



**Agenda Item C.3**  
**DISCUSSION/ACTION ITEM**  
**Meeting Date: June 17, 2008**

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**TO:** City Council

**FROM:** Daniel Singer, City Manager

**SUBJECT:** Consideration of Ballot Measures for the November 2008 General Election for the City of Goleta

**RECOMMENDATION:**

- A. Discuss ballot measure options.
- B. Direct staff and legal counsel to prepare ballot measure options being considered by the Council for the November 2008 General Election and to bring back such options for consideration by the Council at the next available meeting.

**BACKGROUND:**

The City Council has been engaged in a deliberative process to study the City's Revenue Neutrality Agreement (RNA). The Council is working with the County of Santa Barbara on renegotiating aspects of the Agreement, and exploring additional ballot measures that would assist the City in achieving future financial stability. Those discussions have led the City Council to the following actions: a) to appoint a sub-committee to work with the County's Board of Supervisors on the RNA and desired amendments that could be tailored to meet both the County and City's needs; b) to invest in a community survey and the hiring of a public affairs consultant to study City services, community needs, and local taxing options; and c) to explore ballot measures to rewrite the RNA or focus on establishing our own local tax structure to fund desired community services.

On March 4, 2008, the Council considered a number of ballot options and ultimately focused on two primary approaches. First, the placement on the ballot of an ordinance amending the RNA terms and conditions (under the provisions of Proposition 218), in order to repeal the Agreement and replace it with a new agreement. Second, to consider a local sales tax measure to generate General Fund revenues for the City to provide funding for needed and desired City services. Also, on June 3, 2008, the City Council voted to support the placement of Measure A on the November ballot. Measure A is the extension of a ½ cent County-wide sales tax measure (known as Measure D), which would greatly assist the City and the County and all other jurisdictions with needed street, road and alternative transportation funding.

Over several months, the City Council has examined a number of options to adjust the Revenue Neutrality Agreement tax sharing provisions, including legally challenging the terms of the Agreement by filing a legal action against the County. To avoid litigation, efforts have been made to open a dialogue with the County of Santa Barbara on the issue of the Revenue Neutrality Agreement. So far, that effort has resulted in an offer by the County to amend one section of the RNA to forgive the start-up loan of \$1.5 million to the City provided it is used for a project of mutual benefit. A copy of the County's offer letter is attached to this report. No other formal dialogue with the County is scheduled.

## **DISCUSSION:**

At this point in time the City Council has requested that staff return with potential ballot measures for the November 2008 General Election. Currently, a community survey is underway which would test registered voters' support for various ballot measure options, including a Business License Tax measure. Results of that survey are expected by the end of this month.

The procedure for submitting either an advisory or binding measure to the electorate is simple. The Council must adopt a resolution calling the election and setting forth the question or the measure to be voted on by the people. Submission of a Council-sponsored binding initiative measure to the voters will create law if it is enacted. A sales tax measure, for example, would impose additional sales taxes within the City and be legally binding on the community.

The deadline for submission of a ballot measure to the County Board of Supervisors with exact wording for consolidation with the November 2008 election is July 3, 2008. As the legal and policy implications for any action the Council may wish to take are significant, and the timing limited, it is imperative that clear direction be provided to staff and legal counsel so that the formation of any ballot language coming back to the Council is reflective of the Council's intentions.

## **PROPOSED ORDINANCE AMENDING THE REVENUE NEUTRALITY AGREEMENT**

The Council may want to consider an ordinance amending the current RNA, subject to a binding vote. Submission of a binding initiative measure to the electorate by the Council that changes the Revenue Neutrality Agreement unilaterally is very likely to spark immediate discussion and may result in litigation either before the matter is submitted to the electorate or afterward. The County could challenge the legality of the measure before it is placed on the ballot, which could result in the removal or alteration of the ballot measure by a judge before ballots are printed.

Historically, tax, assessment, fee and other charges measures were not subject to being overturned by either referendum or initiative actions. However, Proposition 218, which was adopted in 1996, amended the California Constitution to permit use of the initiative process, instigated either by the petition process or by a Council-sponsored measure, to repeal tax, assessment, fee or charges measures. To the extent that the revenue allocation established in the Revenue Neutrality Agreement, which was approved by a

vote of the electorate, is a tax, fee, assessment or charge, it theoretically may be subject to repeal by an initiative measure. To prevail on this theory, however, the provisions of the Revenue Neutrality law that permit permanent taxes, assessments, fees or charges to be imposed as part of the incorporation process would have to be found by a court of law to be in conflict with the constitutional provisions established by Proposition 218. In theory, therefore, one might opine that the very electorate that voted for the Revenue Neutrality Agreement should be empowered to repeal, reverse or alter the Agreement.

The decision to pursue a vote of the citizens on a new Revenue Neutrality Agreement poses some challenges, and opportunities. A significant consideration is that by asking for an affirmative vote by our citizens, there becomes a raised expectation of action and resolution. While this, in and of itself isn't a bad thing, the ensuing legal costs and delayed action is certain to be of growing concern to residents in Goleta. Most of this frustration will be focused on the County government, but there is a possible residual effect to the City.

Beyond that, there is little legal history in this area and the City must consider if handling it through these means is deemed to be in the best interests of the residents of Goleta.

There is a possibility that the increased attention and focused frustration could actually benefit the City's negotiating position with the County. A City-wide vote would have the effect of City/County residents telling their City and County elected officials what their priorities are as well as directing action to that affect.

## **PROPOSED SALES TAX MEASURE**

The Council may also choose to pursue a local sales tax measure designed to capture additional revenues that would be solely available for use by the City of Goleta. A local sales tax would be applied within the City for a stated length of time (usually 20-30 years), and could be in increments of  $\frac{1}{4}$  percent. Such a measure would require a majority vote of the electorate should it be used for general purposes by the City. A special or specific tax, for example a transportation tax measure, requires a two-thirds vote to pass.

In light of Measure A being placed on the ballot this November, the Council should give careful consideration to the placement of a local sales tax measure on the same ballot, especially if a Business License Tax measure is also to be pursued. Feedback on the community's tolerance and support for multiple tax measures will be tested with the community survey currently underway.

There are a number of dynamics that should be considered before placing a revenue measure before the voters of any city. Here are some considerations in general and specific to the City of Goleta.

- What are the arguments and justification for new revenue in the City of Goleta?

The fact Goleta will be running budget deficits as soon as next year requires the City to engage the residents in budget solutions. Regardless of the outcome of negotiations on the RNA, City leaders will have to have some recourse to a worsening budget situation. Goleta residents should have the option to determine their own financial course, and revenue enhancements can be a consideration.

- How many other issues will be before the voters?

Santa Barbara County's Measure A will appear on the November ballot. There is also a growing likelihood that the State of California will place a temporary tax increase on the same ballot and there appears to be at least one bond measure that will be competing for funding priorities.

While conventional wisdom suggests that this could be problematic it should be noted that support for revenue measures in most cases enjoys the strongest support at the local level. The polling work regarding the RNA last month clearly showed this was the case in Goleta. It should also be noted that in November of 2006, a record number of bond measures appeared statewide at the same time a record number of sales tax measures passed at the city level, suggesting that the case for new revenue is far more a local matter than an ideological one.

- What is the mood of the electorate as it relates to tax increases?

A slowing economy and deteriorating opinion on the "state of the State" and country will clearly be on the minds of voters this November. But again, as it relates to the outcomes of revenue measures, that doesn't necessarily mean residents aren't open to supporting the financial condition of their city. In fact, a very high percentage of cities passed new revenues in this environment on June 3, 2008 – in a climate not dissimilar to what we are likely to face in November.

- What will voter turnout be?

It's often instructive to consider who will be voting prior to placing a tax measure on the ballot. The greater the turnout, the more voters will be having a voice in the process. November 2008 is likely to have one of the highest voter turnouts in a generation. This is related to the awareness generated in Presidential elections where demographic groups such as women, minorities and youth are more engaged.

## **CONCLUSION:**

Should the Council direct that a measure or measures be prepared for consideration, the following important matters need to be decided by the Council:

1. What is the preferred length of the measure?
2. What should be the percent of the tax (1/2 or 1/4 cent)?
3. Is this a general or special tax?
4. If general, should an advisory vote accompany the measure or should only a general indication be given of the use of the tax?

**ALTERNATIVES:**

The City Council has many options available to it. In the first place, the Council may decide to take no action at this time and to continue to pursue discussions with the County. It may also be prudent to wait until after the November election in order to determine the outcome of Measure A, prior to the City placing any local sales tax measures on the ballot.

The Council may also request the County Board of Supervisors to submit a County-wide ballot measure to adopt a County ordinance establishing policies relating to past and future revenue neutrality agreements and request that the County Board of Supervisors place such an ordinance on the November ballot to be voted on throughout the County.

Similarly, the Council may propose a County-wide advisory measure on the November 2008 ballot relating to the voter approved Revenue Neutrality Agreement and ask the County to consolidate that election with the November election.

It should be noted that each of the last two options poses risk of challenge, opposition, and litigation.

**LEGAL REVIEW:**

The sample ballot language attached to this report was developed by the City Attorney and the Attorney's office was involved in the development and review of this report.

**FISCAL IMPACTS:**

The cost of a ballot measure, accompanied by any informational materials, is difficult to estimate, but could amount to about \$10,000 in direct expenses and additional funds for any polling and or information campaign.

Reviewed by:

Approved By:

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Michelle Greene  
Administrative  
Services Director

\_\_\_\_\_  
Daniel Singer  
City Manager

**ATTACHMENTS:**

1. RNA Offer Letter from County of Santa Barbara
2. Sample Binding Measure repealing and amending portions of the Revenue Neutrality Agreement
3. Sample Sales Tax Measure

**ATTACHMENT 1**  
**RNA Offer Letter from County of Santa Barbara**

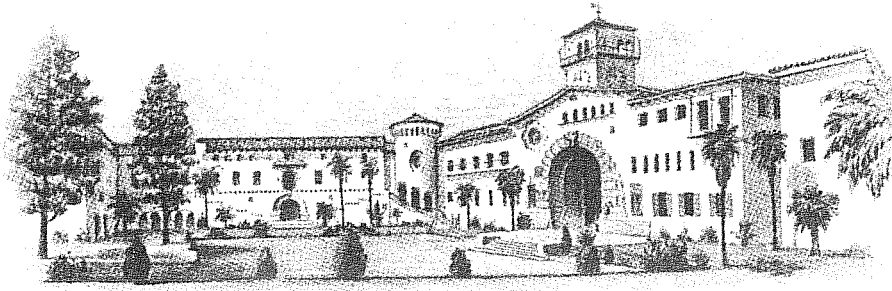
**SALUD CARBAJAL**  
First District, Chair

**JANET WOLF**  
Second District

**BROOKS FIRESTONE**  
Third District

**JONI GRAY**  
Fourth District

**JOSEPH CENTENO**  
Fifth District, Vice Chair



**BOARD OF SUPERVISORS**

County Administration Building  
105 East Anapamu Street  
Santa Barbara, CA 93101  
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[www.countyofsb.org](http://www.countyofsb.org)

**COUNTY OF SANTA BARBARA**

June 10, 2008

Honorable Michael T. Bennett, Mayor, and  
Councilmembers  
City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117  
[mbennett@cityofgoleta.org](mailto:mbennett@cityofgoleta.org)

VIA Email & USPS

Dear Mayor Bennett and Councilmembers:

The Board of Supervisors considered your continuing requests relative to the Revenue Neutrality Agreement. After careful deliberation and within the context of potential litigation which may be initiated by the City of Goleta and in view of the continually deteriorating financial prospects for the County we are authorized to offer the following:

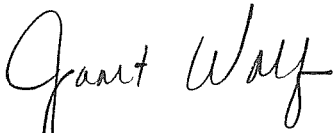
The County will forgive the \$1.5 million startup loan which was provided to the City in 2001. This will be conditional on the City applying the \$1.5 million to Goleta Library improvements or the San Jose Creek flood control project above and beyond the MOU.

It will also be conditional on the City not conducting an election in November 2008 to establish a sales tax increase or other voter approved increase which could negatively influence the Measure A Transportation sales tax proposal.

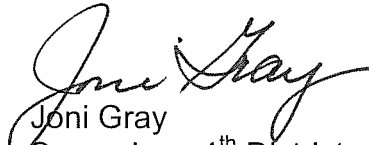
The Board of Supervisors has directed that any questions or communications concerning this matter should be directed to its County Executive Officer Michael F. Brown.

Thank you for your understanding and we are pleased to be of assistance to the degree possible at this time.

Sincerely yours,



Janet Wolf  
Supervisor, 2<sup>nd</sup> District  
Goleta Revenue Neutrality Subcommittee  
Subcommittee



Joni Gray  
Supervisor, 4<sup>th</sup> District  
Goleta Revenue Neutrality  
Subcommittee

cc: Members, Board of Supervisors  
Michael F. Brown, County Executive Officer  
Dan Singer, City Manager, City of Goleta  
Jason Stilwell, Assistant CEO/Budget Director



**ATTACHMENT 2**  
**Sample Council Sponsored Binding Initiative Measure**  
**For Adoption within City Of Goleta**

## **INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS**

The City Council for the City of Goleta submits the following initiative measure to the voters of the City for approval and enactment:

### **AN ORDINANCE OF THE CITY OF GOLETA AMENDING AND REPEALING CERTAIN PROVISIONS OF SECTION 17 OF MEASURE H2001 RELATING TO REVENUE NEUTRALITY PAYMENTS FROM THE CITY TO THE COUNTY OF SANTA BARBARA**

The people of the City of Goleta ordain as follows:

#### **SECTION 1. Findings**

- A. Measure H2001 was enacted by a vote of the people of Goleta on November 6, 2001 to establish the City of Goleta (the "City").
- B. Measure H2001 references and relies upon the "Revenue Neutrality Agreement by and Between the County of Santa Barbara and the City of Goleta" as approved by the County Board of Supervisors on March 20, 2001, and the proponents of incorporation of the City of Goleta prior to the incorporation of the City of Goleta.
- C. To take effect and be binding on the City of Goleta, the terms of the Revenue Neutrality Agreement were required to be submitted to a vote of the people at the time of incorporation of the City as part of the incorporation question and were made a part of Measure H2001.
- D. Some of the terms and conditions imposed by enactment of Measure H2001 have proved over time to be deficient, unfair and inconsistent with the intent of the Revenue Neutrality Agreement and California law and public policy with respect to mitigation payments imposed to achieve revenue neutrality as to the County of Santa Barbara (the "County") as required by Section 56845(c) of the California Government Code.
- E. Due to economic conditions and other causes, from 2002 to the present the City has consistently paid substantially more to the County than what was anticipated by the parties in the Revenue Neutrality Agreement and approved by the voters in Measure H2001.
- F. The allocation of property and sales taxes generated within the corporate boundaries of the City to the County by Measure H2001 in excess of the amount necessary to achieve revenue neutrality under California law imposes a tax, fee or charge on the people of Goleta that is not imposed on other similarly situated residents

of the County who reside either in unincorporated areas or in other incorporated cities within the County.

G. Specifically, the provisions relating to allocation of property and sales taxes to the County of Santa Barbara in perpetuity for the purpose of reimbursing the County for the normal on-going social services and administrative costs associated with general County services available to all residents of the County, including those in other incorporated cities of the County, is contrary to current state policy as set forth by the Governor's Office of Planning and Research in "A Guide to the LAFCO Process for Incorporations" adopted in 2003.

H. Because the people of Goleta adopted Measure H2001 and by its terms imposed a tax, fee or charge on themselves, under the provisions of Article XIII (C) of the Constitution of the State of California, such taxes, fees or charges are subject to amendment and repeal by an initiative measure adopted by the people.

I. Amendment and repeal of portions of Measure H2001 by enactment of this Ordinance is necessary to protect the health, safety and general welfare of the citizens of the City of Goleta by assuring adequate revenue for the City to operate efficiently and provide basic governmental services for its residents and are consistent with the requirements for revenue neutrality set forth in Government Code Section 56845(c).

J. The amendment and repeal of portions of Measure H2001 by this Ordinance relating to the allocation of tax revenues as set forth herein is exempt from review under the provisions of the California Environmental Quality Act ("CEQA")(Government Code Sections 21000 *et seq.*) because such activities do not constitute a "project" as defined in CEQA Guidelines Section 15378(b)(4) which excludes the ". . . creation of funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment" from the statutory definition of a project.

## **SECTION 2. Amendment and Repeal of Section 17.**

A. Section 17 of Measure H2001 is hereby repealed and amended to read in its entirety as follows:

"17. Mitigation Obligation – Based upon the demonstrated consistent over payment of tax revenues by the City to the County resulting from the provisions of the Revenue Neutrality Agreement and Measure H2001 approved by the voters of the City of Goleta on November 6, 2001, the mitigation payments originally agreed to by the parties in accord with the revenue neutrality requirements of Government Code subsection 56845(c) are hereby revised and amended to assure that revenue neutrality under California law is accomplished in accord with the policies of California law.

A. Base Year. The tax revenue received in fiscal year 2007-2008 shall be used as the "Base Year" for calculation of all tax revenue allocations set forth herein.

B. Alternative Base Year. In the event actual tax revenue shall at any time be less than that generated during the Base Year, the amount of tax revenue actually received in that fiscal year shall be used as the "Alternative Base Year" for calculation of all tax revenue allocations for that year as set forth herein.

C. Temporary On-going General Services Mitigation Obligations – To assure the County time to develop new tax revenue streams from unincorporated areas outside the City of Goleta, the following tax revenue allocations shall be made for the periods of time indicated:

(i) Property tax generated by property located within the City that would otherwise accrue entirely to the City will be shared equally by the parties until June 30, 2012 to the same extent that they were shared during the Base Year or during the Alternative Base Year. Beginning July 1, 2012 all property tax allocations shall be reduced annually in increments of ten percent (10%), so that as of July 1, 2012 the property tax allocation shall represent a forty percent (40%) share of the Base Year or Alternative Base Year revenues; as of July 1, 2013 the property tax allocation shall represent a thirty percent (30%) share of the Base Year or Alternative Base Year revenues; as of July 1, 2014, the property tax allocation shall represent a twenty percent (20%) share of the Base Year or Alternative Base Year revenues; as of July 1, 2015, the property tax allocation shall represent a ten percent (10%) share of the Base Year or Alternative Base Year revenues; and as of July 1, 2016, no further sharing of property taxes generated by property located within the City that would otherwise accrue entirely to the City shall occur.

(ii) 30% of the 1% retail sales tax revenues generated during the Base Year or Alternative Base Year allocable to the City shall be allocated to the County until June 30, 2012, at which time all further sales tax allocations shall be reduced annually in increments of ten percent (10%), so that as of July 1, 2012, the sales tax allocation shall be a twenty percent (20%) share of the Base Year or Alternative Base Year revenues; as of July 1, 2013, the sales tax allocation shall be a ten percent (10%) share of the Base Year or Alternative Base Year revenues; and as of July 1, 2014, no further sharing of the 1% sales tax revenues allocable to the City shall occur.

D. Mitigation Period Obligations – During the Mitigation Period which ends as of June 30, 2012, tax revenues shall be allocated as follows:

(i) An additional 20% of the 1% retail sales tax revenues generated during the Base Year or Alternative Base Year allocable to the City shall be allocated to the County.

(ii) 40% of the transient occupancy tax ("TOT") generated by TOT taxpayers which existed within the City as of February 1, 2002 at the rate then in effect shall be allocated to the County. All TOT revenues generated by any TOT taxpaying entities whose facilities were not constructed prior to February 1, 2002 or that is derived from any increase after February 1, 2002, on existing and future TOT taxpayers shall be allocated 100% to the City.

E. Transition Year Payment. The Transition Year payment of \$1,500,000 made by the County to the City for the first full fiscal year of operation (2002-2003) shall be deemed to equalize and reimburse the City for the significant overpayments made as payment of the Mitigation Obligations that occurred during the period from February 1, 2002, to the adoption of this ordinance, and the City shall have no duty or obligation to pay the County \$1,500,000 in the eleventh complete fiscal year or thereafter."

B. Section 18 of Measure H2001 is repealed in its entirety.

C. Section 27 is hereby amended to read in its entirety as follows:

"27. Change in property tax allocation factors – In the event that the property taxes currently received by Goleta West Sanitary District within the boundaries of the City are reallocated, the City shall be allocated 100% of such taxes."

#### **SECTION 4. Severability.**

If any portion of this initiative measure is hereafter determined to be invalid by a court of competent jurisdiction, all remaining portions of this initiative measure shall remain in full force and effect. Each section, subsection, sentence, phrase, part or portion of this initiative measure would have been adopted and passed irrespective of the fact that any one or more sections, subsections, sentences, phrases, parts or portions be declared invalid or unconstitutional.

#### **SECTION 5. Effective date, amendment and repeal.**

This initiative measure and all of its provisions shall take effect according to California law within 10 days of certification of the election at which it is enacted and may be amended or repealed only by a majority vote of the electorate of the City of Goleta.

Meeting Date: June 17, 2008

**ATTACHMENT 3**  
**Sample Sales Tax Initiative Measure**

**SAMPLE**

A COUNCIL-SPONSORED INITIATIVE ORDINANCE  
OF THE CITY OF GOLETA ADDING A NEW CHAPTER 3.19  
TO THE GOLETA MUNICIPAL CODE RELATING TO  
THE IMPOSITION OF AN ADDITIONAL ONE-HALF  
OF ONE-PERCENT(.50%) SALES AND USE TAX WITHIN  
THE CITY OF GOLETA TO BE EFFECTIVE FOR  
A PERIOD OF 30 YEARS

The people of the City of Goleta ordain as follows:

**SECTION 1. Enactment of Ordinance.**

The following Chapter 3.19 is hereby added to the Goleta Municipal Code to read in its entirety as follows

"Chapter 3.19 - Sales and Use Tax

Sections:

- 3.19.010 Title
- 3.19.020 Operative Date and Termination
- 3.19.030 Purpose
- 3.19.040 Contract with State
- 3.19.050 Transactions Tax Rate
- 3.19.060 Place of Sale
- 3.19.070 Use Tax Rate
- 3.19.080 Adoption of Provisions of State Law
- 3.19.090 Limitations on Adoption of State Law and Collection of Use Taxes
- 3.19.100 Permit Not Required
- 3.19.110 Exemptions and Exclusions
- 3.19.120 Amendments
- 3.19.130 Enjoining Collection Forbidden
- 3.19.140 Severability
- 3.19.150 Effective Date

**3.19.010 Title**

The ordinance codified in this chapter shall be known as the "City of Goleta Sales and Use Tax Ordinance." The City of Goleta hereinafter shall be called the "city." This ordinance shall be applicable in the incorporated territory of the city.

**3.19.020 Operative Date**

"Operative date" means the first day of the first calendar quarter commencing more than 110 days after the effective date of this ordinance, which is 10 days following certification of the election at which it is approved by a majority of the voters.

### **3.19.030 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 sales 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 sales 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 sales and use tax ordinance that imposes a tax and provides an ordinance 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 sales 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.

### **3.19.040 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.

### **3.19.050 Sales Tax Rate**

For the privilege of selling tangible personal property at retail, the one-percent sales tax imposed by Ordinance 02-09 upon the formation of the city imposed upon all retailers in the incorporated territory of the city is hereby increased by the imposition of an additional



sales tax at the rate of one-half of one-percent (0.50%) 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.

**3.19.060 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.

**3.19.070 Use Tax Rate**

In addition to the one-percent (1%) excise tax imposed by Ordinance 02-09, 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 within the jurisdictional boundaries of the city at the rate of one-half of one-percent (0.50%) 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.

**3.19.080 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.

**3.19.090 Limitations on Adoption of State Law and Collection of Use Taxes**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:  
(A) Wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefore. However, the substitution shall not be made when:

(1) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, 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 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.

### **3.19.100 Permit Not Required**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

### **3.19.110 Exemptions and Exclusions**

(A) There shall be excluded from the measure of the sales 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 sales 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 Chapter 2 of 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 subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(C) There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this city of tangible personal property:

(1) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

(3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

(4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

(5) For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

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

(7) "A retailer engaged in business in the city" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of 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.

### **3.19.120 Amendments**

All amendments enacted by the Legislature 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 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 without a vote of the people.

### **3.19.130 Enjoining Collection Forbidden**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or the city, or against any officer of the state or the city, to prevent or enjoin the collection under this 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.

**3.19.140 Term**

This ordinance and the sales tax rate imposed hereby shall remain in effect for a term of thirty (30) years following the effective date and shall terminate and expire at that time without further action.”

**SECTION 2. Severability.**

If any portion of this initiative measure is hereafter determined to be invalid by a court of competent jurisdiction, all remaining portions of this initiative measure shall remain in full force and effect. Each section, subsection, sentence, phrase, part or portion of this initiative measure would have been adopted and passed irrespective of the fact that any one or more sections, subsections, sentences, phrases, parts or portions be declared invalid or unconstitutional.

**SECTION 3. Effective date, amendment and repeal.**

This council-sponsored initiative ordinance and all of its provisions shall take effect according to California law 10 days following certification of the election at which it is enacted and may be amended or repealed only by a majority vote of the electorate of the City of Goleta.