



COUNTY OF HUMBOLDT

AGENDA ITEM NO.
C-20

For the meeting of: August 9, 2016

Date: July 29, 2016

To: Board of Supervisors

From:  Thomas K. Mattson, Public Works Director

Subject: Resolution Calling a Special Election to Consider Whether an Ordinance Establishing a Local Transportation Authority Retail Transactions and Use Tax Should be Adopted and Consolidating Said Special Election with the General Election to be Held on November 8, 2016

RECOMMENDATION(S): That the Board of Supervisors:


Adopts the attached resolution (Attachment 1) calling for a special election for the purpose of submitting to the qualified voters of Humboldt County the question of whether Humboldt County Association of Governments Ordinance No. 16-02, which imposes a one-half percent (0.5%) retail transactions and use tax for twenty years to provide for supplemental funding for transportation maintenance improvements throughout Humboldt County, should be approved or rejected and consolidating said special election with the general election to be held on November 8, 2016.

SOURCE OF FUNDING: Road Fund and/or General Fund

DISCUSSION:



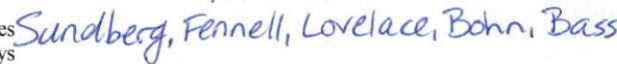
On July 5, 2016, your Board designated HCAOG as the Local Transportation Authority ("LTA") of Humboldt County in accordance with California Public Utilities Code Section 180050. As the Humboldt County LTA, HCAOG may impose a retail transactions and use tax pursuant to California Public Utilities Code Section 180201, provided that:

Prepared by Thomas K. Mattson

CAO Approval 

REVIEW: Auditor  County Counsel  Human Resources _____ Other _____

TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor  Seconded by Supervisor 
Ayes 
Nays _____
Abstain _____
Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: 
By: 
Kathy Hayes, Clerk of the Board

- 1) A county transportation expenditure plan that has been approved by the Humboldt County Board of Supervisors and city councils representing both a majority of the cities in Humboldt County and a majority of the population residing in the incorporated areas therein, is adopted by HCAOG;
- 2) An ordinance which imposes a retail transactions and use tax for transportation maintenance improvements, and requests that the Humboldt County Board of Supervisors call a special election pertaining thereto, is adopted by a two-thirds vote of HCAOG's governing board;
- 3) The Humboldt County Board of Supervisors calls a special election for the purpose of submitting to the voters of Humboldt County the question of whether such ordinance should be adopted; and
- 4) The ordinance is approved by at least two-thirds of the qualified electors voting thereon at the special election called for that purpose.

Over the past two months all seven city councils representing 63,286 residents approved a resolution of support for the Humboldt County Transportation Ballot Measure Expenditure Plan ("Expenditure Plan") prepared by HCAOG pursuant to California Utilities Code Section 18206. Your Board approved the Expenditure Plan on July 5, 2016.

On July 21, 2016, HCAOG's governing board adopted, by a seven to one vote, the Expenditure Plan and HCAOG Ordinance No. 16-02 (Attachment 2) which imposes a one-half percent (0.5%) retail transactions and use tax for twenty years to provide for supplemental funding for transportation maintenance improvements throughout Humboldt County. Although the City of Fortuna approved the Expenditure Plan, it does not recommend putting the measure on the November 8, 2016 ballot. HCAOG prepared HCAOG Ordinance No. 16-02 in consultation with the State Board of Equalization, the entity that will collect and remit the proposed tax. The full Expenditure Plan is attached to HCAOG Ordinance No. 16-02 as Exhibit A, and incorporated therein by reference. HCAOG Ordinance No. 16-02 also requests that the Humboldt County Board of Supervisors take the appropriate steps to place a ballot measure before the voters of Humboldt County on November 8, 2016, as required by California Public Utilities Code Section 180201.

The attached resolution calls for a special election to consider the following ballot measure statement pertaining to HCAOG Ordinance No. 16-02, and consolidates that special election with the general election of November 8, 2016:

MEASURE ____. *To supplement existing funding for maintenance, rehabilitation, and reconstruction of existing transportation including trails and transit; local match leveraging of state/federal funds for road, trail, and transit infrastructure; and retention of existing commercial air service, shall the Humboldt County voters adopt an ordinance establishing a ½¢ per dollar sales tax throughout Humboldt County for 20 years, raising approximately \$10,000,000 annually, requiring independent audits, separate accounts, public oversight and local revenue control?*

It should be noted that, in order to meet the requirements of the California Elections Code, the above-referenced ballot measure statement, which is incorporated into the attached resolution by reference, is substantially similar, but not identical, to the ballot measure set forth in Section 21 of HCAOG Ordinance No. 16-02. As a result, HCAOG will amend Section 21 of HCAOG Ordinance No. 16-02 to reconcile the

differences between the ballot measure statement contained therein and the above-referenced ballot measure statement prior to the November 8, 2016 election.

If your Board acts to place the above-referenced ballot measure on the November 8, 2016 ballot, and it is approved by at least two-thirds of the qualified electors voting thereon, HCAOG Ordinance No. 16-02 will become effective immediately after voter approval and terminate on March 31, 2037.

FINANCIAL IMPACT:

The County will incur all of the costs associated with conducting the special election pertaining to HCAOG Ordinance No. 16-02. The cost to the County associated with such an election are estimated to be approximately \$15,000.00. If HCAOG Ordinance No. 16-02 is approved by at least two-thirds of the electors voting, HCAOG will reimburse the County for the costs of the election as required by California Public Utilities Code Section 180203(a).

The requested action conforms to the Board of Supervisors' initiative of safeguarding the public trust by managing local resources to ensure sustainability of services.

OTHER AGENCY INVOLVEMENT:

Humboldt County Association of Governments, Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell and Trinidad

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to adopt the attached resolution. However, this action is not recommended as the County has taken previous action to approve HCAOG moving forward with the proposed retail transactions and use tax and has approved the proposed expenditure plan for such tax.

ATTACHMENTS:

1. Resolution of the Board of Supervisors of the County of Humboldt Calling a Special Election to Submit to the Qualified Electors of Humboldt County a Countywide Measure to Consider Whether an Ordinance Establishing a Local Transportation Authority Retail Transactions and Use Tax Should be Adopted and Consolidation of Said Special Election with the General Election to be Held on November 8, 2016
2. Humboldt County Associations of Governments Ordinance No. 16-02

Attachment 1

Resolution of the Board of Supervisors of the County of Humboldt Calling for a Special Election to Consider Whether an Ordinance Establishing a Local Transportation Authority Retail Transactions and Use Tax Ordinance Should be Adopted and Consolidating Said Special Election with the General Election to be Held on November 8, 2016

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings, Meeting of August 9, 2016

RESOLUTION NO. 16-92

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT CALLING A SPECIAL ELECTION TO SUBMIT TO THE QUALIFIED ELECTORS OF HUMBOLDT COUNTY A COUNTYWIDE MEASURE TO CONSIDER WHETHER AN ORDINANCE ESTABLISHING A LOCAL TRANSPORTATION AUTHORITY RETAIL TRANSACTIONS AND USE TAX SHOULD BE ADOPTED AND CONSOLIDATION OF SAID SPECIAL ELECTION WITH THE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016

WHEREAS, on July 5, 2016, the Humboldt County Board of Supervisors designated the Humboldt County Association of Governments ("HCAGG") to serve as the Local Transportation Authority of Humboldt County pursuant to California Public Utilities Code Section 180050; and

WHEREAS, California Public Utilities Code Section 180201 provides that a retail transaction and use tax may be imposed by a local transportation authority, if the tax ordinance prepared thereby is adopted by a two-thirds vote of the authority and imposition of the tax is subsequently approved by a two-thirds majority of the electors voting on the measure at a special election called by the board of supervisors of the County in which the tax is to imposed, at the request of the authority, and a county transportation expenditure plan is adopted pursuant California Public Utilities Code Section 180206; and

WHEREAS, HCAOG has adopted, and the Humboldt County Board of Supervisors and the city councils representing at least a majority of the cities in Humboldt County and a majority of the population residing in the incorporated areas therein have approved, the Humboldt County Transportation Ballot Measure Expenditure Plan pursuant to California Public Utilities Code Section 180206; and

WHEREAS, on July 21, 2016, HCAOG adopted, by a seven to one vote, HCAOG Ordinance No. 16-02 which imposes a retail transactions and use tax (i.e., sales tax) at a rate of one-half of one percent (0.5%) throughout Humboldt County for twenty years, and requests that the Humboldt County Board of Supervisors call a special election pertaining thereto, pursuant to California Public Utilities Code Section 180201; and

WHEREAS, the Humboldt County Board of Supervisors desires to call a special election for the purpose of submitting to the qualified voters of Humboldt County a ballot measure pertaining to HCAOG Ordinance No. 16-02 pursuant to California Public Utilities Code Section 180203, and consolidate said special election with the general election to be held on November 8, 2016; and

WHEREAS, pursuant to California Public Utilities Code Section 180203(a), HCAOG will reimburse the County for the costs of said special election, if HCAOG Ordinance No. 16-02 is approved by the voters of Humboldt County; and

WHEREAS, HCAOG Ordinance No. 16-02 shall not be effective, as a matter of law, unless and until it is approved by at least two-thirds of the electors voting thereon.

NOW, THEREFORE, BE IT RESOLVED by the Humboldt County Board of Supervisors that:

1. Pursuant to California Public Utilities Code Sections 180201 and 180203, the Humboldt County Board of Supervisors hereby calls for, and orders that, a special election be held for the purpose of submitting to the qualified voters of Humboldt County the question of whether HCAGG Ordinance No. 16-02, which imposes a retail transactions and use tax at a rate of one-


BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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RESOLUTION NO. 16-92

- half of one percent (0.5%) for twenty years to provide supplemental funding for transportation improvements throughout Humboldt County should be approved or rejected; and
2. The special election called for herein shall be consolidated with the general election to be held throughout Humboldt County on Tuesday, November 8, 2016; and
 3. That the Humboldt County Board of Supervisors hereby directs staff to take any and all actions necessary to place HCAOG Ordinance No. 16-02 on the ballot for the November 8, 2016 election, as summarized in the ballot measure statement attached hereto as Exhibit A – Ballot Measure Proposing a Local Transportation Authority Retail Transactions and Use Tax – and incorporated herein by reference; and
 4. HCAOG Ordinance No. 16-02 shall become effective upon the affirmative vote of at least two-thirds of the qualified electors voting thereon.

Dated: August 9, 2016


MARK LOVELACE, Chair
Humboldt County Board of Supervisors

Adopted on motion by Supervisor Fennell, seconded by Supervisor Sundberg, and the following vote:

AYES:	Supervisors	Sundberg, Fennell, Lovelace, Bohn, Bass
NAYS:	Supervisors	--
ABSENT:	Supervisors	--
ABSTAIN:	Supervisors	--

STATE OF CALIFORNIA)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be an original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.


By ANA HARTWELL
Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California

EXHIBIT A

**BALLOT MEASURE PROPOSING A LOCAL TRANSPORTATION AUTHORITY RETAIL
TRANSACTIONS AND USE TAX**

Measure ____. To supplement existing funding for maintenance, rehabilitation, and reconstruction of existing transportation including trails and transit; local match leveraging of state/federal funds for road, trail, and transit infrastructure; and retention of existing commercial air service, shall the Humboldt County voters adopt an ordinance establishing a ½¢ per dollar sales tax throughout Humboldt County for 20 years, raising approximately \$10,000,000 annually, requiring independent audits, separate accounts, public oversight and local revenue control?	YES	
	NO	

Attachment 2

Humboldt County Association of Governments Ordinance No. 16-02

ORDINANCE NO. 16-02

AN ORDINANCE OF THE HUMBOLDT COUNTY ASSOCIATION OF GOVERNMENTS ACTING IN ITS CAPACITY AS THE HUMBOLDT COUNTY LOCAL TRANSPORTATION AUTHORITY IMPOSING A ONE-HALF OF ONE PERCENT TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

THE HUMBOLDT COUNTY ASSOCIATION OF GOVERNMENTS, ACTING IN ITS CAPACITY AS THE HUMBOLDT COUNTY LOCAL TRANSPORTATION AUTHORITY, does hereby ordain as follows:

Section 1. PREAMBLE.

A. Humboldt County's transportation system is used by everyone. A properly functioning and well-maintained transportation system in Humboldt County is a key component of our quality of life and ability to attract jobs to our region. Our population is mobile and while Humboldt County's population grows slower than the rest of the State of California, residents are living longer and our young families are growing, and communities are more connected than ever before for jobs, schools, shopping and entertainment. Unfortunately, due to the decline in the purchasing power of the gas tax, and the increasing restrictions that the state and federal government have placed on their limited available transportation funds, our transportation infrastructure is deteriorating.

Dramatic reductions in federal and state funding have left cities struggling to maintain local streets and roads. The maintenance and repairs of existing roadways, trails and transit cannot be accomplished with available funds. Projects in regions of the state which have a local source of transportation funds, primarily through local retail transactions and use tax funds, have been and will continue to be viewed much more favorably in the selection process of the California Transportation Commission. Local governments must either generate revenue to maintain our transportation system or watch the system collapse and endanger the health, economy, welfare and safety of all Humboldt County residents.

Enactment of a one-half of one percent (0.5%) retail transactions and use tax for transportation to supplement traditional revenue sources is the only way local governments can generate the funds needed to be sure the transportation system will serve the current and future travel needs of Humboldt County.

The Humboldt County Association of Governments will continue to seek maximum funding for transportation improvements through State and federal programs. It is important for the public to know that the funds generated by this proposed retail transactions and use tax for transportation purposes will be used only for the transportation expenditure plan detailed in this ordinance, and therefore, the Humboldt County Association of Governments will establish a system of accountability in conjunction with the tax, including annual independent audits, a taxpayer oversight committee and annual report.

The Humboldt Association of Governments has developed a fair, uncomplicated and accountable expenditure plan to address our long-term transportation maintenance needs while preserving Humboldt County's quality of life.

B. Pursuant to California Public Utilities Code Section 180050, the Humboldt County Association of Governments has been designated as the Humboldt County Local Transportation Authority (hereinafter called the "Authority") by the Humboldt County Board of Supervisors.

C. Pursuant to California Public Utilities Code Section 180206, a countywide transportation expenditure plan, referred to as the Humboldt County Transportation Ballot Measure Expenditure Plan (hereinafter called the "Plan"), dated July 21, 2016, has been adopted and will be administered and implemented by the Authority.

D. The Plan provides for needed countywide transportation maintenance necessities funded, in whole or in part, by a transactions and use tax of one-half of one percent for a period of twenty (20) years. The Plan is incorporated here by this reference as though fully set forth herein, and as that Plan may be amended from time to time pursuant to applicable law and as provided for in the Plan and this ordinance.

Section 2. TITLE. This ordinance shall be known as the Humboldt County Association of Governments Transactions and Use Tax Ordinance, and may also be referenced herein as the "ordinance." This ordinance shall be applicable in the incorporated and unincorporated territory of the County of Humboldt, which shall be referred to herein as "District."

Section 3. OPERATIVE DATE. "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

Section 4. PURPOSE. This ordinance is adopted to permit implementation of the Plan and achieve the following, among other purposes. It directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 180000 *et. seq.* of the Public Utilities Code which authorizes the Authority to adopt this tax ordinance which shall be operative if the legally required number of 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 State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

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

Section 5. CONTRACT WITH STATE. Prior to the operative date, the Authority shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Authority 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.

Section 6. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the District at the rate of one-half of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 7. 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.

Section 8. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the District 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 one-half of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 9. 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.

Section 10. 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 Authority 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 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 Authority or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property, which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "District" 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.

Section 11. 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.

Section 12. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the District which is shipped to a point outside the District, 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 District 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-District 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-District and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of 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 District of tangible personal property:

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

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

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

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

5. For the purposes of 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 has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the District 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 District or participates within the District 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 District or through any representative, agent, canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer.

7. "A retailer engaged in business in the District" 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 District.

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.

Section 13. AMENDMENTS. This Ordinance and Expenditure Plan may be amended to provide for updated information used in the allocation formula by approval of a two-thirds vote of the members of the Authority. No amendment shall operate so as to affect the rate or duration of tax imposed by this Ordinance.

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.

Section 14. USE OF PROCEEDS. The proceeds of the transactions and use tax imposed by this ordinance shall be used solely for the projects, programs and purposes set forth in the Humboldt County Ballot Measure Expenditure Plan, as it may be amended from time to time, and for the administration thereof.

Section 15. MAINTENANCE OF EFFORT. It is the intent of the Legislature and the Authority that proceeds from the transactions and use tax be used to supplement, not replace, existing funds being used for transportation improvements and services. Maintenance of Effort standards are established in the Plan. Under no circumstances shall proceeds from the transactions and use tax be used to substitute or replace obligations that new development may incur for mitigating impacts on infrastructure or the environment.

Section 16. APPROPRIATIONS LIMIT. For purposes of Public Utilities Code section 180202, the appropriations limit for the Authority for fiscal year 2017-18 shall be \$12 million and thereafter that amount should be amended pursuant to applicable law. All expenditures of the transaction and use tax authorized herein shall be subject to the appropriations limit of the Authority.

Section 17. ADMINISTRATION AND SPENDING LIMIT. The Authority shall allocate revenues from the transactions and use tax to fund facilities, services and projects as specified in the Plan and shall administer the ordinance and the Plan consistent with the authority cited. Revenues from the tax may be expended by the Authority for salaries, wages, benefits, and overhead for those services, including contractual services, necessary to carry out its responsibilities; however, in no case shall the tax revenues expended for salaries and benefits of the Authority administrative staff exceed more than one half of one percent (0.5%) of the funds generated by the tax in any year. The Authority may, as the law permits, contract with any public agency or private firm for services necessary to carry out the purposes of the ordinance and the Plan.

Section 18. SAFEGUARDS ON USE OF TAX PROCEEDS. The following safeguards are hereby established to ensure strict adherence to limitations on the use of the proceeds from the transactions and use tax:

A. A transportation special revenue fund (the "Local Transportation Authority Special Revenue Fund") shall be established to maintain all proceeds from the transactions and use tax.

B. Each agency receiving the revenues identified in Section 20 shall have its revenues deposited in a separate interest bearing Transportation Improvement Fund. Interest earned on revenues allocated pursuant to this Ordinance shall be expended only for those purposes permitted by this Ordinance.

C. No proceeds from the transactions and use tax shall be used by any entity for other than the purposes authorized by the ordinance and the Plan. Any entity that violates this provision must fully reimburse the Authority for the funds misspent, plus any accrued interest, and will have any further allocations withheld until all funds are reimbursed.

Section 19. ALLOCATION OF FUNDS TO LOCAL JURISDICTIONS. The allocation formula for funds provided to local jurisdictions for Local Streets, Roads and Transportation Priorities as shown in the Table on Page 1 of the Plan was established by a cooperative effort with all jurisdictions in Humboldt County represented. Of the 99.5% of funds available after the administrative allocation, a total of \$50,000 for each of the small cities (Blue Lake, Ferndale, Rio Dell and Trinidad), totaling \$200,000 per year, shall be taken "off the top" and added to the formula allocation for those cities. The formula allocation of the remaining funds is as follows: Fifty percent (50%) of the allocation is based on the proportion of sales tax generated on a regional level and the remaining fifty percent (50%) is based on road miles and population. Of this portion road miles are weighed at 25% and population at 75%.

Section 20. ANNUAL REPORT. Annually the Authority shall publish a report on how all proceeds from the transactions and use tax have been spent and on progress in implementing the Plan, and shall publicly report on the findings. The Oversight Committee shall oversee the development of the report.

Section 21. REQUEST FOR ELECTION. Pursuant to California Public Utilities Code Section 180201, the Authority hereby requests that the County of Humboldt Board of Supervisors call a special election to be conducted by the County of Humboldt on November 8, 2016 to place the following measure before the electors:

To supplement existing local funding for maintenance, rehabilitation, and reconstruction of existing transportation including trails and transit; local match leveraging of state and federal funds for road, trails and transit infrastructure; and retention of commercial air service, shall a half cent sales tax be enacted throughout Humboldt County for 20 years, raising approximately ten million

dollars annually, requiring independent audits, separate interest bearing accounts, oversight by a taxpayer committee, public review of spending and all revenues controlled locally?

Section 22. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT. The Authority finds that this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, “CEQA,” and 14 Cal. Code Reg. §§ 15000 *et seq.*, “CEQA Guidelines”). The transactions and use tax authorized by this ordinance is a special tax that can only be used to fund the projects, facilities, and services described in the Plan but does not approve any of the described projects or services. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project or service that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have such effect, the Authority or appropriate lead agency would undertake the required CEQA review for that particular project or service. Therefore, pursuant to CEQA Guidelines Section 15060, review of the ordinance under CEQA is not required. Prior to commencement of any project or service included in the Plan, any necessary environmental review required by CEQA shall be completed. The Authority or appropriate lead agency for any project or service funded by the revenue from the tax shall perform CEQA analysis for the project or service prior to approving the project, if the project or service requires analysis under CEQA.

Section 23. 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 Authority, or against any officer of the State or the Authority, 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.

Section 24. VALIDATION OF TAX AND BONDS. Any action or proceedings questioning, contesting, or denying the validity of the adoption of this transactions and use tax ordinance or issuance of any bonds thereunder or any proceeding related thereto shall be commenced within six months from the date of the election at which this ordinance is approved. Otherwise, the bonds and all proceedings related thereto, including the adoption and approval of this ordinance, shall be held valid and in every respect legal and incontestable.

Section 25. 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 26. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the District transactions and use taxes and shall take effect immediately.

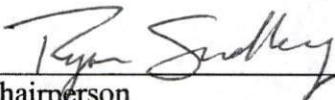
Section 27. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire March 31, 2037.

PASSED AND ADOPTED by the Members of the Humboldt County Association of Governments, State of California, acting in its capacity as the Humboldt County Transportation Authority, on July 21, 2016, by the following vote:

AYES:


NOES:

ABSENT:



Chairperson

Attest:



(Signature)

Clerk
(Title)

Exhibit A

Humboldt County Transportation Ballot Measure Expenditure Plan

All of the cities in Humboldt County and the County itself have expressed the challenges that they face in funding maintenance of local streets and other transportation infrastructure. The Humboldt County Association of Governments (HCAOG) submitted to the voters of the County a measure that would authorize a half-cent (0.5%) transactions and use (sales) tax to fund local road and transportation infrastructure projects.

Not more than half of one percent of funds, on an annual basis, will be used for administrative purposes of the HCAOG. The remaining 99.5% of funds generated by the sales tax measure will be allocated to the Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, Trinidad and the County of Humboldt for local projects. Each of the cities and the County will decide on which projects to fund, as long as those projects eligible under the standards of this Plan. The allocation formula is based upon \$50,000 base for the four smallest cities (Blue Lake, Ferndale, Rio Dell and Trinidad) with the balance allocated by road miles, population and sales tax generation. The 20-year investment is expected to generate \$200,000,000.

20 Year Plan Totaling \$200 Million	Percent of Funds	Estimated Annual Allocation	20-Year Allocation Estimate
Audits, Oversight Committee Administration, Annual Reports <small>Administration costs will be reimbursed actual expenditures, not to exceed \$50,000 per year.</small>	0.50%	\$50,000	\$1,000,000
Arcata	11.41%	\$1,141,041	\$22,820,829
Blue Lake	0.97%	\$96,865	\$1,937,292
Eureka	32.57%	\$3,257,049	\$65,140,972
Ferndale	1.39%	\$139,014	\$2,780,279
Fortuna	7.48%	\$747,702	\$14,954,035
Rio Dell	1.86%	\$185,632	\$3,712,638
Trinidad	0.94%	\$94,125	\$1,882,498
County of Humboldt	42.89%	\$4,288,573	\$85,771,457
TOTAL	100%	\$10,000,000	\$200,000,000

Eligible Uses

- Maintenance, rehabilitation, and reconstruction of existing transportation infrastructure including trails and transit.
- Local match leveraging of state and federal funds for road, trails and transit infrastructure.
- Retention of existing commercial air service.

Safeguards and Accountability Measures

This Transportation Investment Plan includes strong taxpayer safeguards to ensure that the projects and programs approved by the voters are funded and delivered.

Taxpayer Oversight Committee: This committee will be created to provide an enhanced level of accountability for expenditures made under this Investment Plan to ensure that all voter mandates are carried out and that the financial integrity and performance of the program is maintained.

Annual Independent Audit and Annual Reporting: Annual fiscal and compliance audits will be conducted by an independent Certified Public Accountant, selected by the Taxpayers Oversight Committee, to assure that the revenues are expended in compliance with the tax measure and this Plan. The audit's results and annual report must be published and made available to the general public.

Sunset Date: This measure terminates in 20 years.

Administrative Expense Cap: Expenditures of HCAOG staff necessary to administer the program will be limited to no more than one-half of one percent of the annual gross revenues provided by the measure. These costs include independent audits, staffing the oversight committee, administrative costs associated with allocation of funds and required reporting by the cities and County, and producing an annual report.

Eligibility Verification: The cities and County will select transportation projects that meet eligibility criteria as identified in this Plan. The local jurisdictions will certify in the annual verification submitted to the HCAOG that these transportation funds were used for eligible expenses.

Maintaining Local Transportation Funding Efforts: The local jurisdictions will certify in the annual verification submitted to HCAOG that these transportation funds will be used to augment and not supplant local resources spent. For purposes of this calculation an average of the prior five (5) years spent for local transportation purposes will be used. Extraordinary funding such as "one-time" funding adopted as part of the jurisdiction's annual budget may be excluded from the calculation of a jurisdiction's average spending.

Comprehensive Review of Progress and Performance: At least every ten years, a comprehensive review of all programs and projects implemented under the Plan will be undertaken to evaluate the status and performance of the overall program. The review shall include consideration of changes to local, state and federal transportation plans and policies; changes in environmental standards and policies; revenue projections; data used in the allocation formula; level of public support for the Plan; and the progress of the local jurisdictions in implementing the Plan. The Commission may amend the Plan based upon its comprehensive review, subject to the following amendment process.

Amendments Require 2/3rd Support of the HCAOG Board: The Plan may be amended to provide for the use of additional federal, state or local revenues, to account for unexpected revenues, to take into consideration unforeseen circumstances or respond to a comprehensive review. An amendment must be adopted by a two-thirds vote of the HCAOG Board acting as both HCAOG and the Local Transportation Authority. The public and all jurisdictions in the County will be given a minimum of 45 days to comment on any proposed amendment.

HCAOG is an association of local governments representing all seven cities and the County of Humboldt that is responsible for coordinating transportation planning in the Humboldt region. HCAOG has the fiduciary duty of administering the transportation sales tax proceeds in accordance with all applicable laws and with the Plan. The monies collected shall be accounted for and invested separately, unless and until the funds are turned over to a local agency in accordance with the Plan. At such time, the local agency shall keep a separate accounting of the monies and any and all expenditures to ensure that the monies are spent in accordance with the approved Plan. All interest income generated by these proceeds will be used for the purposes outlined in this Plan and will be subject to audits. HCAOG may use the contingency fund to make up the difference between the budgeted revenues and the actual revenues.