

**TOWN OF SAN ANSELMO MEASURE D**

**D** **MEASURE D:** To repair potholes, repave roads, reduce traffic congestion, maintain and improve sidewalks/drainage/street medians, preserve public safety, and improve other general Town services, facilities, and infrastructure, shall the Town of San Anselmo establish a one-half percent (.5%) sales tax for ten years, with annual independent audits, mandatory public expenditure reports, and an independent citizens’ oversight committee with all funds staying in San Anselmo under local control?

<b>YES</b>
<b>NO</b>

**TOWN ATTORNEY’S IMPARTIAL ANALYSIS OF MEASURE D  
SAN ANSELMO TRANSACTIONS AND USE TAX MEASURE**

If approved by a majority of the voters, this measure would adopt a new Town of San Anselmo ordinance imposing a one half of one percent (.5%) tax on sales to be levied within the Town of San Anselmo. The proposed “transactions and use tax” would be imposed on tangible personal property sold at retail in the Town or purchased outside the Town for use in the Town. This measure would authorize the Town, as required by law, to contract with the State Board of Equalization to administer and collect the tax.

This .5% transactions and use tax would be a “general tax,” meaning that the revenue raised from the tax would go into the Town’s general fund and could be used for any municipal governmental purpose. Municipal governmental purposes may include street maintenance and repair, drainage improvements, parks and recreation services, public building and infrastructure repair, and other governmental functions and services. This measure does not bind the Town to use the proceeds of the tax for any particular services, facilities, or programs.

The .5% transactions and use tax would be levied in addition to the currently applicable state and local sales taxes and would be collected at the same time and in the same manner as the existing sales tax. Currently, the sales taxes in San Anselmo (including state and local taxes) are a total of eight and one half percent (8.5%) of the purchase amount. If this measure is approved, the total tax on sales in San Anselmo will be nine percent (9%) of the purchase amount.

The measure requires that the Town include – in its annual audit of the Town’s financial operations by an independent certified public accountant – an accounting of the revenue generated by the tax and how the revenue was used. Additionally, the measure requires that the Town Council establish an Oversight Committee to review and report on the use of the general purpose revenues generated by the tax.

The authorization to collect the proposed tax would expire in ten years. After that time, the tax authorized by this measure would no longer be imposed.

State law authorizes the Town of San Anselmo to levy the proposed one half percent transactions and use tax if two-

thirds (2/3) of the Town Council approves the ordinance proposing the tax and a majority of the voters voting in an election approve the ordinance. At its meeting on August 5, 2013, the San Anselmo Town Council approved the ordinance for placement on the ballot by a vote of four of its members.

If approved by a majority of the voters at the November 5, 2013 election, the one half percent tax on sales would become operative on April 1, 2014.

A YES vote approves the measure.

A NO vote rejects the measure.

s/ROBERT F. EPSTEIN  
Town Attorney of San Anselmo

## ARGUMENT IN FAVOR OF MEASURE D

Measure D would provide a much needed funding boost to repair the Town's aging streets and facilities. The measure would add 1/2 percent to taxable sales transactions in the Town over ten years. It would allow the Town to increase funding by at least \$500,000 annually to fix roads and other infrastructure. Fairfax, San Rafael and Novato already have separate local sales taxes, and Larkspur and Corte Madera have a local sales tax on their ballot. By passing Measure D, we can keep this local revenue entirely within our Town.

Recently, a Financial Advisory Committee of independent residents closely examined San Anselmo's budget. It concluded that the Town has done a good job managing expenses, reducing expenditures over the last several years, and reducing staff by nearly 15% over the past decade. The Town has also further reduced employee costs by implementing a two-tier pension system, saving \$1 million over the last five years, and by consolidating our police and fire services, saving even more. In short, the Committee concluded that the Town budget can't be cut further.

The Committee also concluded that the Town has significant unmet needs, particularly road maintenance. A recent report concluded that our roads are among the worst in the Bay Area. Although the Town spends nearly \$1 million annually on road maintenance, this is not enough to keep up with deteriorating conditions. Drainage on many roads is inadequate, and Town buildings (such as Isabel Cook) have long-deferred maintenance needs. Continuing to put off the repair of potholes and cracked surfaces in roads will only make this work more expensive later.

Measure D includes requirements for an annual independent audit, public expenditure reports and an independent oversight committee to ensure that the sales tax revenues are spent responsibly.

Please join us in supporting Measure D to Renew San Anselmo.

s/KAY COLEMAN

Mayor of San Anselmo

s/ANNELISE BAUER

President, Ross Valley School District Board of Trustees

s/JUDY COY

Chair, San Anselmo Historical Commission and 2013 San Anselmo Volunteer of the Year

s/GAGE HOUSER

Chair, Renew San Anselmo Committee

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE D

A regressive tax is a local sales tax, currently in San Rafael, Novato, Fairfax, and proposed in Corte Madera, Larkspur, and San Anselmo. Sales taxes financially hit residents on modest income, seniors, young families, and smaller retail stores the hardest.

General Sales Taxes become harmful because Council can spend tax revenue on:

- Employee Pension
- Employee Medical
- Employee Salary
- Neighborhood Development Projects

Yes, 10-year San Anselmo Measure D sales tax proceeds "will remain entirely within our Town." Council made a second promise: **Nothing herein shall bind the Town to use the (sales tax revenue) proceeds for any specific purpose or function.**

San Anselmo could spend Measure D tax to maintain union agreements and pet projects like Memorial Park constructed into a flood control project, a roadway trolley, or enhance Town owned property.

### Measure D is a General Sales Tax

Special Sales Taxes target street, drainage, and infrastructure funding critical to the Town, but Council chose an alternative, a General Tax that allows limitless spending choices.

When Council receives unrestricted General Tax revenue, taxpayers have no spending control of financial decisions and no Oversight Committee can prevent irresponsible actions.

Although fiscal accountability provision establishes "Oversight Committee to review and report on the use of the general purpose" of Measure D, Council gave no authority to the Oversight Committee to ensure that sales tax revenue spending is responsible.

Measure D is a General Sales Tax that gives Council privilege to spend.

### VOTERS MUST REJECT GENERAL SALES TAXES Vote NO on Measure D

s/DALE ELLIS

s/SUSAN S GARNETT

s/LOUISE L MATHEWS

s/NANCY OKADA

## ARGUMENT AGAINST MEASURE D

After decades of belt tightening to balance personal and family budgets, taking second or third jobs and, consequently, reduce care and attention we are able to provide to friends and family, and as we struggle to this day;

- **Voters demand** Town of San Anselmo Council be prudent and reduce its spending.

Some voters may know General Tax ballots give Council full discretion over use of general tax revenue.

Measure D gives Council authority to decide spending and no Oversight Committee will ever interfere.

Council has made it clear that the primary duty of an Oversight Committee is to review audits of the sales tax revenue received by State Board of Equalization and expenditures made, but not advise and not control where tax revenue is spent.

This is the failure of Measure D; it compounds taxpayer distress.

- Measure D is a General Tax and will be spent as **Town Council demands**.

Residents and consumers have limited spending dollars but Town of San Anselmo officials seem relentless to extract to that dollar limit, and beyond.

Police consolidation completed this year between San Anselmo, Corte Madera, and Larkspur is expected to generate savings to San Anselmo. If roads, landscaping medians, and town hall facilities need revenue, then a Special Tax that allows tax revenue spent for those specific uses should be on this ballot.

Whenever a General Sales Tax ballot appears, know this:

Your sales tax dollar can be spent by Town Council on what politicians' value:

- Payroll, benefits, retirement, and undertaking neighborhood developments

A regressive tax takes more from shoppers who have less income to spend.

Measure D is a 10-year regressive tax that will take even more advantage of our community seniors, students, and workers.

### **VOTERS CAN'T WAIT ANY LONGER TO TAKE CONTROL OF TAXES.**

#### **Vote NO on D**

s/SUSAN S. GARNETT

s/LOUISE L. MATHEWS

s/NANCY OKADA

## REBUTTAL TO ARGUMENT AGAINST MEASURE D

The opposition relies on scare tactics, not facts.

Contrary to the opposition, the Town's independent Financial Advisory Committee concluded the Town has done a good job managing its expenses, made significant accomplishments in reducing expenses as a result of police consolidation and our two-tier pension system, and there were no "further significant savings to be found in the Town budget." It recommended the Town offer a half-cent general sales tax measure to provide increased funding for our highest priorities, including roads and infrastructure projects.

To ensure the funds go to our highest priorities, the Town Council recently adopted a statement of intent committing to spend the sales tax revenue on roads, street drainage, and other critical infrastructure projects. False claims about pensions and employee benefits are red herrings.

While attempting to scare seniors and others, the opposition fails to note that a significant portion of our sales taxes are paid by nonresidents. If this measure passes, San Anselmo's sales tax rate would still be at or below the rates charged in neighboring cities, including Fairfax and San Rafael. It would add just 50 cents to a purchase of \$100, exempting essential purchases like food and medicine.

The opposition incorrectly claims the oversight committee will have a narrow role of reviewing limited documentation. In fact, it is not limited in the information it may review and is required to report to you, the residents, how the revenue is spent. As a result, you will control how this revenue is spent.

s/JOHN D. WRIGHT

President, Tamalpais Union High School  
District Board of Trustees

s/JON ELAM

Resident

s/CHRIS LIVERMORE

Member San Anselmo Financial Advisory Committee

s/LORI LOPIN

Former RVSD School Trustee &  
San Anselmo Councilmember

s/BARBARA THORNTON

Former Mayor, San Anselmo

**FULL TEXT OF MEASURE D  
RESOLUTION NO. 4044**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO CALLING AND GIVING NOTICE OF THE HOLDING OF AN ELECTION TO BE HELD ON NOVEMBER 5, 2013 AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN CONSOLIDATE SAID ELECTION; AND AUTHORIZE THE TOWN CLERK OR HER DULY AUTHORIZED OFFICERS AND AGENCY TO CARRY OUT ALL THE NECESSARY PROCEDURES FOR SAID ELECTION SUBMITTING TO THE VOTERS A ONE HALF PERCENT (.5%) TRANSACTIONS AND USE TAX MEASURE FOR GENERAL PURPOSES TO THE QUALIFIED VOTERS OF THE TOWN AND SETTING THE BALLOT LANGUAGE.**

**Whereas**, the Town Council is committed to protecting the small town ambience, access to parks and open space, historic downtown and the great overall quality of life in San Anselmo; and

**Whereas**, many of San Anselmo’s local streets and roads are in need of repaving and pothole repair, current street drainage on many roads is inadequate, in disrepair or collapsed, and some streets are also in need of medians or median improvements, and these issues contribute to traffic and congestion that affects all residents; and

**Whereas**, several public facilities have long-deferred maintenance needs that must be addressed before they become more expensive; and

**Whereas**, the Town of San Anselmo has effectively managed its expenses while protecting vital Town services, reduced expenses by consolidating police and fire services with nearby communities and by implementing pension reform, and the Town’s independent Financial Advisory Committee has concluded that there are not further significant savings to be found in the Town budget; and

**Whereas**, all funds from a locally approved tax cannot be taken by the State and must stay in San Anselmo under local control to benefit local residents.

**Whereas**, Article XIIC, Section 2 of the California Constitution authorizes cities, by a majority vote of the qualified electors, to impose a general tax; and

**Whereas**, Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 authorize a city to adopt a transactions and use 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; and

**Whereas**, the Town Council desires to submit the ordinance attached hereto as Exhibit A containing a ballot measure to adopt a one-half of one percent (.5%) sales tax measure (transactions and use tax) to be used exclusively for general purposes to the qualified voters of the Town of San Anselmo at the Uniform District Election to be held in the Town on November 5, 2013; and

**Whereas**, it is desirable that the election be consolidated with the statewide election to be held on the same date and that within the Town, the precincts, polling places, and election officers of the two elections to be the same; and

**Whereas**, it is desirable that the County Election Department of County of Marin canvass the returns of the Uniform District Election and that the election be handled in all respects as if there were only one election.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**

Section 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered an election to be held in the Town of San Anselmo, California, on Tuesday, November 5, 2013.

Section 2. That pursuant to the requirements of Section 10403 of the California Elections Code, the Board of Supervisors of the County of Marin is hereby requested to consent and agree to the consolidation of said election.

Section 3. That the Town Council, pursuant to its rights and authority, does order submitted to the voters at the election the following question:

To repair potholes, repave roads, reduce traffic congestion, maintain and improve sidewalks/drainage/street medians, preserve public safety, and improve other general Town services, facilities, and infrastructure, shall the Town of San Anselmo establish a one-half percent (.5%) sales tax for ten years, with annual independent audits, mandatory public expenditure reports, and an independent citizens’ oversight committee with all funds staying in San Anselmo under local control?	<b>YES</b>
	<b>NO</b>

Section 4. The text of the proposed ordinance to be submitted to the voters is attached hereto as Exhibit A.

Section 5. Pursuant to California Elections Code Section 9280, the Town Clerk shall transmit a copy of the measure to the Town Attorney who shall prepare an impartial analysis of the measure in accordance with said Section 9280.

Section 6. Arguments for and against said measure may be filed in accordance with applicable provisions of the law. Pursuant to Section 9285 of the California Elections Code, (the provisions of which are hereby adopted), when the Town Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the 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. The rebuttal arguments shall be filed with the Town Clerk not more than 10 days after the final date for filing direct arguments. 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. The text of the measure shall be printed on the ballot in the voter information portion of the sample ballot.

Section 7. That the County Election Department is authorized to canvass the returns of said election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

Section 8. That the Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

Section 9. That the Town Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

Section 10. That the polls for the election shall be open at 7:00 a.m. of the election and shall remain open continuously from that time until 8:00 p.m. of the same day, when the polls shall be closed, except as provided in Section 14401 of the California Elections Code.

Section 11. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 12. That notice of the time and place of holding the election is given and Town Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.

Section 13. That the Town Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Election Department of the County of Marin.

Section 14. This resolution shall take effect immediately.

I, the undersigned hereby certify that the foregoing is a full, true, and complete copy of a resolution duly passed and adopted by the Council of the Town of San Anselmo at a special meeting thereof held on the 5th day of August, 2013 by the following vote:

AYES: Coleman, Dahlgren, Kroot, McInerney  
NOES: None  
ABSENT: Greene  
ABSTAIN: None

s/KAY COLEMAN  
Mayor

ATTEST:  
s/JOANNE KESSEL  
For Barbara Chambers, Town Clerk

**EXHIBIT A**  
**TOWN OF SAN ANSELMO**  
**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE PEOPLE OF THE TOWN OF SAN ANSELMO ADDING CHAPTER 8-8 TO THE SAN ANSELMO MUNICIPAL CODE IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION (November 5, 2013 Ballot Measure)

**Section 1.** The People of the Town of San Anselmo ordain as follows: that a new Chapter 8 shall be added to Title 8, Finance, Revenue, and Taxation, subject to voter approval as set forth herein, as follows:

**Chapter 8-8 TRANSACTIONS AND USE TAX**

**Sections:**

- 8-8.01. Title.**
- 8-8.02. Operative Date.**
- 8-8.03. Purpose.**
- 8-8.04. Contract with State.**
- 8-8.05. Transactions Tax Rate.**
- 8-8.06. Place of Sale.**
- 8-8.07. Use Tax Rate.**
- 8-8.08. Adoption of Provisions of State Law.**
- 8-8.09. Limitations on Adoption of State Law and Collection of Use Taxes.**
- 8-8.10. Permit Not Required.**
- 8-8.11. Exemptions and Exclusions.**
- 8-8.12. Amendments.**
- 8-8.13. Enjoining Collection Forbidden.**
- 8-8.14. Severability.**
- 8-8.15. Effective Date.**
- 8-8.16. Use of Proceeds.**
- 8-8.17. Fiscal Accountability Provisions.**

**8-8.01 TITLE.** This ordinance shall be known as the Town of San Anselmo Transactions and Use Tax. The Town of San Anselmo hereinafter shall be referred to as “the Town.” This ordinance shall be applicable in the incorporated territory of the Town.

**8-8.02. 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.

**8-8.03. PURPOSE.** This ordinance is adopted to achieve the following, among other purposes, and the provisions hereof should 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 Town to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the

Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

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

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

**8-8.04. CONTRACT WITH STATE.** Prior to the operative date, the Town 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 Town 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.

**8-8.05. TRANSACTIONS TAX RATE.** For the privilege of selling tangible personal property at retail, a tax hereby is imposed upon all retailers in the incorporated territory of the Town at the rate of .50% (one half of one percent) 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.

**8-8.06. PLACE OF SALE.** For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

**8-8.07. USE TAX RATE.** An excise tax is hereby imposed on the storage, use or other consumption in the Town 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 .50% (one half of one percent) 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.

**8-8.08. 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 (“Transactions and Use Taxes”), all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code (“Sales and Use Taxes”) are hereby adopted and made a part of this ordinance as though fully set forth herein.

**8-8.09. 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 Town shall be substituted therefor. However, the substitution shall not be made under the following circumstances:

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 Town 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 “Town” 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.

**8-8.10. 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.

**8-8.11. 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 Town which is shipped to a point outside the Town, 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 Town 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-Town 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-Town 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 purpose 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 Town 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. 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 com-

pensation 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 that 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 during 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 Town shall not be required to collect the use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the Town or participates within the Town 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 Town or through any representative, agent, canvasser, solicitor, subsidiary, or person in the Town under the authority of the retailer.

7. "A retailer engaged in business in the Town" 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 the use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the Town.

D. Any person subject to the 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.

**8-8.12. 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.

**8-8.13. 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 Town, or against any officer of the State or the Town, 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.

**8-8.14. 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.

**8-8.15. EFFECTIVE DATE.** This ordinance relates to the levying and collecting of the Town transactions and use tax and shall be in full force and effect ten (10) days after the certification by the Town Council of the election returns indicating passage of the Ordinance by a majority of the voters casting votes in the Uniform District Election of November 5, 2013. The San Anselmo Transactions and Use Tax will be assessed beginning April 1, 2014. The authority to levy the tax imposed by this ordinance shall expire ten years after the Effective Date.

**8-8.16. USE OF PROCEEDS.** The proceeds from the transactions and use tax imposed by this ordinance shall be for general governmental purposes of the Town and shall be received into the general fund of the Town. Nothing herein shall bind the Town to use the proceeds for any specific purpose or function. This ordinance raises the Town's appropriations limit by the amount of the tax for the next 10 years.

**8-8.17. FISCAL ACCOUNTABILITY PROVISIONS.**

The Town shall include in its annual audit of the Town's financial operations by an independent certified public accountant, an accounting of the revenue generated by the San Anselmo Transactions and Use Tax, and how the revenue was used. Additionally, the Town Council will establish a Transactions and Use Tax Oversight Committee to review and report on the use of the general purpose revenues generated by the San Anselmo Transactions and Use Tax.

**Section 2.** This Ordinance was approved for placement on the November 5, 2013 ballot by a two-thirds vote of all members of the Town Council. The Ordinance was adopted by the voters of the Town of San Anselmo at the Uniform District Election held on the 5th day of November, 2013, by the following vote tally:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

Attest:

Title