**RESOLUTION NO. 2026-070**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA, CALIFORNIA CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE NOVEMBER 3, 2026 GENERAL MUNICIPAL ELECTION BALLOT FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF AN ORDINANCE TO ENACT A SUPPLEMENTAL GENERAL TRANSACTIONS AND USE TAX (SALES TAX) AT THE RATE OF ONE-HALF PERCENT (1/2%) UNTIL ENDED BY VOTERS; REQUESTING THE COUNTY OF NAPA TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION OF EVEN DATE; AND SETTING RULES AND DEADLINES FOR ARGUMENTS AND REBUTTALS FOR AND AGAINST THE MEASURE.**

**WHEREAS**, the City of St. Helena is responsible for and committed to maintaining municipal services and the public health, safety, and welfare of the community; and

**WHEREAS**, the City recognizes the important role of our public library in the community; and

**WHEREAS**, the City's local roads, bridges, and sidewalks require ongoing repair and reinvestment to maintain and improve their condition and to reduce potholes; and

**WHEREAS**, the City desires to maintain youth programming that benefits St. Helena children through City-run programs and sports leagues, camps and library programs; and

**WHEREAS**, the LNU and Glass Fires underscore the importance of 911 emergency response, fire protection, disaster preparedness, and managing hazardous fuels like weeds and brush; and

**WHEREAS**, a citizen-initiative countywide sales tax ballot measure which has qualified for the November ballot would fund fire services at the County of Napa, but the measure does not provide funding to cities within the County to support City fire prevention efforts; and

**WHEREAS**, police services are a significant part of the City budget, representing 23% of the total General Fund expenditures of the City and residents reported that these services are a high priority; and

**WHEREAS**, the City recently adopted a Walking Trails and Open Space Plan but it lacks funding to invest in any new capital programs; and

**WHEREAS**, a portion of locally generated sales tax is paid by visitors, tourists, and other non-residents who come to visit St. Helena to dine and shop; and

**WHEREAS**, locally controlled funding from this Measure cannot be taken by the State or County governments, and would be used in St. Helena to benefit local residents; and

**WHEREAS**, this locally controlled measure incorporates fiscal accountability and transparency provisions, including independent third-party audits and public spending disclosures; and

**WHEREAS,** the City of St. Helena ("City") is authorized to levy a Transactions and Use Tax ("TUT") for general purposes pursuant to California Revenue and Taxation Code section 7285.9, subject to approval by a majority vote of the electorate pursuant to Article XIIIC, section 2 of the California Constitution ("Proposition 218"); and

**WHEREAS,** pursuant to California Elections Code section 9222, the City Council has authority to place local measures on the ballot to be considered at a Municipal Election; and

**WHEREAS,** the City Council would like to submit to the voters at the November 3, 2026 General Municipal Election a measure establishing a supplemental general TUT of one-half percent (1/2%) on the sale and/or use of all tangible personal property sold at retail in the City until ended by voters, as more specifically set forth in the attached proposed ordinance adding Chapter 3.26 to Title 3 of the City's Municipal Code; and

**WHEREAS**, the one-half percent (1/2%) TUT is a general tax, the revenue of which will be placed in the City's general fund and will be used to pay for general City services; and

**WHEREAS,** on November 6, 1996, the voters of the State of California approved Proposition 218, an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election; and

**WHEREAS,** pursuant to Proposition 218 (California Constitution, Article XIIIC, section 2(b)), the general rule is that any local election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

**WHEREAS,** the City's general municipal elections for officers are held on the first Tuesday after the first Monday in November of each even-numbered year. Therefore, the next regularly scheduled General Municipal Election for the election of members of the City Council will be held on Tuesday, November 3, 2026; and

**WHEREAS,** pursuant to Revenue and Taxation Code section 7285.9, a two-thirds (2/3) vote of all members of the City Council is required to place the Measure on the November 3, 2026 ballot; and

**WHEREAS,** the ordinance to be considered by the qualified voters and the terms of approval, collection and use of the general TUT are described and provided for in the ordinance/measure attached hereto as Exhibit "A" (the "Measure") and by this reference made an operative part hereof, in accordance with all applicable laws.

**WHEREAS,** it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places, voting centers and election officers of the two elections be the same, and that the Napa County election department canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election; and

**WHEREAS**, it is also desirable to establish deadlines and rules for the submission of written arguments and rebuttals for and against the Measure in accordance with applicable California Elections Code procedures.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ST. HELENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council hereby finds and determines that the foregoing recitals are true and correct, are incorporated herein and by this reference are made an operative part hereof.

**SECTION 2. Submission of Ballot Measure.** Submission of Ballot Measure. Pursuant to California Elections Code section 9222, Revenue and Taxation Code section 7285.9 and any other applicable requirements of the laws of the State of California relating to the City, the City Council, **by a two-thirds (2/3) vote of all members**, hereby orders the Measure to be submitted to the voters of the City at the General Municipal Election to be held on **Tuesday, November 3, 2026.**

**SECTION 3. Ballot Question.** The City Council, pursuant to its right and authority, does hereby order that the Measure shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth in this Section 3. On the ballot to be submitted to the qualified voters at the General Municipal Election to be held on Tuesday, November 3, 2026, in addition to any other matters required by law, there shall be printed substantially the following ballot question:

<table>
<tr><td rowspan="2">"St. Helena City Services Measure. To maintain/improve St. Helena's long-term finances and maintain 911 fire/public safety response, St. Helena's infrastructure including repairing roads/potholes/sidewalks; reducing local wildfire risk by managing brush/other fuels; maintain parks; supporting local businesses; for other general city services; shall the measure be adopted establishing a ½¢ locally controlled sales tax, generating approximately $2,000,000 annually until ended by voters, requiring</td><td>YES</td><td></td></tr>
<tr><td>NO</td><td></td></tr>
</table>

| | | |
|---|---|---|
| independent audits, public spending disclosure, all funds benefiting St. Helena residents?" | | |

**SECTION 4. Election Procedures.**

A. The ballots to be used at the election shall be in the form and content as required by law.

B. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Napa is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 3, 2026, for the purpose of submitting to the voters the question relating to the City's Measure.

C. The election services which the City of St. Helena requests the Registrar of Voters, or such other official as may be appropriate, to perform and which such officer is hereby authorized and directed to perform, if said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots; the establishment or appointment of precincts, polling places, voting centers, and election officers, the preparation, printing, mailing and furnishing of vote-by-mail ballots, making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places and voting centers; the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk of the City of St. Helena; and the performance of such other election services as may be requested by the City Clerk.

D. The City Clerk is authorized, instructed and directed to procure and furnish, or cause to be procured and furnished through the County of Napa, any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

E. The polls, vote centers and/or vote-by-mail drop-off boxes shall be open and the procedures for submitting votes-by-mail or votes at polls and vote centers shall be in accordance with those times and procedures established by the County of Napa, except as otherwise provided in the Elections Code of the State of California.

F. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections in the City.

G. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.

H. All ballots shall be tallied at a central counting place and not at the precincts. Said central counting place shall be at a County center as designated by the Registrar of Voters.

I. The Napa County Registrar of Voters is hereby authorized to canvass the returns of said election.

J. The City Clerk of the City of St. Helena shall receive the canvass from the County as it pertains to the election on the Measures, and shall certify the results to the City Council, as required by law.

**SECTION 5. Arguments and Impartial Analysis.**

A. The City Council authorizes (i) the City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote on the above measure, (iii) a bona fide association of such citizens or (iv) any combination of voters and associations, to file a written argument in favor of or against the Measure, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, which arguments may be changed until and including Friday, August 14, 2026 at 4 p.m., after which no arguments for or against the Measure may be submitted to the City Clerk. Arguments in favor of or against the Measure shall each not exceed 300 words in length. Each argument shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

B. The City Clerk shall comply with all provisions of law establishing priority of arguments for printing and distribution to the voters, and shall take all necessary actions to cause the selected arguments to be printed and distributed to the voters.

C. Pursuant to Section 9280 of the Elections Code, the City Council directs the City Clerk to transmit a 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. The City Attorney shall transmit such impartial analysis to the City Clerk, who shall cause the analysis to be published in the voter information guide along with the Measure as provided by law. The Impartial Analysis shall be filed by Friday, August 7, 2026. The impartial analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: **"The above statement is an impartial analysis of Measure ____. If you desire a copy of the Measure, please call the election**

**official's office at (707) 968-2640 and a copy will be mailed at no cost to you."**

D. That the provisions of this Section 5 herein shall apply only to the election to be held on November 3, 2026, and shall then be repealed.

**SECTION 6. Rebuttals.**

A. Pursuant to Section 9285 of the Elections Code of the State of California, when the Clerk has selected the arguments for and against the various City initiated measures which will be printed and distributed to the voters, the Clerk shall send copies of the argument in favor of the measures to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk not later than Friday, August 21, 2026 at 4 p.m., after which no rebuttals may be submitted to the City Clerk. 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.

B. The provisions of this Section 6 herein shall apply only to the election to be held on November 3, 2026, and shall then be repealed.

**SECTION 7. Placement on the Ballot.** The full text of the Measure/shall not be printed in the voter information guide, and a statement shall be printed in the ballot pursuant to Section 9223 of the Elections Code advising voters that they may obtain a copy of the Measure at no cost, upon request made to the City Clerk.

**SECTION 8. Delivery of Resolution to County.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions. The City Council directs the City Clerk to deliver copies of this Resolution, including the Measure attached hereto as Exhibit "A", to the Clerk of the Board of Supervisors of Napa County and to the Registrar of Voters of Napa County.

**SECTION 9. Public Examination.** Pursuant to California Elections Code section 9295, the Measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The Clerk shall post notice in the Clerk's office of the specific dates that the examination period will run.

**SECTION 10. CEQA.** The City Council hereby finds and determines that the ballot Measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines, section 15378(b)(5).

**<u>SECTION</u> <u>11</u>. <u>Severability</u>.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

**<u>SECTION</u> <u>12</u>. <u>Effective Date of Resolution</u>.** This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 7 day of July, 2026.

PAUL DOHRING, Mayor

ATTEST:

Andrew Bradley, City Clerk

I, Andrew Bradley, City Clerk of the City of St. Helena, California, do hereby certify that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted by at least four affirmative votes of all members at a regular meeting of the City Council of the City of St. Helena on the 7 day of July, 2026, by the following vote:

AYES: Council Members: Dohring, Deasy, Barak, Diaz
NOES: Council Member:
ABSENT: Council Member: Spadarotto
ABSTAIN: Council Member:

Andrew Bradley, City Clerk

**EXHIBIT "A"**

**ORDINANCE NO. 2026-____**

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF ST. HELENA, CALIFORNIA, ADDING CHAPTER 3.26 TO TITLE 3 ("REVENUE AND FINANCE") OF THE ST. HELENA MUNICIPAL CODE TO ENACT A ONE-HALF PERCENT (1/2%) SUPPLEMENTAL GENERAL TRANSACTIONS AND USE TAX (SALES TAX) TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

**THE PEOPLE OF THE CITY OF ST. HELENA DO ORDAIN AS FOLLOWS:**

**WHEREAS**, pursuant to California Revenue and Taxation Code section 7285.9 the City of St. Helena ("City") is authorized to levy a Transactions and Use Tax for general purposes, subject to majority voter approval; and

**WHEREAS,** the People of the City desire add Chapter 3.26 to Title 3 of the St. Helena Municipal Code establishing a Supplemental General Transactions and Use Tax ("TUT") until ended by voters, on the sale and/or use of all tangible personal property sold at retail in the City, at a rate of one-half percent (1/2%).

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF ST. HELENA DO HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Title and Text. This Ordinance shall be known as the "St. Helena Supplemental General Transactions and Use Tax", the full text of which is set forth in Attachment "1", attached hereto and incorporated herein by reference.

**Section 2.** Approval by the City Council. Pursuant to California Government Code section 53724 and Revenue and Taxation Code section 7285.9, this Ordinance was duly approved for placement on the ballot by a minimum two-thirds (2/3) supermajority of all members of the City Council on July 7, 2026.

**Section 3.** Approval by the Voters/Amendment. Pursuant to California Elections Code section 9217, this Ordinance shall be deemed adopted and take effect only if approved by a majority of the eligible voters of the City of St. Helena voting at the General Municipal Election of November 3, 2026.

**Section 4.** Operative Date. "Operative Date" for the Transactions and Use Tax means the first day of the first calendar quarter commencing more than 110 days after the date of the election for this Ordinance – April 1, 2027.

**Section 5.** 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.

PASSED, APPROVED AND ADOPTED by the People of the City of St. Helena this 3rd day of November, 2026.

______________________________
PAUL DOHRING, Mayor

ATTEST:

______________________________
Andrew Bradley, City Clerk

## Attachment "1"

### "Chapter 3.26 – SUPPLEMENTAL GENERAL TRANSACTIONS AND USE TAX

**Sections:**



**Sections:**

**3.26.010 – Title.**

This ordinance shall be known as the "City of St. Helena Supplemental General Transactions and Use Tax Ordinance". The City of St. Helena hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

**3.26.020 – 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 7285.9 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 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.

**3.26.030 - 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.

**3.26.040 - 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 one-half percent (1/2%) 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.

**3.26.050 - 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.

**3.26.060 - 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 one-half percent (1/2%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**3.26.070 - 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.

**3.26.080 - 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, California Victim Compensation Board, California Department of Tax and Fee Administration, 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 reference to 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 of the Revenue and Taxation Code and in the definition of that phrase in Section 6203.

1. "A retailer engaged in business in the City" 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.

**3.26.090 - 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.

**3.26.100 - 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 subsection, 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 subsection, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease

has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for, a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

**3.26.110 - 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.

**3.26.120 - 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.

**3.26.130 – Duration of Tax.**

The authority to levy the tax imposed by this chapter shall continue until this chapter is repealed."