

ORDINANCE NO. _____

ORDINANCE ADDING CHAPTER 5.160 TO TITLE 5 OF THE MENDOCINO COUNTY CODE, IMPOSING A ONE PERCENT (1.0%) COUNTY TRANSPORTATION TRANSACTIONS (SALES) AND USE SPECIAL TAX IN THE UNINCORPORATED AREA OF MENDOCINO COUNTY

The Board of Supervisors of the County of Mendocino ordains as follows:

Chapter 5.160 of Title 5 is added to the Mendocino County Code to read as follows:

COUNTY TRANSPORTATION TRANSACTIONS AND USE SPECIAL TAX

Section 5.160.000. Findings.

The Board of Supervisors of the County of Mendocino makes the following findings:

- A. Well-maintained public roads in the unincorporated area of the County are essential to safety, commerce, and tourism.
- B. The County is responsible for maintaining 1,016.61 miles of public roads – significantly more than are maintained by many wealthier counties that have significantly higher road maintenance budgets.
- C. The County's roads are degrading faster than they can be repaired using the County's current road maintenance budget.
- D. The County does not have sufficient general fund revenue to increase its budget for road maintenance without significantly reducing funding for other essential County services.
- E. Sales and use special tax revenues may be used to address vital and unique local needs and areas of concern.
- F. Section 2 of article XIIC of the California Constitution, Section 53722 of the California Government Code and Section 7285.5 of the California Revenue and Taxation Code authorize the County to impose a special sales tax upon approval by a two-thirds vote of the electorate in the unincorporated territory of the County of Mendocino.
- G. Pursuant to section 9140 of the California Elections Code, the Board may submit to the voters, without petition, a measure relating to the enactment of any ordinance.
- H. It is appropriate and in the public interest to adopt an ordinance, pursuant to the County's taxing authority, to impose a Transportation Transactions (Sales) and Use Special Tax on retail transactions in the unincorporated territory of the County of Mendocino in order to generate revenue that will be placed in a special fund entirely dedicated to pavement maintenance and rehabilitation of County roads. The Board also deems it appropriate to submit the ordinance imposing a Transportation Transactions (Sales) and Use Special Tax

to a vote of the electorate in the unincorporated area of the County of Mendocino.

Section 5.160.010. Title.

This ordinance shall be known as the County of Mendocino Transportation Transactions (Sales) and Use Special Tax Ordinance, hereinafter called "Ordinance." The County of Mendocino shall hereinafter be called "County." The Ordinance shall be applicable only in the unincorporated territory of the County.

Section 5.160.020. Purpose.

The 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 transactions and use special 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 7285.5 of Part 1.7 of Division 2 that authorize the County to adopt this tax Ordinance which shall be operative if two-thirds of the electors who reside in the unincorporated territory of the County and who vote on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To enact a 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 transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.
- D. To enact a 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 the ordinance.

Section 5.160.030. Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance. For purposes of Revenue and Taxation Code section 7265, this Ordinance shall be considered

adopted on the date of the election in which it is approved by the qualified voters of the County.

Section 5.160.040. Contract with State.

Prior to the Operative Date, the County shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of the Ordinance; provided, that if the County shall not have contracted with the California Department of Tax and Fee Administration prior to the Operative Date, the County shall nevertheless so contract and in such a case the Operative Date shall become the first day of the first calendar quarter following the execution of such a contract. The Board of Supervisors may make any technical amendments to this Chapter required by the California Department of Tax and Fee Administration, except for any changes affecting the tax rate, its manner of collection, or the purpose for which the revenue from the tax may be used.

Section 5.160.050. Transactions Tax Rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the unincorporated territory of the County at the rate of one percent (1%) 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 5.160.060. Place of Sale.

- A. 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.
- B. 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 5.160.070. Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the unincorporated territory of the County of tangible personal property purchased from any retailer on and after the operative date of this Ordinance for the storage, use or other consumption in said territory at the rate of one percent (1.0%) 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 5.160.080. Adoption of Provisions of State Law.

Except as otherwise provided in the 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 the Ordinance as though fully set forth herein.

Section 5.160.090. 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 County 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 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 County 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 the 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 "County" 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.
 - 1. "A retailer engaged in business in the County" 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 5.160.100. Permit Not Required.

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

Section 5.160.110. 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 the State, the United States, or any foreign government.
 - 2. Sales of property to be used outside of the County which is shipped to a point outside the County, 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 County 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-County 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-County and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 - 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the Ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the Ordinance.
 5. For the purposes of subparagraphs B.3 and B.4 of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There are exempted from the use tax imposed by the Ordinance, the storage, use or other consumption in the County 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.
 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.
 5. For the purposes of subparagraphs C.3 and C.4 of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subparagraph C.7, a retailer engaged in business in the County 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 County or participates within the County 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 County or through any representative,

agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.

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

- D. Any person subject to use tax under the Ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a county 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 5.160.120. Amendments.

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

Section 5.160.130. Enjoining Collection Forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the County, or against any officer of the State or the County, to prevent or enjoin the collection under the 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 5.160.140. Use of the Tax Proceeds.

Any and all revenues from the tax imposed by this Ordinance shall be deposited into a special fund and shall be used exclusively to fund projects and purposes described in the Expenditure Plan set forth in Section 5.160.150. Such revenues shall be used only to supplement existing funding for the projects and purposes described therein and shall not be used to supplant existing funding for these projects and purposes.

Section 5.160.150. Expenditure Plan.

The Expenditure Plan is designed to improve the condition of County roads by accomplishing the specific projects listed below with the revenues from the transactions and use tax. The Expenditure Plan enhances the County's ability to preserve the pavement of County roads, provide corrective maintenance on County roads, and timely respond to routine road maintenance needs on County

roads. An annual expenditure plan for the use of tax funds shall be reviewed and adopted by the Board of Supervisors prior to July 1 of each year.

The specific projects for which the revenues from the transactions and use tax shall be expended are contingent upon total revenue received and allocated as follows:

- A. *Pavement Preservation*. Forty percent (40%) of revenues will support pavement preservation. Preservation treatments extend pavement life, prevent water intrusion, and improve skid resistance. Depending on conditions, these may include standard chip seals, double chip seals, or rubberized chip seals (Cape Seals), each offering different levels of durability and surface quality.
- B. *Corrective Maintenance*. Fifty percent (50%) of revenues will support corrective maintenance, including resurfacing, restoration, and rehabilitation projects. Depending on conditions, these may include full-depth reclamation, thick asphalt overlays, or cold-in-place recycling followed by chip sealing.
- C. *Road Maintenance Staff*. Ten percent (10%) of revenues will be used to restore road crew positions that were eliminated between 2019 and 2022. This expenditure will improve the County's ability to perform maintenance tasks such as vegetation management, pothole repair, slide removal, and ice sanding.

Section 5.160.160. Implementing Policies and Regulations.

The Mendocino County Department of Transportation may adopt policies and regulations and take such other action as may be necessary for the implementation of the transactions and use tax authorized by this Ordinance.

Section 5.160.170. Severability.

If any provision of the 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 5.160.180 Effective Date.

This Ordinance relates to the levying and collecting of the County transactions (sales) and use special tax and shall take effect immediately.

Section 5.160.190. Termination Date.

The authority to levy the tax imposed by this Ordinance shall not expire until such time as it is repealed by the qualified voters of the County.

Section 5.160.200. Actions to Determine Validity of Ordinance, Tax or Related Proceedings.

Any action or proceeding wherein the validity of all or part of this Ordinance, any amendments thereto, or any proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to California Code of Civil Procedure sections 860-870.5. Otherwise, the tax, and all proceedings in relation

thereto, including the adoption and approval of this Ordinance, shall be held to be valid and in every respect legal and uncontestable.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2026, by the following roll call vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and
SO ORDERED.

ATTEST: DARCIE ANTLE
Clerk of the Board

Deputy

BERNIE NORVELL, Chair
Mendocino County Board of Supervisors

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT, Interim County
Counsel

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: DARCIE ANTLE
Clerk of the Board

Deputy