

**BEFORE THE
MADERA COUNTY
2006 TRANSPORTATION AUTHORITY
ORDINANCE NO. 2022-01**

WHEREAS, since 1990, transportation improvements in Madera County have been supported by a ½ cent sales tax, currently known as Measure T, which has funded many important transportation improvements that have been completed or are in progress in communities throughout Madera County; and

WHEREAS, Measure T has funded highway and interchange upgrades, road repair and improvements, public transit, bike and pedestrian safety and other programs to relieve traffic congestion, improve air quality, and provide safe and affordable transportation options for all residents throughout Madera County; and

WHEREAS, Measure T provides approximately over \$12 million per year in locally controlled funding for local transportation projects and has allowed the County to leverage over \$226 million in state and federal matching funds to make priority repairs and transportation improvements to meet Madera County's transportation needs; and

WHEREAS, Measure T provides local control by directly funding transportation improvements in the City of Chowchilla, City of Madera, and communities throughout unincorporated Madera County; and

WHEREAS, keeping roads and highways in good condition and enhancing mobility helps protect public safety by allowing police, firefighters, and ambulances to respond quickly to emergencies and ensuring first responders are not stuck in traffic or slowed-down by failing infrastructure; and

WHEREAS, public transit is a lifeline for senior citizens and people with disabilities that depend on affordable buses, paratransit and dial-a-ride to get to doctor's appointments, the grocery store, and to remain independent when they cannot drive; and

WHEREAS, Madera County's transportation system is the backbone of our regional economy, allowing local farmers and businesses to move produce and products to market, creating good jobs for local residents; and

WHEREAS, since it was approved by voters, Measure T has required a clear system of accountability, including a Citizen's Oversight Committee and annual independent audits to ensure that the money from the measure has been spent appropriately and in accordance with the voter-approved expenditure plan; and

WHEREAS, in the past 30 years, Madera County's population has nearly doubled, and experts forecast that it will continue to grow at a fast rate requiring continued investment in local highways, interchanges, and major streets to keep up with this growth, enhance mobility, and protect local quality of life; and

WHEREAS, Measure T was approved with a 20-year expiration date and this funding will soon expire unless renewed by voters; and

WHEREAS, if Measure T funding expires, City of Chowchilla, City of Madera, and Madera County will lose a major source of funding for fixing potholes, paving and maintaining streets and roads, reducing enhancing mobility, improving highway interchanges, retrofitting older bridges and overpasses, improving highway safety, providing students with safe routes to schools, keeping public transit affordable and improving bicycle and pedestrian safety; and

WHEREAS, if Measure T funding expires, Madera County will not have the local matching funds needed to compete for an estimated \$600 million in State and Federal transportation funding and those funds would go to other communities like Los Angeles and San Francisco; and

WHEREAS, the Madera County 2006 Transportation Authority (the “Authority”) desires to submit to the voters at the General Municipal Election on November 8, 2022, a ballot measure to consider adopting a proposed ordinance to renew Measure T (“Measure T Renewal”); and

WHEREAS, renewing Measure T without increasing the tax rate will continue locally controlled funding for transportation repairs and improvements; and

WHEREAS, renewing Measure T until ended by a vote of the electorate will ensure such funding for as long as voters desire to complete all the projects contemplated by the measure renewal; and

WHEREAS, essential purchases like food and groceries are exempt from the Measure T ½ cent sales tax, helping to ensure the cost is not a burden to those on fixed or limited incomes; and

WHEREAS, the Measure T ½ cent sales tax is paid by both residents and visitors shopping in Madera County, including visitors traveling to and from Yosemite, to ensure all users of local roads and transportation infrastructure contribute; and

WHEREAS, a measure to renew Measure T funding will continue to require strict fiscal accountability protections including a Citizen's Oversight Committee, annual independent audits and public disclosure of all spending; and

WHEREAS, if Measure T is renewed, by law, all of the money must stay in Madera County for local transportation improvements only and cannot be taken away by the State or used for other purposes; and

WHEREAS, California Public Utilities Code Section 180201 provides that after approval of a proposed retail transactions and use ordinance by the Authority the

proposed tax ordinances must be approved by a two-thirds majority vote of the electors at a special election; and

WHEREAS, the Authority wishes to have the voters consider the Measure T Renewal at a General Municipal Election to be held on November 8, 2022, with the renewal tax to commence following expiration of the current tax; and

NOW THEREFORE, THE MADERA COUNTY 2006 TRANSPORTATION AUTHORITY ORDAINS AS FOLLOWS:

NOW THEREFORE, THE PEOPLE OF THE COUNTY OF MADERA ORDAIN AS FOLLOWS:

SECTION 1

Purpose and Intent. The purpose of this Ordinance is to implement State law allowing the voters to decide upon a one-half of one percent (1/2%) county wide transaction and use tax to be used to finance street, road, highway, public transit, and transportation improvements within the incorporated and unincorporated areas of Madera County, California, as further described in this Ordinance.

SECTION 2

Countywide Transaction, and Use Tax. There is hereby imposed in the incorporated and unincorporated territory of the County of Madera ("the territory of the Authority"), a transaction and use tax at the rate of one-half of one percent (1/2%) in addition to any existing or future authorized state or local sales tax or transaction and use tax, in accordance with Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, and as authorized by Section 180206 of the Public Utilities Code.

SECTION 3

Use of Tax Proceeds. Proceeds of the tax imposed by this Ordinance shall be deposited into the appropriate fund of the Madera County 2006 Transportation Authority and shall be used for the following purposes and projects, as described more particularly in the 2022 Measure T Renewal Investment Plan, dated July 20, 2022, and prepared by the Madera County Transportation Authority ("Investment Plan"), which is incorporated herein by this reference as though fully set forth herein, and as that Investment Plan may be amended from time to time pursuant to applicable law:

- A. The revenue from the transaction and use tax shall be allocated by the Authority as follows: for street, road, highway, public transit, clean air, new technology, and other transportation-related improvements within the incorporated and unincorporated areas of Madera County; for all purposes related to such improvements, including, but not limited to, administration

of the transaction and use tax, legal actions relating to the transaction and use tax, planning, design, engineering, environmental review, and construction. The revenue from the transaction and use tax shall also be used to reimburse the County of Madera for the County's costs in conducting an election called by the Board of Supervisors regarding the imposition of the transaction and use tax.

- B. The Authority shall annually divide the transactions and use tax revenues among the incorporated cities located within the County of Madera, and with the County of Madera (except for those funds allocated to the Major Routes, Access and Safety Improvements Program). The division of funds shall be on the basis of the percentage of total County population residing within the jurisdiction of the respective incorporated cities and within the unincorporated areas of the County of Madera. For purposes of calculating these percentages, the Authority shall rely on the then-current population figures furnished by the State Department of Finance.

The governing bodies of the respective cities, and of the County of Madera, shall designate the particular application of funds allocated to their jurisdiction, for street, road, highway, public transit and other transportation related improvement programs, purposes, and projects, subject to the approval of the Authority, as reflected in the 2022 Measure T Renewal Investment Plan Implementing Guidelines.

- C. Funds allocated for street, road, highway, public transit, and other transportation-related improvement programs, purposes, and projects shall be allocated according to the following formula:

- (1) 62.5 percent - Community & Neighborhood Streets & Road Program to be allocated as follows:

35% of the Measure funding will be allocated to the Local and Neighborhood Street Maintenance & Pothole Repairs Subprogram for "Fix-It-First" activities and programs. Projects include pothole repair, asphalt overlay, and other road maintenance activities.

15% of the Measure funding will be allocated to the Community & Neighborhood Streets and Roads Subprogram for needs that each of the cities and Madera County can allocate to other street and road improvements (including Maintenance Districts).

12.5% of the Measure funding will be allocated to the Local Flexibility Subprogram for transportation needs including local streets and roads, rehabilitating aged local systems and other local street and road improvements, safe routes to school improvements, pedestrian, bicycle, and trail improvements, enhanced public transit

improvements, and/or other transportation improvements so that they can address their own individual transportation needs over the life of the Measure.

- (2) 25 percent - Major Routes, Access and Safety Improvements Program to be allocated for improvements on major corridors, interchange modifications, and other improvement projects along State Highways, and major arterials throughout the County. These projects will enhance connections within the urban area and access between the cities and rural communities.
- (3) 4 percent - Public Transit Program to be allocated to transit systems and services throughout the County, including Chowchilla Transit, Madera Transit, and Madera County Connection.
- (4) 4 percent - Safe Routes to School and Pedestrian and Bike Safety Program will be allocated for improvements, including bicycle, pedestrian, and trail projects, safe routes to school, access for people with disabilities, and other safety-related improvements.
- (5) 3 percent - Clean Air and New Technology Program for clean transportation projects and programs and other projects that will improve air quality, address climate change, and improve health.
- (6) 1.5 percent - Administration and Planning Program for administration and planning activities of the Authority and Madera County Transportation Commission.

- D. Transactions and use tax revenues, once divided as set forth in Section 3, Paragraph C, herein, shall thereafter be segregated into separate funds for each of the respective entities: the incorporated cities located within the County of Madera, and the unincorporated areas of the County of Madera.

SECTION 4

Collection of Tax. The Authority shall contract with the California Department of Tax and Fee Administration to perform all functions incidental to the administration and operation of this Ordinance, including collection of the additional transaction and use tax imposed by this Ordinance.

SECTION 5

Effective and Operative Dates. This Ordinance shall become operative, if approved by a two-thirds majority vote of the electors, on the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance. The provisions of this Ordinance pertaining to the collection of transactions and use taxes will become effective, and such taxes will begin being collected on April 1, 2027.

SECTION 6

Term. The provisions of this Ordinance pertaining to collection of the transactions and use tax shall be in force and in effect until terminated by a vote of the electors. This Ordinance may be terminated earlier by a majority vote of the Authority members, if the members determine, following a public hearing, that the purposes of the tax have been fulfilled and that an earlier termination is in the public interest and there are no obligations outstanding.

Notwithstanding that this Ordinance, including the transaction and use tax, may be terminated by voters or the Authority as provided herein, the transaction and use tax or any portion of it, if permitted, shall continue in effect until all contractual obligations related to it are fulfilled. Nothing contained in this Ordinance, including termination of the transactions and use tax, shall permit or be deemed or construed to allow an impairment of any contract for the issuance of bonds or other indebtedness (or alter or affect any provision, condition or covenant in any contract for the issuance of bonds or other indebtedness, or affect or impair any rights, powers or remedies thereunder), it being the intent hereof that the provisions of any such contract shall each continue in full force and effect, with the transaction and use tax continuing in effect until such contractual obligations are paid and such covenants are no longer in effect.

SECTION 7

Appropriation Limit. The maximum annual appropriation limit for the Authority is \$30,000,000 (Thirty Million Dollars), subject to adjustment or increase as provided by law.

SECTION 8

Implementation. Upon approval of this Ordinance by two-thirds majority of the voters, the Authority may adopt policies and take such other action for the implementation of the one-half of one percent (1/2%) transaction and use tax authorized by this Ordinance.

SECTION 9

Bonds. The Authority is hereby authorized to issue bonds to finance expenditures to carry out the purposes of this transactions and use tax, in accordance with the terms and conditions specified in California Public Utilities Code Section 180250 *et. seq*, successor legislation and/or as permitted by applicable law. Bonds are authorized in the maximum amount permitted by law to fund the projects authorized in the Investment Plan. Bonds, bond anticipation notes or other indebtedness may be issued prior to collection of the tax to fund projects secured or paid in whole or in part, as the case may be, by future bonds, tax revenues, other available revenues and/or capitalized interest to the extent permitted by applicable law.

SECTION 10

Interpretation. This Ordinance is to be interpreted to accomplish, among other purposes, the following:

- 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 7285.9 of Part 1.7 of Division 2 which authorizes the Authority to adopt this tax ordinance which shall be operative if a two-thirds majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax Ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar that 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 therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.
- D. To adopt a retail transactions and use tax Ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this Ordinance.

SECTION 11

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

SECTION 12

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 Authority (i.e. Madera County, including the incorporated cities and the unincorporated area of the County) at the rate of one-half of one percent (1/2%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail on and after the operative date of this Ordinance.

SECTION 13

Place of Sale. For the purposes of this Ordinance, all retail sales are consummated at the place of business of the retailer (seller) 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. Gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

SECTION 14

Use Tax Rate. An excise tax is hereby imposed on the storage, use or other consumption, in the incorporated and unincorporated territory of the County (i.e. the territory of the Authority), of tangible personal property purchased from any retailer on and after the operative date of this Ordinance, for storage, use, or other consumption at the rate of one-half of one percent (1/2%) 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 15

Adoption of Provisions of State Law. 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, except as otherwise provided in this Ordinance and except as such provisions are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code.

SECTION 16

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 the Authority shall be substituted therefor. There shall be no such substitution made, however, when:
- (1) The word "State" is used as part of the title of the State Controller, State Treasurer, 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 the Authority or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this 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 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 provisions of that code;
 - (4) Appearing in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.
- B. The words "Authority's territory" or "Madera County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 of the Revenue and Taxation Code and in the definition of that phrase in Section 6203.
- C. "A retailer engaged in business in the Authority" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to

each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

SECTION 17

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

SECTION 18

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 the 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 of Madera in which sale is made 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 incorporated and unincorporated territory of the Authority which is shipped to a point outside the territory of the Authority, pursuant to the contract of sales, 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 purposes of this paragraph, delivery to a point outside the territory of the Authority shall be satisfied:
 - (a) With respect to vehicles (other than commercial vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code), aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter (commencing with Section 9840) of Division 3.5 of the Vehicle Code by registration to an address outside the territory of the Authority and by a declaration under penalty of perjury, signed

by the buyer, stating that such address is, in fact, the buyer's principal place of residence; and

- (b) With respect to commercial vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, by registration to a place of business outside the territory of the Authority and a declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 - (3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.
 - (4) A lease of tangible personal property which is a continuing sale of such property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Ordinance.
 - (5) For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract of lease upon notice, whether or not such right is exercised.
- C. There is exempted from the use tax imposed by this Ordinance the storage, use, or other consumption in the territory of the Authority 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 Section 6366 and 6366.1 of the Revenue and Taxation Code.
 - (3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

- (4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Ordinance.
 - (5) For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 - (6) Except as provided in subsection (7) of this section, a retailer engaged in business in the territory of the Authority 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 territory of the Authority or participates within the territory of the Authority 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 canvasser, solicitor, subsidiary, or person in the territory of the Authority under the authority of the retailer.
 - (7) "Retailer engaged in business in the Authority" shall also include any retailer of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 (commencing with Section 9840) of Division 3.5 of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licensed the vehicle, aircraft, or vessel at an address in the territory of the Authority.
- D. Any person subject to use tax under this Ordinance may credit against that tax any transactions tax or reimbursement for a 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 19

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 of Division 2 of the Revenue and Taxation

Code, all amendments to Part 1.6 of Division 2 of the Revenue and Taxation Code, and all amendments to Division 19 of the Public Utilities 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 20

Enjoining Collection Prohibited. No injunction, 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 21

Accountability Measures. Pursuant to and in compliance with the provisions of Government Code Section 50075.1, the Authority hereby establishes the following accountability measures pertaining to the levy of the Special Tax described in Section 2 of this Ordinance:

(i) Such Special Tax shall be levied for the specific purposes set forth in Sections 1 and 3 hereof.

(ii) The proceeds of the levy of such Special Tax shall be applied only to the specific purposes set forth in Section 1 and 3 hereof.

(iii) The Authority shall establish an account or accounts into which the proceeds of such Special Tax shall be deposited.

(iv) The Executive Director and/or Chief Fiscal Officer shall annually file a report with the Board as required pursuant to Government Code Section 50075.3.

SECTION 22

Severability. If any section, part, clause, or phrase of this Ordinance is for any reason field invalid or unconstitutional, the remaining portions shall not be affected but shall remain in full force and effect.

* * * * *

The foregoing Ordinance was Passed and Adopted by the Madera County
2006 Transportation Authority this 20th day of July, 2022, by the following vote:

Commissioner Wheeler
Commissioner Palmer
Commissioner Gallegos
Commissioner Rodriguez
Commissioner Frazier
Commissioner Poythress

Chair, Madera County 2006
Transportation Authority

Attest:

By: _____
Secretary of the Authority

Approved as to Legal Form:

By: _____
Authority Counsel

The foregoing Ordinance was adopted by the people of County of Madera by a
vote on _____ as provided in the Certification of the Election by the [County Clerk].