal impact proposed at the August 1<sup>st</sup>, 2023 Council meeting is as follows:

- 1. Ballot Measure (Ballot Question and Ordinance) \$30,000
- 2. Strategist /Marketing, Education and Outreach \$10,000 \*
- 3. County Election Costs \$55,000 (Estimated)
- Total \$95,000

\*A not to exceed amount of \$10,000 was approved at the July 18<sup>th</sup> 2023 to Dennis Rosatti, Rosatti Consulting for Polling Services; and

WHEREAS, a budget amendment is needed for Consulting Services for Education and Outreach for said measure; and

WHEREAS, the City Council has approved an additional \$10,000 to the Proposed budget of \$95,000 requiring an additional \$5000.00 to be allocated to Account Number: 100-14-01-4210.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sebastopol does hereby approve a budget amendment for an additional \$5000.00 for Education and Outreach for said ballot measure.

The above and foregoing Resolution was duly passed, approved, and adopted at a meeting by the City Council on the 8<sup>th</sup> day of August, 2023, by the following vote:

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:

**VOTE:**

Ayes:

Noes:

Absent:

Abstain:

APPROVED: Neysa Hinton, Mayor

ATTEST: Mary Gourley, Assistant City Manager/City Clerk

APPROVED AS TO FORM: Larry McLaughlin, City Attorney