

CITY OF HAYWARD MEASURE C

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| <p>C To restore and maintain Hayward city services and facilities, including firefighting/emergency medical services; improving police protection for neighborhoods; replacing the aging library with a 21st century facility including safe space for after-school homework and tutoring; repairing potholes and streets; updating aging neighborhood fire stations; and other city services; shall the City of Hayward increase the sales tax by ½ percent, for twenty years only, providing locally controlled funding that cannot be taken by the State?</p> | YES |
| | NO |

s/MICHAEL S. LAWSON
 City Attorney for the City of Hayward

The above statement is an impartial analysis of Measure C, which is printed in full in this sample ballot pamphlet. If you desire an additional copy of the measure, please call the Office of the City Clerk at (510) 583-4400 and a copy will be mailed to you at no cost. You may also access the full text of the measure on the City of Hayward website at the following address: www.hayward-ca.gov

CITY ATTORNEY’S IMPARTIAL ANALYSIS OF MEASURE C

The City Council is submitting to the voters the question of whether to approve an ordinance enacting a temporary sales tax within the City of Hayward to fund City services and facilities, such as improving police protection, updating fire stations, repairing streets and potholes, replacing the City’s main library and other general City services and facilities. The tax rate would be one-half of one percent (0.50%) of the retail sales price — or one-half of one cent for an item that costs one dollar. The tax would remain in effect for twenty years.

Technically, a “sales tax” is a combination of “sales and use tax” and “transactions and use tax.” Both are levied on the sale or use of tangible personal property sold at retail, with certain limited exceptions. Retailers collect the tax at the time of sale and remit the funds to the State Board of Equalization which administers the tax.

Currently, the tax on retail sales in Hayward is nine percent (9%) of the purchase price. This measure would authorize a 0.50% transactions and use tax, which would increase the total sales tax rate to 9.50%. The tax would automatically terminate twenty years after it becomes operative, unless extended by the voters.

The tax proceeds would be deposited into the City’s general fund and be available to support the full range of municipal services. Because this measure does not legally restrict the use of tax revenue to any specific purposes, it is classified as a “general tax,” not a “special tax.” The tax proceeds may be used for any valid municipal governmental purpose and cannot legally be taken away by the State. The tax proceeds would be subject to the same independent annual audit requirements as other general fund revenue. The audit report would be a matter of public record.

This measure authorizes the City to issue bonds not to exceed the total amount of the anticipated sales tax proceeds. The proceeds from the sale of bonds could only be used for improving or replacing facilities such as the City’s main library.

A “Yes” vote is a vote in favor of the tax. A “No” vote is a vote against the tax. This measure would be approved if it receives a simple majority of “Yes” votes.

ARGUMENT IN FAVOR OF MEASURE C

VOTE YES on Measure C to protect what we all want for Hayward: safe neighborhoods, help in an emergency, decent roads, modern learning facilities, economic prosperity, improved property values, and a VIBRANT future for our city. This is the goal of Measure C.

The City of Hayward has worked hard in recent years to be fiscally responsible while maintaining essential city services. But many city facilities have deteriorated after decades of constant use. The recent Great Recession has made it impossible to fund needed repairs or replace aging facilities while still maintaining the city services we need.

Despite these challenges, good things are happening in Hayward. Measure C will continue the progress by authorizing a ½ cent sales tax to fund important city services and needed facilities, such as:

- Providing firefighting and emergency medical response services
- Improving police protection for safer neighborhoods
- Restoring funding for maintenance, including pothole and street repairs
- Upgrading aging fire stations and replacing Hayward's obsolete fire training facility
- Replacing the Hayward Main Library with a 21st Century Library and Learning Center, including space for after-school and early childhood education programs

ALL Measure C funds (100%) will stay locally controlled IN Hayward – FOR Hayward. By law, the State CANNOT take this funding away.

Basic necessities like groceries and prescription medications WON'T be taxed. Visitors to Hayward will pay their fair share, so residents won't shoulder the entire cost.

Measure C lasts 20 years ONLY. It cannot be extended without a new vote.

Measure C is a smart investment. The longer we wait, the more expensive it will be.

Please join firefighters, police officers, seniors, parents, neighborhood, civic and business leaders and residents from every Hayward neighborhood in taking this positive step to keep our community moving forward.

Learn more at www.protecthaywardsfuture.com

Please VOTE YES on C.

s/Charles C. Plummer

Sheriff Emeritus & Hayward Resident

s/Judy Harrison

President, Friends of the Hayward Public Library

31-year Hayward School Librarian

s/Robert Sakai

Attorney & 60-year Hayward resident

s/Doris J. Rodriguez

55-year Resident & Retired City Council Member

s/Elaine J. Sunday

President Hayward Neighborhood Alert &
Long-Time Hayward Resident

ARGUMENT AGAINST MEASURE C

Why does the City believe it's entitled to greater relief from the effects of the recession and future inflationary costs than its residents and businesses?

Why does the City contend that it has over half-a-billion dollars in unmet capital needs, yet provides no reference to any document supporting this incredible claim? Why does the City's Capital Improvement Program list unfunded capital projects valued at \$325M of which more than half this amount can be attributed to Caltrans interchange projects traditionally funded by federal, state, and regional sources?

Why is the City proposing a \$60M library that is 50-percent more costly than even the most expensive new Bay Area library built within the past decade? How will the City afford to stock, staff, and otherwise operate this proposed three story facility that would be more than twice the size of the existing?

Why does the City believe that it's managing its finances responsibly when the 20-highest compensated city employees in 2012 each received a quarter-of-a-million dollars or more in salary and benefits? Or when the top six received more than \$300,000 in compensation—*nearly six times Hayward's median household income*?

Why hasn't the city's existing supplemental taxes (the emergency facilities tax and the 5.5-percent utility tax) accomplished what they were intended to do? Why is the City not concerned by the burden that this unprecedented combination of taxes will have on Hayward's residents and businesses? Why is the City not concerned that this measure in combination with the possible augmentation of the county transportation sales tax will set Hayward's sales tax rate at an even 10-percent?

Why does the City believe that its residents and businesses are an endless source of revenue?

Why?

www.HeyHayward.com

s/Lawrence M. Johmann

Hayward resident, property owner & businessman

FULL TEXT OF MEASURE C

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF HAYWARD IMPOSING A TRANSACTIONS AND USE (SALES) TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

WHEREAS, a locally-enacted revenue measure would protect and maintain Hayward services because the money is legally required to stay in our community and cannot be taken by the State, providing locally controlled funds for local services; and

WHEREAS, at its March 4, 2014 meeting, the City Council considered calling an election to seek voter approval of a proposed general transactions and use (sales) tax, as authorized by Revenue and Taxation Code section 7285.9; and

WHEREAS, at that meeting, the City Council concluded that all of the information presented indicated that, to obtain the revenue necessary to maintain and preserve service levels, the Council should call an election to ask the voters of the City to approve a twenty year local transactions and use (sales) tax, the revenue from which could be used to support general municipal services; and

WHEREAS, on the basis of the foregoing, the City Council determined that it was appropriate to place a measure regarding a general transactions and use (sales) tax before the voters at the June 3, 2014 general election; and

WHEREAS, the tax, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property. The tax rate would be one-half of one percent (0.50%) (one-half cent for each dollar) of the sales price of the property. The tax revenue would be collected by the State Board of Equalization and remitted to the City. The tax would be in effect for twenty years, and would then expire automatically, unless extended by the voters. The tax shall be approved if the measure receives at least a simple majority of affirmative votes.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAYWARD ORDAINS AS FOLLOWS:

Section 1. Amendment of Code.

The Hayward Municipal Code is hereby amended to add a new Chapter 8, Article 19 and shall read as follows:

CHAPTER 8

ARTICLE 19

TRANSACTIONS AND USE (SALES) TAX

SEC. 8-19.100. Title.

This ordinance shall be known as the City of Hayward Transactions and Use (Sales) Tax Ordinance. The City of Hayward hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

SEC. 8-19.200 Operative Date.

"Operative Date" means October 1, 2014.

SEC. 8-19.300. Purpose.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes.

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

(d) To adopt a retail transactions and use (sales) 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 (sales) taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

SEC. 8-19.400. 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 (sales) 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.

SEC. 8-19.500. Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 0.50% 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.

SEC. 8-19.600. 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.

SEC. 8-19.700. Use Tax Rate.

A transactions and use (sales) tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 0.50% 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.

SEC. 8-19.800. 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.

SEC. 8-19.900. 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 therefor. 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 of 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.

SEC. 8-19.1000. 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.

SEC. 8-19.1100. Exemptions and Exclusions.

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

(c) There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this 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 (sales) 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 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 subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease had 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 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.

SEC. 8-19.1200. Amendments.

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

SEC. 8-19.1300. 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 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.

SEC. 8-19.1400. Authorization and Limitation on Issuance of Bonds.

The City is hereby authorized to issue limited tax bonds, from time to time, provided that the maximum bonded indebtedness will not exceed the total amount of this retail transactions and use (sales) tax.

SEC. 8-19.1500. Annual Audit

The proceeds resulting from this transactions and use (sales) 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.

SEC. 8-19.1600. Termination Date.

The authority to levy the tax imposed by this ordinance shall expire on the twentieth anniversary of the last day of the calendar quarter following the operative date."

Section 2. Environmental Compliance.

The findings for this ordinance in compliance with the California Environmental Quality Act ("CEQA") are the same as those set forth in the City's Resolution No. 14-028 calling for an election on this ordinance. The CEQA findings in Resolution No. 14-028 are incorporated herein by reference.

Section 3. Severability.

If any provision of this ordinance or the application

thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 4. Effective Date.

The Ordinance relates to the levying and collecting of the City transactions and use (sales) taxes and shall take effect immediately.