

**CITY OF SACRAMENTO
MEASURE U**

U “Shall the measure to protect and enhance essential public safety services, including 9-1-1 response, fire protection, community neighborhood policing, and other essential services, including homeless supportive services, affordable housing, libraries, park maintenance, high-wage job promotion, and youth programming, by enacting a one-cent sales tax generating \$95 million annually that is legally required to stay in the City’s General Fund, until ended by voters, with independent annual financial audits and citizen oversight, be adopted?”

IMPARTIAL ANALYSIS OF MEASURE U

Prepared by Sacramento City Attorney

Measure U has been placed on the ballot by the Sacramento City Council. If approved by a majority of the voters, the measure would enact an ordinance that provides for a one-cent tax on each dollar of taxable sales of goods within the City of Sacramento, and on the taxable storage, use, or consumption in the city of goods purchased from a retailer. This is commonly referred to as a “sales tax” and technically referred to as a “transactions and use tax.” As a general tax, the revenues would be deposited into the city’s general fund and could be used for any municipal government purpose, including 9-1-1 response, fire protection, homeless supportive services, affordable housing, libraries, park maintenance, high-wage job promotion, youth programming, and other programs.

The one-cent tax would be in addition to the existing sales tax and would be collected at the same time and in the same manner as the existing sales tax. Currently, the combined state and local sales tax rate in the City of Sacramento is 8.25%, although that would drop to 7.75% on April 1, 2019, if this measure does not pass. If this measure is approved by the voters, the combined rate would be 8.75%.

If approved, the one-cent tax would go into effect on April 1, 2019.

The revenues resulting from this tax would be subject to the same independent annual audit as other general fund revenue. Additionally, the ordinance requires a council-appointed citizens’ oversight committee to review the revenue and expenditure of all funds from the tax.

State law authorizes the city to levy this one-cent tax following approval of the ordinance by two-thirds of the city council and a majority of the voters voting on the issue. The Sacramento City Council approved the ordinance on July 31, 2018.

A “yes” vote is in favor of approving the ordinance establishing the tax. A “no” vote is against approving the ordinance establishing the tax.

Susana Alcala Wood
City Attorney

*****YOU CAN FIND THE MEASURE ARGUMENTS FOLLOWING THE FULL TEXT OF THIS MEASURE*****

FULL TEXT OF MEASURE U

ORDINANCE NO. 2018-0036

Adopted by the Sacramento City Council

July 31, 2018

**An Ordinance Adding Chapter 3.27 to the Sacramento City Code
Relating to a Transactions and Use Tax**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

Chapter 3.27 is added to the Sacramento City Code to read as follows

3.27 Transactions and Use Tax

3.27.010 Title.

This chapter shall be known as the City of Sacramento Transactions and Use Tax Ordinance of 2018.

3.27.020 Purpose.

This chapter is adopted to achieve the following, among other purposes, and directs that the provisions of this chapter be interpreted in order to accomplish those purposes:

- (a) To impose a retail transactions and use tax to be applied throughout the entire territory of the city to the fullest extent permitted by law and 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 of the Revenue and Taxation Code, which authorizes the city to adopt this chapter 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 therefor that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California state sales and use taxes.
- (d) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.
- (e) To provide transactions and use tax revenue to the city to be used for the general governmental purposes of the city and with any transactions and use tax revenue received being placed into the city's general fund.

3.27.030 Operative date.

This chapter shall be operative on the first day of the first calendar quarter commencing at least 110 days after the adoption of the ordinance codified in this chapter by vote of the electorate on November 6, 2018.

3.27.040 Contract with State.

Prior to the operative date, the city shall contract with the California Department of Tax and Fee Administration to perform

all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the city shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such contract.

3.27.050 Transactions and sales tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of one percent (1%) of the gross receipts of any retailers for the sale of all tangible personal property sold at retail in said territory on and after the operative date of this chapter.

3.27.060 Place of sale.

For the purposes of this chapter, 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 or 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 to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.27.070 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 chapter for storage, use, or other consumption in said territory at the rate of one percent (1%) 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.

3.27.080 Adoption of provisions of state law.

Except as otherwise provided in this chapter 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 chapter as though fully set forth herein.

3.27.090 Limitation 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. The substitution, however, 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, California Department of Tax and Fee Administration, State Treasury, or the Constitution of the State of California.
 2. The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this chapter.
 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.

3.27.100 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 seller's permit shall not be required by this chapter.

3.27.110 Exemptions and exclusions.

- A. There shall be excluded from the measure of the transactions and 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 transactions tax the gross receipts from:
1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.
 2. Sales of property to be used outside the city which is shipped to a point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his or 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 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-city address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance codified in this chapter.
 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 the ordinance codified in this chapter.
 5. For the purposes of subsections B.3 and B.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 chapter, 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 chapter.
 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 chapter.
 5. For the purposes of subsections C.3 and C.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 subsection C.7 of this section, 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 chapter 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.
- E. Nothing in this chapter shall be construed as imposing a tax upon any person or service when the imposition of such tax upon such person or service would be in violation of a federal or state statute, the Constitution of the United States, or the Constitution of the State of California.

3.27.120 Amendments.

All amendments subsequent to the effective date of this chapter 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 chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

3.27.130 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 chapter, 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.

3.27.140 Independent annual audit.

The proceeds resulting from this transactions and use tax shall be deposited into the city's general fund and become subject to the same independent annual audit requirements as other general fund revenue. The independent auditor's report, which shall include an accounting of the revenues received and expenditures made from the transactions and use tax, will be presented annually to the city council and made available for public review.

3.27.150 Citizens' Oversight Committee.

Although not otherwise required by law, the city council shall, by resolution adopted before the operative date of this chapter, either establish a new citizens' oversight committee to review and report on the revenue and expenditure of

funds from the tax adopted by this chapter or extend the citizens' oversight committee previously established by Resolution No. 2012-344. The members' terms and qualifications, and duties and scope of the committee, shall be as established by the resolution.

3.27.160 Identification of Tax and Use of Revenue.

This chapter establishes a transactions and use tax. The tax revenue can be spent for unrestricted general revenue purposes.

SECTION 2

Severability. If any portion of this ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this ordinance shall remain in effect. The people of the City of Sacramento hereby declare that they would have adopted each portion of this ordinance, notwithstanding that any one of more portions of this ordinance is declared invalid or unenforceable and, to that end, the provisions of this ordinance are severable.

SECTION 3

Majority Approval; Effective Date. This ordinance shall be effective only if approved by a majority of the voters voting on this ordinance and shall be operative on the date specified above.

ARGUMENT IN FAVOR OF MEASURE U

Measure U will ensure that we can protect and enhance essential city services, including 9-1-1 emergency response, fire protection and neighborhood community policing while addressing affordable housing and homelessness and also investing in job creation, youth, parks, and libraries.

In 2012, Sacramento voters approved Measure U which provided funding to restore cuts that were made during the deep recession. Under Measure U, the City has added 90 staff for fire and emergency response, 150 staff to prevent crime and fight gang violence, 137 staff in the parks department as well as funding for libraries, parks, and neighborhood services. Measure U will allow us to maintain these vital city services and provide the opportunity to do more for our neighborhoods, youth, and families.

Sacramento's homelessness crisis is a growing problem we see every day. With Measure U, we can provide housing and supportive services, including mental health care and substance abuse treatment, to help the homeless get back on their feet and off the streets for good.

Measure U can also provide funding for more affordable housing, increasing the supply of housing that young people, seniors, and middle class families can afford.

For Sacramento to achieve true prosperity, we must increase high-wage jobs and economic equity in all our neighborhoods. With Measure U we can promote job growth, expand job training for youth, revitalize neighborhood business corridors and attract new businesses that generate high-wage jobs for Sacramentans.

Measure U includes tough accountability, requiring annual independent financial audits and public review of expenditures. These strong fiscal safeguards will ensure that Measure U funds are used efficiently, effectively, and for the benefit of Sacramento.

Please join firefighters, public safety officers, community, neighborhood, and business leaders. Vote Yes on Measure U.

s/Darrell Steinberg
Mayor

s/Rita Gallardo Good
Parks Commissioner

s/Joany Titherington
President, Oak Park Neighborhood Association

s/Julius Cherry
Sacramento Fire Chief, Retired

s/Patrick Mulvaney
Owner, Mulvaney's B&L

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE U

Supporters of Measure U are hiding a crucial fact from you: Measure U will increase sales taxes a full 1% from 7.75% to 8.75%, double the amount of the 2012 tax hike that expires next March.

Remember, City leaders falsely promised that the first tax hike would be temporary, to help the city weather the recession. But this new Measure U is forever, a permanent blank check for city politicians.

The Sacramento Bee recently reported that poverty growth in Sacramento ranks among the highest in the nation. Sacramentans also have the lowest per capita income in the region. How can they possibly justify imposing the highest sales tax rate in the region on the people with the lowest incomes in the region? They can't.

Mayor Steinberg has a long laundry list of Measure U spending ideas. But how will the city have enough money to fulfill any of his grandiose promises when city officials project that city pension costs will increase \$64 million in the next few years, swamping the \$50 million in additional revenue that Measure U would raise? Can we trust their promises on how Measure U funds will be spent? No way.

The City's other sources of revenue have increased sharply since 2013, up \$120 million, proof that revenues are not the problem at City Hall, overspending is.

City Hall thinks it can spend your money more wisely than you can. Enough! Close your pocketbooks to the greedy clique at City Hall. No on Measure U.

s/Craig Powell
President, Eye on Sacramento

s/James Cathcart
Retired State Employee

s/Jrmar Jefferson
Member, NAACP, Sacramento Chapter
Father

s/Marcia Fritz
C.P.A. (Inactive)
Treasurer, Sacramento Taxpayers Association

s/Art Taylor
Public Safety Chair, Neighborhood Association
Retired Lieutenant Colonel, U.S. Marine Corps

ARGUMENT AGAINST MEASURE U

A 1% sales tax hike will especially hurt modest-income families, the poor and seniors on fixed income. Such folks lack the discretionary income to absorb the tax.

Have city officials earned our trust? Can we trust them to spend our money more responsibly than we can spend it ourselves? No.

In 2012, city officials promised that the ½% sales tax hike would be temporary. They've broken that promise. They now want to sucker voters into doubling forever.

They promised the tax hike would disappear once other city revenues recovered from the recession. But since 2013, other city revenues have more than recovered, increasing by nearly \$120 million annually, more than twice as much as the \$50 million the ½% tax hike brings in (over \$223 million since 2012).

They promised the tax hike would cost taxpayers about \$25 million each year. Instead, it brings in nearly double that amount. Officials now admit that they're original estimates were mistaken. Increasing the tax to 1% would quadruple the tax hike amount that was sold to voters in 2012.

Escalating city pension costs are projected to increase by \$64 million annually in a few years, which will consume all of the \$50 million additional revenues that this measure would generate. Consequently, all of the promises officials are now making about how they plan to spend the tax hike are bogus.

Don't be fooled by politicians who threaten voters with service cuts if this measure fails. Once it's defeated, the city will quickly call a special election to seek approval of an extension of the expiring ½% tax.

Eye on Sacramento has prepared a Blueprint for a Post Measure U City which is a plan for trimming \$100 million from the city budget without impacting core public services. Visit eyeonsacramento.org. Vote No.

s/Craig Powell
President, Eye on Sacramento

s/Marcia Fritz
C.P.A. (Inactive)
Treasurer, Sacramento Taxpayers Association

s/Dennis Neufeld
Community Activist

s/Steven Bourasa
Midtown Activist

s/Art Taylor
Public Safety Chair, Neighborhood Association

REBUTTAL TO ARGUMENT AGAINST MEASURE U

Measure U was put on the ballot by the Mayor and City Council to protect public safety, emergency response and vital city services. Measure U also provides funding to address affordable housing and homelessness and allows for investment in job creation, youth and neighborhoods.

Sacramento is one of California's fastest growing cities. Measure U will ensure we can keep up with our population growth and increasing needs for fire protection, emergency response and public safety.

Measure U will help address our homeless problem, delivering funding to get people off the streets and into programs and housing. It also will provide resources to increase our affordable housing supply.

Measure U will enhance our ability to achieve economic prosperity across our city, providing resources to expand our local economy, attract new businesses that provide high-paying jobs, strengthen our neighborhood business corridors and invest in job training for youth.

The opponents are right when they say taxpayers deserve fiscal accountability. Since 2012, the City has implemented efficiency standards, reducing the number of city employees while providing the same level of service. The City also eliminated or reduced retiree health benefits for new employees. Measure U requires strict accountability, independent financial audits and citizen review.

Vote Yes on Measure U to protect public safety, strengthen neighborhoods, promote job growth and invest in Sacramento's economic future.

s/Darrell Steinberg
Mayor

s/Deborah Rubens
Board Member, Boys & Girls Club
of Greater Sacramento

s/Kevin Ferreira
Executive Director, Sacramento-Sierra
Building and Construction Trade Council

s/Will Cannady
President, Pocket Greenhaven
Community Association

s/Nicola Ambroselli
Small Business Owner