

CITY OF SEBASTOPOL CITY COUNCIL
AGENDA ITEM REPORT FOR MEETING OF: December 17, 2024

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To: Honorable Mayor and City Councilmembers
From: Alex Mog, City Attorney
Subject: Approval of Agreements with the California Department of Tax and Fee Administration (CDTFA) for Implementation of a Local Transactions and Use Tax for ¼ cent sales tax as approved at the November 5, 2024 Municipal Election and Agreement with Sonoma County for Regarding Measure U and Measure I. In exchange for the City waiving collection of a portion of the ½ cent sales tax authorized by Measure U, Sonoma County will pay the City an amount equal to what the City would receive if it collected the full amount

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RECOMMENDATIONS:

That the City Council Adopt:

1. Resolution Authorizing City Manager to Execute Agreements with the California Department of Tax and Fee Administration for Implementation of a Local Transactions and Use Tax;
2. Resolution Authorizing Examination of Sales or Transactions and Use Tax Records; and
3. A Resolution Approving an Agreement with Sonoma County Regarding Measure U & Measure I.

EXECUTIVE SUMMARY:

At the November 5, 2024 municipal election, Sebastopol voters approved Measure U to authorize a new ½-cent (0.5%) local sales tax, and Sonoma County votes approved Measure I to authorize a new ¼-cent (0.25%) local sales tax. In order for the City to receive the full amount of revenue anticipated by Measure U, the City and County are entering into an agreement regarding implementation of Measure U & Measure I. Under the terms of the agreement, the City will agree not to collect ¼-cent (0.25%) of the sales tax authorized by Measure U, in exchange for the County paying the City an equal amount. In addition, in order to implement the new sales tax, the City will need to approve certain agreements with the California Department of Tax and Fee Administration.

BACKGROUND AND DISCUSSION:

At the November 5, 2024 municipal election, Sebastopol voters approved Measure U, with 72.07% of voters voting in favor of the measure. Measure U approved a new ½-cent (0.5%) sales tax for general purposes. At the same election, Sonoma County voters approved Measure I, which approved a new ¼-cent (0.25%) sales tax to support early childhood education and the local children’s health care safety net.

There are multiple sources of legal authority for the cities and other local agencies in California to adopt local transaction and use taxes (commonly referred to as “Sales Taxes”). However, State law also provides that the “combined rate” of city and county sales taxes may not exceed 2%. (Rev. & Tax. Code § 7251.1.) In Sonoma County, there’s another source of legislative authority for local sales taxes. To assist local communities affected by the 2017 wildfires, the Legislature granted special authority to “the County of Sonoma or any city within the county” to levy a local sales tax “at a rate of no more than 1 percent” that would, in combination with all other local sales taxes, exceed the 2% cap. (Rev. & Tax. Code § 7292.8.) The California Department of Tax and Fee Administration (CDTFA) has opined that the 1% is a “combined rate,” of which the County had utilized 0.75% prior to this election.

Prior to the passage of Measure U, the City had the authority to impose a 0.25% tax under the remaining general authority. In addition, the City could impose an additional 0.25% tax under the special authority. Measure U combined both amounts for a total proposed sales tax amount of ½-cent (0.5%). However, the County’s Measure

I, also known as “Our Kids, Our Future”, also relied on the same 0.25% of special authority. Further background on these legal issues is contained in staff reports for the July 16, 2024 and May 21, 2024 Council Meetings at which a proposed sales tax was discussed.

CDTFA has opined that the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U, and the entire ¼-cent (0.25%) of the Sales Tax authorized by Measure I, rely on the same ¼-cent (0.25%) of statutory authority for local governments in Sonoma County to enact Sales Taxes. CDTFA has also opined that the first ¼-cent (0.25%) of the Sales Tax authorized by Measure U can be enacted by the City in compliance with applicable laws. Because of this, CDTFA has informed the City and County that it is unable to implement both the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U and the entire ¼-cent (0.25%) of the Sales Tax authorized by Measure I because that would result in a Sales Tax above the maximum amount within the incorporated limits of the City as authorized by applicable law.

CDTFA has informed the City and County that it is seeking a formal opinion from the California Attorney General on how to implement Measure U and Measure I. However, it is unknown when the Attorney General will issue such an opinion, and it could take over six months. CDTFA suggested to the City and County that both Parties agree to only collect 1/8-cent (0.125%) of the ¼-cent (0.25%) sales tax in question until CDTFA receives and implements an opinion from the Attorney General. This would be the uniform rate for Measure I throughout Sonoma County, not just within the City of Sebastopol, as the CDTFA is required to implement a countywide tax uniformly and cannot apply different rates to different jurisdictions. CDTFA’s proposal would result in Measure I raising approximately \$15.7 million of the \$30.5 million originally anticipated by Measure I, and Measure U raising approximately \$1.125 million of the approximately \$1.5 million anticipated by Measure U.

Following meetings with CDTFA, the City, County, and representatives of First 5, met and tentatively agreed to a mutually beneficially alternative arrangement. The City has agreed to waive the collection of the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U so that the County may collect the full ¼-cent (0.25%) of the Sales Tax authorized by Measure I throughout Sonoma County. In exchange, the County has agreed to pay the City an amount equal to what the City would have received if it was collecting the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U. The County will make this payment out of the revenue received from Measure I. This Agreement ensures that the City can receive 100% of the revenue estimated by Measure U, and the County can receive almost 100% of the revenue estimated by Measure I. The Agreement will remain in effect until the Attorney General issues an opinion that CDTFA implements, or the Legislature adopts a new law that CDTFA implements. The Board of Supervisors authorized the County to enter into the proposed agreement at its December 10, 2024 meeting.

In addition to the agreement with the County, the City must enter into certain agreements with CDTFA. CDTFA is the state agency responsible for collecting and administering sales taxes, and the two proposed agreements with CDTFA are standard agreements. If the City does not enter into these agreements, CDTFA will not collect the sales tax for the City.

Finally, the City Council must adopt a resolution designating the City officials and consultants authorized to examine confidential sales tax information. Only those designated by the City Council in resolution are authorized to review sales tax information. The proposed resolution designates the City Manager, Deputy City Manager/City Clerk, and Administrative Services Director for this purpose. In addition, the resolution authorizes the City’s consultant, Avenu Insights LLC (doing business as Muni Services), to review confidential sales tax information.

STAFF ANALYSIS:

The proposed agreement with the County regarding implementation of Measure U and I will enable the City to receive the full amount of revenue anticipated by Measure U in the short term. For the long term, the City is working with the County and its legislative representatives on legislation to provide a permanent solution.

The other proposed resolutions and agreements are standard documents required by CDTFA and necessary in order for the sales tax to be collected.

All of the recommended agreements must be executed and provided to CDTFA by December 27, 2024 in order for CDTFA to implement the new sales tax authorized by Measure U as planned on April 1, 2025.

COMMUNITY OUTREACH:

This item has been noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

FISCAL IMPACT:

There is no fiscal impact from this action. However, failure to approve one or more of the proposed agreements would result in the City being unable to collect all or a portion of the revenue anticipated by Measure U.

OPTIONS:

No reasonable alternatives have been identified.

ATTACHMENTS:

1. Resolution Authorizing City Manager to Execute Agreements with the California Department of Tax and Fee Administration for Implementation of a Local Transactions and Use Tax.
2. Resolution Authorizing Examination of Sales or Transactions and Use Tax Records.
3. Resolution Approving an Agreement with Sonoma County Regarding Measure U & Measure I.
4. Agreement for Preparation to Administer and Operate” the City’s new sales tax with CDTFA.
5. Agreement for State Administration” of the City’s new sales tax with CDTFA
6. Agreement with Sonoma County Regarding Measure U & Measure I.

APPROVALS:

Department Head Approval: Approval Date: 12/10/24

CEQA Determination (Planning): Approval Date: 12/10/24

The proposed action is not a project under the California Environmental Quality Act (CEQA)

Administrative Services (Financial) Approval Date: 12/10/24

Costs authorized in City Approved Budget: Yes No N/A

Account Code (f applicable) _____

City Manager Approval: Approval Date: 12/10/24

Resolution Number: XXXX-2024

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL
AUTHORIZING CITY MANAGER TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX AND
FEE ADMINISTRATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX.

WHEREAS, on December 17, 2024, the City Council approved Ordinance No. 1152 amending the City Municipal Code and providing for a local transactions and use tax; and

WHEREAS, the California Department of Tax and Fee Administration (Department) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

WHEREAS, the Department will be responsible to administer and collect the transactions and use tax for the City; and

WHEREAS, the Department requires that the City enter into a “Preparatory Agreement” and an “Administration Agreement” prior to implementation of said taxes, and

WHEREAS, the Department requires that the City Council authorize the agreements;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Sebastopol that the “Preparatory Agreement” attached as Exhibit A and the “Administrative Agreement” attached as Exhibit B are hereby approved and the City Manager is hereby authorized to execute each agreement.

PASSED AND ADOPTED, by the CITY COUNCIL of THE CITY OF SEBASTOPOL, COUNTY OF SONOMA, of the STATE OF CALIFORNIA on this 17th day of December, 2024.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:

VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: _____
Mayor Stephen Zollman

ATTEST: _____
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____
Alex Mog, City Attorney

Resolution Number: XXXX-2024

A Resolution of the City Council of the City of Sebastopol Authorizing Examination of Sales or Transactions and Use Tax Records

WHEREAS, pursuant to Ordinance Numbers 1152, the City of Sebastopol (City) entered into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of sales and use taxes; and

WHEREAS, pursuant to Ordinance Number 1152, Revenue and Taxation Code section 7270, the City entered into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of transactions and use taxes; and

WHEREAS, the City Council of the City of Sebastopol deems it desirable and necessary for authorized officers, employees and representatives of the City to examine confidential sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected by the Department for the City pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Department records, and Section 7056.5 of the California Revenue and Taxation Code establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales or transactions and use tax records of the Department;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEBASTOPOL HEREBY RESOLVES AS FOLLOWS:

Section 1. That the City Manager, Assistant City Manager/City Clerk, and Administrative Services Director Director, or other officer or employee of the City designated in writing by the City Manager to the California Department of Tax and Fee Administration is hereby appointed to represent the City with authority to examine sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected for the City by the Department pursuant to the contract between the City and the Department.

Section 2. The information obtained by examination of Department records shall be used only for purposes related to the collection of City sales or transactions and use taxes] by the Department pursuant to that contract, and for purposes related to the following governmental functions of the City:

- (a) Budget Revenue Forecasting
- (b) Economic Development management

The information obtained by examination of Department records shall be used only for those governmental functions of the City listed above.

Section 3. That Avenu Insights & Analytics, LLC (doing business as MuniServices) is hereby designated to examine the sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected for the City by the Department. The person or entity designated by this section meets all of the following conditions, which are also included in the contract between the City and the Avenu Insights & Analytics, LLC (doing business as MuniServices):

- a) has an existing contract with the City to examine those sales or transactions and use tax records;

- b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the officer or employee authorized under Section 1 of this resolution to examine the information.
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;
- d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

BE IT FURTHER RESOLVED that the information obtained by examination of Department records shall be used only for purposes related to the collection of City sales or transactions and use taxes by the Department pursuant to the contract between the City and the Department and for those purposes relating to the governmental functions of the City listed in section 2 of this resolution.

Section 4. That this resolution supercedes all prior resolutions of the City Council of the City of Sebastopol adopted pursuant to subdivision (b) of Revenue and Taxation Code section 7056.

PASSED AND ADOPTED, by the CITY COUNCIL of THE CITY OF SEBASTOPOL, COUNTY OF SONOMA, of the STATE OF CALIFORNIA on this 17th day of December, 2024.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:

VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: _____
Mayor Stephen Zollman

ATTEST: _____
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____
Alex Mog, City Attorney

Resolution Number: XXXX-2024

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL APPROVING AN AGREEMENT WITH THE COUNTY OF SONOMA REGARDING MEASURE U AND MEASURE I

WHEREAS, at the November 5, 2024 General Municipal Election, voters in the City of Sebastopol approved Measure U, which enacted a ½-cent (0.5%) transactions and use tax on the sale of tangible personal property (hereinafter “Sales Tax”) for general purposes; and

WHEREAS, at the November 5, 2024 General Municipal Election, voters in the County of Sonoma approved Measure I, which enacted a ¼-cent (0.25%) Sales Tax to support early childhood education and the local children’s health care safety net; and

WHEREAS, cities and counties are authorized to enact local Sales Taxes. However, the total amount of such Sales Taxes is generally limited to two percent (2.0%) pursuant to California Revenue and Taxation Code section 7251.1; and

WHEREAS, California Revenue and Taxation Code section 7292.8 authorizes additional sales tax of a limited amount within Sonoma County; and

WHEREAS, the California Department of Tax and Fee Administration (“CDTFA”) is the state agency responsible for collecting and administering Sales Taxes throughout California; and

WHEREAS, CDTFA has opined that the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U, and the entire ¼-cent (0.25%) of the Sales Tax authorized by Measure I rely on the same ¼-cent (0.25%) of statutory authority for local governments in Sonoma County to enact Sales Taxes. CDTFA has also opined that the first ¼-cent (0.25%) of the Sales Tax authorized by Measure U can be enacted by the City in compliance with applicable laws; and

WHEREAS, CDTFA has informed the City and County that it is unable to implement both the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U and the entire ¼-cent (0.25%) of the Sales Tax authorized by Measure I because that would result in a Sales Tax above the maximum amount within the incorporated limits of the City as authorized by applicable law; and

WHEREAS, CDTFA has informed the City and County that it is seeking a formal opinion from the California Attorney General on how to implement Measure U and Measure I. However, it is unknown when the Attorney General will issue such an opinion, and it could take over six months; and

WHEREAS, CDTFA suggested to the City and County that both Parties agree to only collect 1/8-cent (0.125%) of the ¼-cent (0.25%) sales tax in question until CDTFA receives and implements an opinion from the Attorney General. CDTFA is willing to implement this proposal because it would not result in a Sales Tax within either the City or County above the maximum amount authorized by applicable law; and

WHEREAS, CDTFA’s proposal would result in the City collecting a 3/8-cent (0.375%) Sales Tax from Measure U and the County collecting a 1/8-cent (0.125%) Sales Tax for Measure I. This would be the uniform rate for Measure I throughout Sonoma County, not just within the City of Sebastopol, as the CDTFA is required to implement a countywide tax uniformly and cannot apply different rates to different jurisdictions; and

WHEREAS, Measure I is estimated to raise approximately \$30.4 million annually, but under CDTFA’s proposal only approximately \$15.7 million annually would be collected for Measure I. Measure U is estimated to raise approximately \$1.5 million annually, but under CDTFA’s proposal only \$1.125 million would be collected for Measure U; and

WHEREAS, the City and County both desire to implement an alternative arrangement that would allow the County to collect a greater amount of Measure I and the City to receive the amount of revenue estimated by Measure U; and.

WHEREAS, the City has agreed to waive the collection of the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U so that the County may collect the full ¼-cent (0.25%) of the Sales Tax authorized by Measure I throughout Sonoma County; and

WHEREAS, in exchange, the County has agreed to pay the City an amount equal to what the City would have received if it was collecting the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U. The County will make this payment out of the revenue received from Measure I; and

WHEREAS, absent the proposed Agreement, the City would receive significantly less revenue for Measure U; and

WHEREAS, the proposed Agreement serves the public interest by ensuring that the will of the voters is respected by enabling the City and County to both receive nearly all of the revenue estimated for Measure U and Measure I, as described in the official ballot documents for both measures. The public interest would be significantly harmed if the Parties did not enter into the proposed Agreement since that would result in significant reductions in the amount of revenue the City would receive to carry out the purposes of Measure U; and

WHEREAS, the Parties intend this to Agreement to remain in effect until either CDTFA is able to implement an opinion from the Attorney General regarding the administration and implementation of Measure U and Measure I, or legislation is enacted allowing the full amount of Measure U and Measure I to be collected by CDTFA; and

WHEREAS, the City Council desires to approve the proposed agreement with Sonoma County regarding Measure U and Measure I.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Sebastopol hereby approves the Agreement with Sonoma County Regarding Measure U and Measure I, and authorizes the City Manager to execute the agreement in a final form approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Council of the City of Sebastopol expressly waives collection by CDTFA of ¼-cent (0.25%) of the ½-cent (0.5%) Sales Tax authorized by Measure U, subject to execution of the agreement by both the City and County.

PASSED AND ADOPTED, by the CITY COUNCIL of THE CITY OF SEBASTOPOL, COUNTY OF SONOMA, of the STATE OF CALIFORNIA on this 17th day of December, 2024.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:

VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: _____

Mayor Stephen Zollman

ATTEST: _____
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____
Alex Mog, City Attorney

**AGREEMENT FOR STATE ADMINISTRATION
OF CITY TRANSACTIONS AND USE TAXES**

The City Council of the City of Sebastopol has adopted, and the voters of the City of Sebastopol (hereafter called “City” or “District”) have approved by the required majority vote, the City of Sebastopol Transactions and Use Tax Ordinance (hereafter called “Ordinance”), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the California State Department of Tax and Fee Administration, (hereinafter called the “Department”) and the City do agree as follows:

**ARTICLE I
DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Sections 7251.1 and 7292.8, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. _____, as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II
ADMINISTRATION AND COLLECTION
OF CITY TAXES**

A. Administration. The Department and City agree that the Department shall perform exclusively all functions incident to the administration and operation of the City Ordinance.

B. Other Applicable Laws. City agrees that all provisions of law applicable to the administration and operation of the Department Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Department pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

C. Transmittal of money.

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City's self-imposed limits or by final judgment of any court of the State of California holding that City's ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

D. Rules. The Department shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

E. Preference. Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Department shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.

F. Security. The Department agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Department shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Department.

G. Records of the Department.

When requested by resolution of the legislative body of the City under section 7056 of the Revenue and Taxation Code, the Department agrees to permit authorized personnel of the City to examine the records of the Department, including the name, address, and account number of each seller holding a seller’s permit with a registered business location in the City, pertaining to the ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Department's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Department pursuant to this Agreement.

H. Annexation. City agrees that the Department shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Department. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

ARTICLE III

ALLOCATION OF TAX

A. Allocation. In the administration of the Department's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion

of the Department, to all districts with which the Department has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Department, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund or credit applies.

B. Vehicles, Vessels, and Aircraft. For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Department in determining the place of use.

ARTICLE IV COMPENSATION

The City agrees to pay to the Department as the State's cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Department for the City.

ARTICLE V MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate or through email at jservices@cdtfa.ca.gov. If and when communications and notices may include confidential information, communications and notices must be sent through encrypted email at jservices@cdtfa.ca.gov or by mail.

Communications and notices to be sent to the Department shall be addressed to:

California State Department of Tax and Fee Administration
P.O. Box 942879
Sacramento, California 94279-0027

Attention: Administrator
Local Revenue Branch

Communications and notices to be sent to the City shall be addressed to:

City of Sebastopol
7120 Bodega Avenue
Sebastopol, California 95472
Attention: City Manager

Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on _____. This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Department completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

C. Notice of Repeal of Ordinance. City shall give the Department written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.

ARTICLE VI
ADMINISTRATION OF TAXES IF THE
ORDINANCE IS CHALLENGED AS BEING INVALID

A. Impoundment of funds.

1. When a legal action is begun challenging the validity of the imposition of the tax, the City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall transmit to the Department the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

B. Costs of administration. Should a final judgment be entered in any court of the State of California, holding that City's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Department may retain all payments made by City to Department to prepare to administer the City Ordinance.

2. City will pay to Department and allow Department to retain Department's cost of administering the City Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Department or to the State of California the amount of any taxes plus interest and penalties, if any, that Department or the State of California may be required to rebate or refund to taxpayers.

4. City will pay to Department its costs for rebating or refunding such taxes, interest, or penalties. Department's costs shall include its additional cost for developing procedures for processing

the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Department's staff for use in making these rebates or refunds and any other costs incurred by Department which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Department's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Department. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Department in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Department in connection with such refunds shall be billed by Department on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Department shall bill City on or before the 25th of each month for all costs incurred by Department for the preceding calendar month. City shall pay to Department the amount of such costs on or before the last day of the succeeding month and shall pay to Department the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Department costs incurred in making those refunds.

CITY OF SEBASTOPOL

CALIFORNIA STATE DEPARTMENT OF
TAX AND FEE ADMINISTRATION

By _____
(Signature)

By _____
Administrator
Local Revenue Branch

(Typed Name)

Date: _____

(Title)

(Date)

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the City of Sebastopol, hereinafter called *City*, and the CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, hereinafter called *Department*, do agree as follows:

1. The Department agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Department at the times and in the amounts hereinafter specified all of the Department's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Department's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Department's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Department. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Department shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Department shall be billed by the Department periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Department the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Department's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail or through email at jservices@cdtfa.ca.gov. If and when communications and notices may include confidential information, communications and notices must be sent through encrypted email at jservices@cdtfa.ca.gov or by mail. Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration
P.O. Box 942879 MIC: 27
Sacramento, California 94279-0027

Attention: Administrator
Local Revenue Branch

Communications and notices to be sent to City shall be addressed to:

City of Sebastopol
7120 Bodega Avenue
Sebastopol, California 95472
Attention: City Manager

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Department has received all payments due from City under the terms of this agreement.

CITY OF SEBASTOPOL

CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

By _____
(Signature)

By _____
Administrator
Local Revenue Branch

(Typed Name)

Date: _____

(Title)

Date: _____

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SEBASTOPOL
AND COUNTY OF SONOMA REGARDING MEASURE U AND MEASURE I**

This Memorandum of Understanding regarding Measure U and Measure I (“MOU” or “Agreement”) is entered into as of _____ (the “Effective Date”) between the City of Sebastopol (“City”) and the County of Sonoma (“County”). City and County may each be referred to herein as a “Party” or collectively as the “Parties.”

Recitals

- A. At the November 5, 2024 General Municipal Election, voters in the City of Sebastopol approved Measure U, which enacted a ½-cent (0.5%) transactions and use tax on the sale of tangible personal property (hereinafter “Sales Tax”) for general purposes.
- B. At the November 5, 2024 General Municipal Election, voters in the County of Sonoma approved Measure I, which enacted a ¼-cent (0.25%) Sales Tax to support early childhood education and the local children’s health care safety net.
- C. Cities and counties are authorized to enact local Sales Taxes. However, the total amount of such Sales Taxes is generally limited to two percent (2.0%) pursuant to California Revenue and Taxation Code section 7251.1.
- D. California Revenue and Taxation Code section 7292.8 authorizes additional sales tax of a limited amount within Sonoma County.
- E. The California Department of Tax and Fee Administration (“CDTFA”) is the state agency responsible for collecting and administering Sales Taxes throughout California.
- F. CDTFA has opined that the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U, and the entire ¼-cent (0.25%) of the Sales Tax authorized by Measure I rely on the same ¼-cent (0.25%) of statutory authority for local governments in Sonoma County to enact Sales Taxes. CDTFA has also opined that the first ¼-cent (0.25%) of the Sales Tax authorized by Measure U can be enacted by the City in compliance with applicable laws.
- G. CDTFA has informed the City and County that it is unable to implement both the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U and the entire ¼-cent (0.25%) of the Sales Tax authorized by Measure I because that would result in a Sales Tax above the maximum amount within the incorporated limits of the City as authorized by applicable law.
- H. CDTFA has informed the City and County that it is seeking a formal opinion from the California Attorney General on how to implement Measure U and Measure I. However, it is unknown when the Attorney General will issue such an opinion, and it could take over six months.

- I. CDTFA suggested to the City and County that both Parties agree to only collect $\frac{1}{8}$ -cent (0.125%) of the $\frac{1}{4}$ -cent (0.25%) sales tax in question until CDTFA receives and implements an opinion from the Attorney General. CDTFA is willing to implement this proposal because it would not result in a Sales Tax within either the City or County above the maximum amount authorized by applicable law.
- J. CDTFA's proposal would result in the City collecting a $\frac{3}{8}$ -cent (0.375%) Sales Tax from Measure U and the County collecting a $\frac{1}{8}$ -cent (0.125%) Sales Tax for Measure I. This would be the uniform rate for Measure I throughout Sonoma County, not just within the City of Sebastopol, as the CDTFA is required to implement a countywide tax uniformly and cannot apply different rates to different jurisdictions.
- K. Measure I is estimated to raise approximately \$30.4 million annually, but under CDTFA's proposal only approximately \$15.7 million annually would be collected for Measure I. Measure U is estimated to raise approximately \$1.5 million annually, but under CDTFA's proposal only \$1.125 million would be collected for Measure U.
- L. The City and County both desire to implement an alternative arrangement that would allow the County to collect a greater amount of Measure I and the City to receive the amount of revenue estimated by Measure U.
- M. The City has agreed to waive the collection of the second $\frac{1}{4}$ -cent (0.25%) of the Sales Tax authorized by Measure U so that the County may collect the full $\frac{1}{4}$ -cent (0.25%) of the Sales Tax authorized by Measure I throughout Sonoma County.
- N. In exchange, the County has agreed to pay the City an amount equal to what the City would have received if it was collecting the second $\frac{1}{4}$ -cent (0.25%) of the Sales Tax authorized by Measure U. The County will make this payment out of the revenue received from Measure I.
- O. This Agreement allows the County to collect approximately \$15.7 million more annually for Measure I compared to CDTFA's proposal, in exchange for providing the City with \$750,000 in funds.
- P. Absent this Agreement, the County would receive significantly less revenue for Measure I, which would result in significantly less money being available for the purposes specified in Measure I. Similarly, the City would receive less revenue for Measure U.
- Q. This Agreement serves the public interest by ensuring that the will of the voters is respected by enabling the City and County to both receive nearly all of the revenue estimated for Measure U and Measure I, as described in the official ballot documents for both measures. The public interest would be significantly harmed if the Parties did not enter into this Agreement since that would result in significant reductions in the amount of revenue the City and County would receive to carry out the purposes of Measure U and Measure I respectively.

- R. The Parties intend this to Agreement to remain in effect until either CDTFA is able to implement an opinion from the Attorney General regarding the administration and implementation of Measure U and Measure I, or legislation is enacted allowing the full amount of Measure U and Measure I to be collected by CDTFA.
- S. The Parties desire to enter into this MOU to establish the duties and responsibilities of each Party with regard to the matters set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Recitals.
The above recitals are true and correct, and are incorporated into this Agreement by reference as though fully set forth herein.
2. Partial Waiver of Sales Tax by City.
The City knowingly and voluntarily agrees to waive the collection of the second ¼-cent (0.25%) of the ½-cent (0.5%) Sales Tax authorized by Measure U. Accordingly, CDTFA will only collect a ¼-cent (0.25%) Sales Tax for Measure U. The City agrees to execute any and all relevant documents required by CDTFA and necessary to implement this Section.
3. Payment to City.
 - 3.1. As consideration for City’s performance of Section 2, the County agrees to pay the City an amount equal to the amount received by the City for the ¼-cent (0.25%) Sales Tax collected by CDTFA and remitted to the City as a result of the implementation of Measure U (the “County Payment”).
 - 3.2. Each month, the City shall notify the County in writing of the amount of the County Payment and shall provide appropriate supporting documentation requested by the County. Such documentation shall consist of reports or statements from CDTFA identifying the amount collected by CDTFA and remitted to the City as a result of the implementation of the ¼-cent (0.25%) Sales Tax for Measure U. The amounts reported by CDTFA shall be definitive for the purposes of determining the monthly County Payment.
 - 3.3. The County shall remit the County Payment to the City within ten (10) business days of receipt of City’s written identification of the amount of the monthly County Payment. Payment shall be made in the manner mutually agreed upon by the Parties.
 - 3.4. The County shall make the County Payment out of the funds it receives from Measure I. The Parties agree that the County’s obligations under this Section 3 are contingent upon the County actually receiving funds from CDTFA from the collection of the Sales Tax authorized by Measure I.

3.5. The Parties understand and acknowledge that CDTFA will begin collecting Measure U and Measure I on April 1, 2025, and that CDTFA remits funds to the jurisdictions two months in arrears. For illustrative purposes only, the sales tax collected in April 2025 will be remitted to jurisdictions in June 2025.

4. Term of the Agreement.

This term of this Agreement (“Term”) shall commence on the Effective Date and shall terminate on the earlier of: 1) implementation by CDTFA of an opinion from the California Attorney General regarding the administration and implementation of Measure U and Measure I, or 2) the implementation by CDTFA of legislation enacted that allows for the collection of the full amount of Measure U and Measure I without offset or deduction. The Parties understand and acknowledge that CDTFA implements changes to the Sales Tax rates only on the first day of the calendar quarter that occurs one hundred and ten (110) days after the change is finalized.

5. No Recovery of Funds.

The County expressly agrees that in the event the Attorney General issues an opinion prohibiting the City from collecting, or it is otherwise legally determined that the City cannot collect, the full ½-cent (0.5%) Sales Tax authorized by Measure U, the County irrevocably waives and relinquishes any right to clawback, recoup, or otherwise recover from the City in any way all or a portion of the County Payments. Without limiting the foregoing, the Parties agree that this waiver does not limit the County’s ability to cease the County Payments after the Term expires. The provisions of this Section shall survive the termination or expiration of this Agreement.

6. Indemnification.

To the fullest extent permitted by law, the County shall indemnify, defend, and hold harmless the City, its officers, officials, employees, and agents from and against any and all demands, claims, actions, litigation or other proceedings, liability, damages and costs (including but not limited to reasonable attorney fees) (collectively, “Claims”), that arise out of County’s implementation of this Agreement, specifically including, but not limited to, remittance of Measure I funds to the City.. The County’s obligations under this Section shall not extend to Claims that are the result of the City’s gross negligence or willful misconduct; nor shall the County’s obligations extend to claims regarding the City’s authority to waive the second ¼ cent of its sales tax under Measure U. The provisions of this Section shall survive the termination or expiration of this Agreement.

7. Modification.

The provision of this Agreement and all of the covenants and conditions set forth herein may be modified or amended only by a written duly authorized and executed by both Parties.

8. Entire Agreement.

This Agreement contains the entire understanding between the Parties relating to the transaction contemplated by this Agreement, notwithstanding any previous negotiations or agreements

between the Parties or their predecessors in interest with respect to all or any part of the subject matter hereof. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each Party is entering this Agreement based solely upon the representations set forth herein and upon each Party's own independent investigation of any and all facts such Party deems material.

9. Notices.

All notices required or provided for under this Agreement shall be in writing and shall be addressed as follows:

City: City of Sebastopol
 Attn: City Manager
 7120 Bodega Avenue
dschwartz@cityofsebastopol.gov

With Copies To:
 Alex Mog, City Attorney, alex.mog@redwoodpubliclaw.com
 Mary Gourley, City Clerk, mgourley@cityofsebastopol.gov

County: Auditor-Controller-Treasurer-Tax Collector

Jennifer Murray
 585 Fiscal Drive, Suite 100
 Santa Rosa, CA 95403
Jennifer.Murray@sonoma-county.org

With Copies To:
 Robert Pittman, County Counsel, Robert.Pittman@sonoma-county.org
 Christina Rivera, County Executive, Christina.Rivera@sonoma-county.org

A Party may change its address by giving notice in writing to the other Party. Thereafter, all notices shall be addressed and transmitted to the new address. Notices shall be deemed given and received upon personal delivery, or, if mailed, upon the expiration of seventy-two (72) hours after being deposited in the United States mail. Notices may also be given by overnight courier, which shall be deemed given the following day, or by facsimile, which shall be deemed given upon verification of receipt if received before 5:00 p.m. on a regular business day or else on the next business day. The Parties will accept notice by email transmission, which shall be deemed given upon verification of receipt if received before 5:00 p.m. on a regular business day or else on the next business day.

10. Approval, Consent, and Agreement.

Wherever this Agreement requires a Party's approval, consent, or agreement, the Party shall make its decision to give or withhold such approval, consent, or agreement in good faith, and shall not withhold such approval, consent, or agreement unreasonably or without good cause.

11. Independent Agencies.

The Parties render their services under this Agreement as independent agencies. None of either Party's agents or employees shall be agents or employees of the other Party.

12. Construction of Captions.

Captions of the sections of this Agreement are for convenience and reference only. The words in the captions in no way explain, modify, amplify, or interpret this Agreement.

13. Default.

In the event of any Party's default of any material obligation under this Agreement, the non-defaulting Party shall give the defaulting Party written notice of and a reasonable time to cure the default

14. Severability.

Should any part of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either Party to enter into or carry out, such determination shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the Parties.

15. Successors and Assigns.

The terms and provisions of this Agreement shall extend to and be binding upon and inure to the benefit of any successor or assign of the Parties.

16. Governing Authority.

This Agreement shall be governed by the laws of the State of California.

17. Authorization.

Each person signing on behalf of a Party to this Agreement represents that he or she is duly authorized to do so by the Party he or she represents, and in signing this Agreement, each person binds such Party hereto.

IN WITNESS HEREOF, the Parties have caused their authorized representative to execute this Agreement as of the Effective Date.