

CITY OF NOVATO MEASURE F

<p>F MEASURE F: To offset/prevent additional budget cuts and maintain/restore vital general city services including, and not limited to: neighborhood police patrols, crime prevention programs, 9-1-1 response times; city street/pothole repair; park maintenance; preventing closure or elimination of youth and senior centers/services, shall the City of Novato enact a half-cent sales tax for 5 years, with review by a citizen committee, annual independent audits, and all funds spent locally for the benefit of Novato citizens?</p>	YES
	NO

must be considered by the Council at a public meeting as part of the annual budget process.

Since the ordinance does not limit the City’s use of the revenue from the tax it is a general tax. State law authorizes the City to implement this ordinance upon approval by a simple majority of voters who vote on the measure.

s/JEFFREY A. WALTER
Novato City Attorney

The above statement is an impartial analysis of the proposed ordinance. If you desire a copy of the ordinance, please call the elections official’s office at 415 899 8986 and a copy will be mailed at no cost to you.

IMPARTIAL ANALYSIS OF MEASURE F

PROPOSED ORDINANCE ENACTING A LOCAL TRANSACTION AND USE TAX OF ONE-HALF OF ONE PERCENT (.5%) FOR FIVE YEARS

If adopted by a majority of the voters, this initiative measure will enact legislation (an ordinance) imposing a local transaction and use tax (sales tax) for the purpose of increasing revenues to assist the City in maintaining the financial viability of the City and maintaining staffing and levels of service within the City.

The proposed ordinance contains findings that the City is experiencing an existing and immediate funding crisis, which is the result of factors largely outside of its control and, that despite having taken significant steps to reduce its operational costs as well as using available General Fund balance and reserves, absent a new General Fund revenue source the budget deficit can only be met by further decreasing police and other essential services. The ordinance reiterates that as a result, a fiscal emergency exists within the City.

The ordinance, if enacted, would increase the sales tax rate by one-half of one percent (.5%) on and after the effective date of the ordinance and would terminate in five (5) years. The funds derived from the sales tax would be placed in the General Fund and may be used for a variety of purposes, including but not limited to maintaining 911 emergency response times and neighborhood police patrols, supporting senior and youth services, and/or maintaining city parks, playgrounds, and other facilities.

The tax is to be imposed on retailers for the selling of tangible personal property at retail and on the storage, use or other consumption in the City of tangible personal property purchased from any retailer. The proposed ordinance includes certain exemptions and exclusions from the computation of the amount of the transactions and use tax on certain transactions, including those exemptions already applicable under State law.

The ordinance requires the City Council to appoint an oversight committee consisting of members of the public to review and report on the receipt of revenue and expenditure of funds from the tax. The committee’s report and recommendations must be a matter of public record and

ARGUMENT IN FAVOR OF MEASURE F

Protect Novato, protect our money – Vote Yes on F!

Over the past 10 years, the State has taken more than \$15 million from Novato to deal with their own billion dollar problems. And what does Novato have to show for it? Nothing! We don't get much from the State – the City is the one who provides the services and programs that residents want, need, and deserve.

Due to continued Sacramento money grabs and the recession, Novato has been forced to make \$6.5 million in cuts to our essential City services – almost 20% of the budget. The cuts are deep and people will start to feel it in our quality of life. Novato residents simply can't afford additional cuts to critical services.

We need additional revenue, we need Measure F! Measure F would provide a protected and reliable source of local revenue to prevent further severe cuts to resident services. Yes on F - a local finance measure will give Novato local control over local funds for local needs. No funds can be taken by the State.

Yes on F - to maintain current levels of public safety and police services, including neighborhood patrols, crime prevention and investigation programs, and 911 response times.

Yes on F to:

- Maintain rapid 911 emergency response times
- Fund senior services and keep the Senior Center open
- Support youth and teen crime prevention and gang intervention programs
- Maintain neighborhood police patrols
- Maintain city parks, playgrounds, and athletic fields and courts

Measure F includes strict accountability provisions such as independent citizens' oversight, mandatory financial audits, and yearly reports to the community to ensure the funds are spent as promised.

Please join Police Officers, Local Business Owners, Seniors, Parents, and Neighbors – Vote YES on F – to keep our quality community financially stable.

s/JEANNE MACLEAMY

Mayor, City of Novato

s/JOE KREINS

Police Chief

s/EILEEN JOYCE

Realtor and President of the

Novato Chamber of Commerce

s/SPIRO T. STRATIGOS

Recreation, Cultural and Community Services
Commissioner;

President, Hamilton Homeowners Association

s/PATRICIA A. CASTILLO

President, Novato Senior Citizens Club

**NO ARGUMENT AGAINST MEASURE F
WAS FILED.**

CITY COUNCIL OF THE CITY OF NOVATO
RESOLUTION NO. 57-10

A RESOLUTION CALLING AN ELECTION TO ASK THE VOTERS OF THE CITY OF NOVATO TO APPROVE A 5-YEAR GENERAL SALES TAX OF HALF-CENT; AND REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN CONSOLIDATE THE ELECTION WITH THE ESTABLISHED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, AND DIRECT THE COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION ON THE CITY'S BEHALF

WHEREAS, the City of Novato General Fund has been, and is projected to continue to be, significantly out of balance. An unprecedented combination of circumstances has resulted in projected deficits beyond the City's capacity to absorb; and

WHEREAS, to address ongoing budget shortfalls, the City has implemented a series of General Fund budget reductions every year since FY 07/08. Departments reduced operating expenditures and eliminated positions. Reserve funds were used to fill the remaining gap in the budget; and

WHEREAS, the Fiscal Year 10/11 budget includes \$2.4M of reductions to the annual General Fund budgets; and

WHEREAS, even with the significant cuts that have been made so far, the City is anticipating additional reductions in FY 11/12 of \$1.6M for total reductions since FY 07/08 of \$6.5M or 19% to the City's General Fund budget. The reductions incorporate elimination of 52 staff positions, a 22% overall staffing reduction including police officers, parks, recreation, and maintenance staff since FY 07/08; and

WHEREAS, the reductions are part of the City's ongoing struggle to maintain a balanced budget and move toward financial sustainability; and

WHEREAS, these budget reductions have broadly impacted services throughout the City and are undermining the public health, safety and welfare of Novato's residents. Without additional revenue, another \$1.4 million dollars will need to be cut. These will be agonizing reductions to core services such as police patrol, park and street maintenance staff, causing degradation to public safety, infrastructure and facilities. Additionally, basic quality-of-life services, including recreation and programs for youth, seniors, and families, neighborhood services, and other community services commonly associated with municipal government will be eliminated or reduced. Novato residents simply cannot afford additional cuts to critical services; and

WHEREAS, the City of Novato is more limited in its ability to increase revenues and absorb state takeaways than some of the other cities in the state; and

WHEREAS, the State of California is faced with one of the largest deficits in history, currently estimated at over \$19 billion; and

WHEREAS, the State of California continues to "take" money from local governments to solve its own budget crisis; and

WHEREAS, over the last 10 years, the State has taken more than \$15 million dollars from Novato that could otherwise have been used for vital City services; and

WHEREAS, other ways to "take" additional monies from cities are always being considered by the State Legislature to address its own budget crisis and while the City of Novato continues to be fiscally prudent, the impacts of these additional money grabs cannot be estimated or included in the City's FY 10/11 budget; and

WHEREAS, supporting the services that make Novato a great community are important to our residents' quality of life; and

WHEREAS, the City of Novato needs a protected and reliable source of local revenue to prevent severe cuts to critical resident services; and

WHEREAS, a local finance measure is needed to maintain current levels of public safety and police services, including neighborhood patrols, crime prevention, investigation programs, and 911 response times; and

WHEREAS, a local finance measure will give Novato local control over local funds for local needs; and

WHEREAS, the community has identified several vital service priorities that could be funded with additional revenues including:

- Maintaining rapid 911 emergency response times
- Funding senior services and keep the Senior Center open
- Supporting youth/teen crime prevention and gang intervention programs
- Maintaining neighborhood police patrols
- Maintaining city parks, playgrounds, and athletic fields and courts

WHEREAS, the City budget will reflect current and future funding priorities as identified by the community and the City Council; and

WHEREAS, any local finance measure would include strict accountability provisions such as independent citizens oversight, mandatory financial audits, and yearly reports to the community to ensure the funds are spent as promised; and

WHEREAS, the City Council held a noticed public hearing on June 22, 2010 to consider whether there existed an emergency to call a special election to seek voter approval of a proposed general sales tax as authorized by Revenue and Taxation Code section 7285.9; and

WHEREAS, at the conclusion of that hearing, the City Council concluded that all of the information presented indicated that a fiscal emergency existed in the City and that the Council should call an election as soon as possible to ask the voters of the City to approve a 5-year increase in the local Transactions and Use Tax, the revenue from which could be used to support general municipal services; and

WHEREAS, by the adoption of Resolution No. 52-10 on June 22, 2010, the City Council unanimously found and declared that City of Novato's current financial situation presents a dire, imminent, and unexpected threat to the

health, safety, and general welfare of the residents and businesses in the City. The Council further found and declared that that threat constituted an emergency, as that term is used in article XIIC, section 2 (b) of the California Constitution. To address that emergency, the Council resolved to seek voter approval of a half-cent general Transactions and Use Tax (also known as "Sales Tax") to generate sufficient additional revenue to fund already significantly reduced levels of general municipal services, including, but not limited to, neighborhood police patrols, crime prevention programs, 9-1-1 response times; city street/pothole repair; park maintenance; preventing closure or elimination of youth and senior centers/services; and

WHEREAS, when a City council seeks voter approval of a new tax, article XIIC, section 2(b) of the California Constitution requires the election to be consolidated with the general municipal election for city council members, except in cases in which a city council has unanimously declared that there is a fiscal emergency. The next general municipal election is not scheduled until November 2011; the City would not begin to receive revenue from a Transactions and Use Tax approved at that election until May 2012, too late to address the emergency caused by the City's financial condition. An election earlier than November 2011 is therefore required and is permitted under article XIIC, section 2(b) based on the findings and declarations of the Council made in Resolution 52-10; and

WHEREAS, the tax to be submitted to the voters, if approved, would be imposed on retail transactions involving sale and use of personal property. The tax rate would be one-half of one percent (0.5%) of the sales price of the property. The tax revenue would be collected by the State Board of Equalization and remitted to the City. The tax would be in effect for 5 years, and would then expire automatically, unless extended by the voters. The tax shall be approved if the measure receives at least a majority of affirmative votes; and

WHEREAS, Elections Code Sections 9219 and 9282 set forth the procedures for arguments in favor of or in opposition of any City measure; and

WHEREAS, Elections Code Sections 9220 and 9285 set forth the procedures for rebuttal arguments; and

WHEREAS, based on all of the information presented at the meetings considering the fiscal emergency and sales tax measure, both written and oral, including the staff reports, minutes, and other relevant materials, the City Council finds that under CEQA Guidelines 15060(c)(2) & (3) and 15378 (b)(2) & (4), 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"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15060(c)(2) the submission of the sales tax measure to the voters will not result in a direct or reasonably foreseeable indirect physical change in the environment. The proceeds

of the measure are anticipated to assist the City with retaining existing governmental functions and services to the public. Therefore, pursuant to CEQA Guidelines section 15378(b)(2), the sales tax measure is not a project pursuant to CEQA. In addition, Pursuant to CEQA Guidelines section 15060 (c)(3) and 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City as follows:

SECTION I. The foregoing Recitals are true and correct and are hereby adopted by the City Council.

SECTION II. Pursuant to California Constitution Article XIIC, Section 2; Government Code Section 53724; and Elections Code Section 9222, the City Council of the City of Novato hereby calls an election at which it shall submit to the qualified voters of the City, a measure that, if approved, would adopt a temporary general sales tax, as authorized by Revenue and Taxation Code section 7285.9. This measure shall be designated by letter by the Marin County Elections Department. Pursuant to Election Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 2, 2010.

SECTION III. The ordinance authorizing the general tax to be approved by the voters - pursuant to Section II is as set forth in *Exhibit A* attached hereto and incorporated herein by reference. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 2, 2010 election, as required by Revenue and Taxation Code section 7285.9, subject to the approval of a majority of the voters voting on the measure at the election called by the adoption of this resolution. The entire text of the ordinance, attached hereto as Exhibit A, shall be made available to the public upon request. The ordinance specifies that the rate of the sales tax shall be one-half of one percent (0.5%) of the gross receipts of any retailer from the sale of all tangible property sold at retail in the City; it specifies that the rate of the use tax shall be one-half of one percent (0.5%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

SECTION IV. The proposed sales tax ordinance shall be submitted to the voters on the ballot in the following form.

Fiscal Emergency & Vital City Services Revenue Measure

To offset/prevent additional budget cuts and maintain/restore vital general city services including, and not limited to: neighborhood police patrols, crime prevention programs, 9-1-1 response times; city street/pothole repair; park maintenance; preventing closure

or elimination of youth and senior centers/services, shall the City of Novato enact a half-cent sales tax for 5 years, with review by a citizen committee, annual independent audits, and all funds spent locally for the benefit of Novato citizens?

SECTION V. The official ballot to be used at said election shall conform to the laws of the State of California with relation thereto.

SECTION VI. The City Attorney shall prepare an impartial analysis of the ballot measure not to exceed five hundred words in length showing the effect of the measures on the existing law and the operation of the measure.

SECTION VII. The deadline for filing arguments for and against the ballot measure with the City Clerk shall be August 16, 2010, and the argument shall not exceed 300 words in length. Rebuttal arguments shall be filed with the City Clerk by August 23, 2010 and shall not exceed 250 words in length. The Mayor is hereby authorized to prepare a written argument in favor of the proposed ordinance, not to exceed 300 words, on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by bona fide associations or by individual voters who are eligible to vote. Pursuant to Section 9285 of the California Elections Code, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut.

SECTION VIII. The City Council authorizes the Registrar of Voters to consolidate this election with the established election on November 2, 2010 for the ease and convenience of the registered voters and to take advantage of any cost savings possible by such consolidation.

SECTION IX. The City Clerk may request the assistance of the County of Marin Election Department in regard to said General Municipal Election, as the City Clerk deems necessary, and the City shall pay the incurred cost of such assistance.

SECTION X. In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in The Marin Independent Journal, a newspaper of general circulation, printed, published, and circulated in the City of Novato and hereby designated for that purpose by the City Council of Novato. The City Clerk may request that the County of Marin Elections Department prepare and publish the required notice.

SECTION XI. The election on the measure set forth in Sections III and IV of this resolution shall be held and conducted, the votes canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars not prescribed in this resolution, the election shall be held as prescribed in the Elections Code of

the State of California. The Board of Supervisors of the County of Marin is authorized to canvas the returns of that election with respect to the votes cast in the City of Novato and certify the results to the City Council. At the next regular meeting of the City Council occurring after the returns of the election have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.

SECTION XII. 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 election ballot.

SECTION XIII. This Resolution shall be forthwith entered upon the minutes of this Council and kept and maintained by the City Clerk of Novato.

SECTION XIV. The City Clerk is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit a copy hereof so certified to the Board of Supervisors and the Registrar of Voters of Marin County.

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the City Council of Novato, Marin County, California, at a meeting thereof, held on the 27th day of July, 2010, by the following vote, to wit:

AYES: Councilmembers Athas, Dillon-Knutson,
Eklund, Kellner,
MacLeamy

NOES: Councilmembers None

ABSTAIN: Councilmembers None

ABSENT: Councilmembers None

s/SHIRLEY GREMMELS
City Clerk of the City of Novato

FULL TEXT OF MEASURE F

CITY COUNCIL OF THE CITY OF NOVATO

EXHIBIT A

ORDINANCE NO. 1551

AN ORDINANCE OF THE VOTERS OF THE
CITY OF NOVATO IMPOSING A TRANSACTIONS
AND USE TAX TO BE ADMINISTERED BY THE
STATE BOARD OF EQUALIZATION

THE CITY COUNCIL OF THE CITY OF NOVATO
DOES ORDAIN AS FOLLOWS:

SECTION 1: Findings: The voters of the City of Novato hereby find and declare as follows:

a. The City of Novato (“City”) is experiencing an existing and immediate funding crisis, which is the result of factors largely outside of its control, including national economic trends, decreases in revenue from existing taxes and fees, increases in charges by other governmental agencies, rapid increases in the cost of employee retirement costs, and unpredictable State takeaways of local revenue.

b. The recession and recurring State takeaways of local funds dramatically impact the City’s ability to maintain vital and high quality services. Over the last 10 years, the State has taken more than \$15 million dollars from Novato to deal with State budget deficits. In addition, last year, the State took \$2.6 million from the Novato Redevelopment Agency and is proposing to take an additional \$560,000 this year. Other ways to “take” additional monies from cities are continuously being considered by the State Legislature to address the State’s own budget crisis, while the City of Novato continues to be fiscally prudent. The impacts of these additional money “take aways” cannot be estimated or included in the City’s FY 10/11 budget. The State’s inability to balance their budget continues to impact our local community.

c. The City has taken significant steps to reduce its operational costs. The City has implemented a series of General Fund budget reductions every year since FY 07/08. Departments reduced operating expenditures and eliminated positions. Reserve funds were used to fill the remaining gap in the budget. Furthermore, the FY 10/11 budget includes \$2.4M of reductions to the annual General Fund budget. Also, the City has already approved \$1.6 million in additional reductions to the annual General Fund budget for FY 11/12 to go into effect on July 1, 2011.

d. Absent a new source of General Fund revenue, the City’s ability to maintain staff and service levels is uncertain. With \$6.5 million in total reductions to the City’s General Fund budget from FY 07/08 through FY 11/12, there are already dramatic decreases in services and staffing affecting the community. The reductions incorporate elimination of 52 staff positions, a 22% overall staffing reduction including police officers, parks, recreation, and maintenance staff since FY 07/08. Based on the reductions that have been

approved, the City is only at 1997-98 staffing levels while the population has increased 13% during that same time frame.

e. Budget reductions have broadly impacted services throughout the City and are undermining the public health, safety and welfare of Novato’s residents. Without additional revenue, another \$1.4 million dollars will need to be cut. These will be agonizing reductions to core services such as police patrol, park and street maintenance staff, causing degradation to public safety, infrastructure and facilities. Additionally, basic quality-of-life services, including recreation and programs for youth, seniors, and families, neighborhood services, and other community services commonly associated with municipal government will be eliminated or reduced. Novato residents simply can’t afford additional cuts to vital services.

f. Unless staff and service levels are at least partially restored, public facilities and property will not be properly maintained, public safety standards will degrade, crime and violence will increase, the community will not have adequate and safe recreational opportunities, businesses and families will be discouraged from moving to or remaining in Novato, and the health, safety, and welfare of the residents of Novato will be endangered. All of these factors will also contribute to declining property values of the homes and businesses of private citizens.

g. The City needs additional revenue to maintain current levels of public safety and police services, including neighborhood patrols, crime prevention and investigation programs, and 911 response times. Additional revenue is also needed to restore senior services and keep the Margaret Todd Senior Center open, restore youth and teen crime prevention, focus on gang intervention programs, and maintain city parks, streets, playgrounds, and athletic fields and courts.

h. Current City funds cannot support our community’s current services needs. Without additional funding, more budget cuts will be necessary, impacting vital services, such as emergency 9-1-1 response, neighborhood police patrols, senior and youth services and programs, or parks and playgrounds. Our City will no longer be able to offer the kind of services we need, deserve, and count on. A local measure will prevent further cuts - and restore cuts that have already been made - in vital city services.

i. If approved by the residents the measure will give Novato local control over local funds for local needs. No funds generated by the measure could be taken by Sacramento.

j. Because of the threat to the public health, safety, and welfare, an emergency exists in the City, as the term “emergency” is used in Article XIII C, section 2(b) of the California Constitution. The City must immediately address that emergency by ensuring that the City has the resources necessary to preserve the public health, safety, and welfare.

k. The identified emergency necessitates that the City Council submit a tax measure to the voters of Novato at the November 2, 2010 election, even though such an election would not be consolidated with a general election for a member of the Council.

l. On the basis of the foregoing, among other things, Article XIII C, section 2(b) of the California Constitution permits the City, in emergency situations unanimately declared by the Council, to seek voter approval for a general tax at an election that is not consolidated with an election for a member of the Council. The Council has properly adopted such an emergency declaration and determined that it was appropriate to place a measure regarding general transactions and use (sales) tax before the voters at the November 2, 2010, general election.

m. The tax, if approved, would be imposed on retail transactions involving the use of personal property. The tax rate would be one-half of one percent (0.5%) of the sales price of the property. The tax revenue would be collected by the State Board of Equalization and remitted to the City. The tax would be in effect for five years and would then expire automatically, unless extended by the voters. The tax shall be approved if the measure receives at least a simple majority of affirmative votes.

n. The measure includes tough fiscal accountability provisions including annual independent financial audits, an annual report to the City Council and community, and a citizens' oversight committee to review expenditures from the measure.

SECTION 2: Amendment Of Code: "Section 16-6 Transactions and Use Tax" shall be added to the Novato Municipal Code and shall read as follows:

Section 16-6.1 **TITLE.** This ordinance shall be known as the City of Novato Transactions and Use Tax Ordinance. The City of Novato hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

Section 16-6.2 **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 16-6.3 **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 Sections 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 inso-

far as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

c. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

d. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes and, at the same time, minimize the burden of recordkeeping upon persons subject to taxation under the provisions of this ordinance.

Section 16-6.4 **CONTRACT WITH STATE.** Prior to the Operative Date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State Board of Equalization prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 16-6.5 **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 0.5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this ordinance.

Section 16-6.6 **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/her 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 prescribed and adopted by the State Board of Equalization.

Section 16-6.7 **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 0.5% of the sales price of the property. The sales price shall include delivery charges when such

charges are subject to State sales or use tax regardless of the place to which delivery is made.

Section 16-6.8 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 16-6.9 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 the City shall be substituted therefor. However, the substitution shall not be made:

1. When the word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California.

2. When the result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance.

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

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

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

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

b. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 16-6.10 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 16-6.11 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 receipt 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/her 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 2 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 b., 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 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 c., 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 c.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 16-6.12 AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 16-6.13 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 16-6.14 CITIZENS OVERSIGHT COMMITTEE. Prior to the Operative Date, the City Council shall (a) adopt a resolution establishing the composition of a committee of no more than seven residents of Novato to review and report on the revenue and expenditure of funds from the tax adopted by this ordinance, (b) define the scope of the committee's responsibilities, and (c) appoint at least a quorum of the members of the committee. City employees, consultants, or vendors are expressly precluded from serving as members of the Citizens Oversight Committee. The committee's reports shall be presented to the Council and made available to the public.

Section 16-6.15 TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire on the fifth anniversary of the Operative Date, unless extended by a majority vote of the voters of the City.

SECTION 3: Environmental Compliance:

The findings for this ordinance in compliance with the California Environmental Quality Act (CEQA) are the same as those set forth in the City's Resolution No. 57-10 calling for an election on this ordinance. The CEQA findings in Resolution No. 57-10 are incorporated herein by reference.

SECTION 4: Severability:

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or

unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional on their face or as applied.

SECTION 5: Publication and Effective Date:

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in the *Novato Advance*, a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or

publishing the title or appropriate summary in the *Novato Advance* at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance, and

This ordinance shall take effect immediately after the date of its passage and adoption.

* * * * *

THE FOREGOING ORDINANCE was adopted by declaration of the vote of the Novato City Council on the 27th day of July, 2010 at a regular meeting of the Novato City Council by the following vote, to wit:

AYES: Councilmembers Athas, Dillon-Knutson, Eklund, Kellner, MacLeamy

NOES: Councilmembers None

ABSTAIN: Councilmembers None

ABSENT: Councilmembers None

s/JEANNE MACLEAMY
Mayor of the City of Novato

Attest:

s/SHIRLEY GREMMELS
City Clerk of the City of Novato

Approved as to form:

s/JEFFREY WALTER
City Attorney of the City of Novato