

RESOLUTION NO. 2024-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FORTUNA ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF FORTUNA A CERTAIN MEASURE RELATING TO A PROPOSED ORDINANCE AMENDING CHAPTER 3.13 TO TITLE 3 OF THE FORTUNA MUNICIPAL CODE INCREASING THE CITY'S TRANSACTIONS AND USE TAX BY THREE QUARTERS OF ONE PERCENT FOR GENERAL PURPOSES AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2024, AS CALLED AND PROPOSED TO THE QUALIFIED ELECTORS BY RESOLUTION; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; SETTING THE DATES FOR ARGUMENTS ON THE MEASURE AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT TO CONSOLIDATE SAID ELECTION PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, at the General Municipal Election on Tuesday, November 8, 2016, the qualified voters of the City of Fortuna approved Measure E, which imposed a three-quarters cent transaction and use tax ("sales tax") to protect and maintain essential City services, including increasing and restoring police officers and programs, repairing aging/deteriorating streets and potholes, parks maintenance, and programs for youth and seniors; and

WHEREAS, at the General Municipal Election on Tuesday, November 3, 2020, the qualified voters of the City of Fortuna approved Measure G, which extended the sales tax through March 31, 2033; and

WHEREAS, the revenues derived from Measure E are essential to maintain and continue to improve city services, including police protection, code enforcement and other essential services; however, due to rising costs and inflationary pressures, the revenues derived from Measure E are insufficient to continue to maintain the programs and services funded by Measure E; and

WHEREAS, the City desires to amend Chapter 3.13 of the Fortuna Municipal Code to increase the current rate of the sales tax by up to and including three-quarters of one percent (0.75%), to ensure a reliable, sufficient, locally-controlled source of funds to address, plan, and prepare for community priorities including increasing police protection services; maintaining 9-1-1 response; nuisance abatement; repairing and maintaining streets, sidewalks, and drainage; maintaining parks; maintaining programs for youth and seniors; and maintaining other essential services; and

WHEREAS, the City Council desires to submit to the voters at the election a question relating the proposed increase of the of the current three-quarter percent transactions and use tax to one and one-half percent transactions and use tax for general purposes; and

WHEREAS, a General Municipal Election will be held on Tuesday, November 5, 2024, and be called by a Resolution of the City Council; and

WHEREAS, the City Council of the City of Fortuna desires that the County of Humboldt Elections Department conduct the municipal election, pursuant to Elections Code Section 10403, to be held on November 5, 2024; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FORTUNA DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election of November 5, 2024, the following question:

Essential Services Supplemental Funding Measure	
To improve and maintain essential services, including police services; nuisance abatement; streets, sidewalks, and drainage; park improvement; and programs for youth and seniors; shall the measure to increase the existing transaction and use tax from 0.75% to 1.5% through March 31, 2033 (unless sooner repealed), providing an additional \$1.8 million in annual revenue, requiring an independent audit, and community oversight by the Measure E Committee, with all funds remaining in Fortuna, be adopted?	Yes
	No

SECTION 2. The proposed measure submitted to the voters is attached as **Exhibit A**. The City Council hereby approves the ordinance by a two-thirds vote of the City Council, the form thereof, and its submission to the voters of the City at the November 5, 2024 General Municipal Election, as required by Revenue and Taxation Code section 7285.9. The ordinance specifies that the rate of the transactions tax shall be increased to one-and-one-half percent per dollar of the sales price of certain personal property; it specifies that the rate of the use tax shall be increased to one-and-one-half percent per dollar of the sales price of tangible personal property stored, used or otherwise consumed in the City. The California Department of Tax and Fee Administration shall collect the tax from retailers subject to the tax and remit the funds to the City.

SECTION 3. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections, including but not limited to Elections Code section 10418.

SECTION 4. Pursuant to the requirements of Section 10403 of the Elections Code, the City Council of the City of Fortuna hereby requests the Board of Supervisors of the County of Humboldt to agree to the consolidation of the Municipal Election with the Statewide General Election on November 5, 2024 and issue instructions to the Humboldt County Elections Department that the election in all respects be held as if there were only one election and to conduct the Municipal Election including the publishing of all election materials, the mailing of sample ballots, the hiring of election officers, canvassing the returns, and the actual conduct of the election.

SECTION 5.

- a. The last day for submission of primary arguments for or against the measure shall be by 5:00 p.m. on August 14, 2024.
- b. The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on August 21, 2024.
- c. Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.

d. Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments.

e. Pursuant to California Elections Code Section 9282, Mayor Tami Trent is hereby authorized to file a written argument in favor of the proposed measure on behalf of the City Council. At Mayor Trent's discretion, the argument may be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure, Mayor Trent is also authorized to file a rebuttal argument on behalf of the City Council, which may be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure, which may be different from those who signed the primary argument.

f. Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument, which it seeks to rebut.

g. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and file the impartial analysis with the City Clerk by August 19, 2024.

SECTION 6. The City of Fortuna recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County of Humboldt for all costs associated with the conduct of the City of Fortuna's municipal election to be held on November 5, 2024.

SECTION 7. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 9. The approval of this Resolution 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 to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. 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 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 either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

NOW, THEREFORE, BE IT FURTHER RESOLVED the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Humboldt County Registrar of Voters.

PASSED AND ADOPTED this 20th day of May, 2024, by the following vote:

AYES: Council Member Conley, Losey, Mobley, Mayor Pro Tem Johnson, Mayor Trent

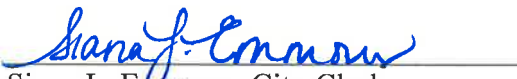
NOES: None

ABSTAIN: None

ABSENT: None


Fami Trent, Mayor

ATTEST:


Siana L. Emmons, City Clerk

APPROVED AS TO FORM:


Ryan T. Plotz, City Attorney

EXHIBIT A

[FINAL APPROVED FORM OF ORDINAINCE NO. 769 TO BE ATTACHED TO THIS RESOLUTION FOLLOWING ADOPTIONG BY THE CITY COUNCIL]

ORDINANCE 2024-769

**AN ORDINANCE OF THE CITY OF FORTUNA
TO INCREASE THE EXISTING CITY OF FORTUNA TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE
ADMINISTRATION, SUBJECT TO APPROVAL OF A MAJORITY OF THE ELECTORS
VOTING ON THE TAX MEASURE AT THE GENERAL MUNICIPAL ELECTION TO BE
HELD ON TUESDAY, NOVEMBER 5, 2024**

WHEREAS, pursuant to California Revenue and Taxation Code § 7285.9, the City of Fortuna ("City") has the authority to levy a local transactions and use tax for general purposes ("TUT"); and

WHEREAS, at the General Municipal Election on Tuesday, November 8, 2016, the qualified voters of the City of Fortuna approved Measure E, which imposed a three-quarters cent TUT for an eight (8) year period through and including March 31, 2025, to ensure a reliable, locally-controlled source of funds to address, plan, and prepare for community priorities including increasing police protection services; maintaining 9-1-1 response; nuisance abatement; repairing and maintaining streets, sidewalks, and drainage; maintaining parks; maintaining programs for youth and seniors; and maintaining other essential services; and

WHEREAS, at the General Municipal Election on Tuesday, November 3, 2020, the qualified voters of the City of Fortuna approved Measure G, which extended the sales tax through March 31, 2033; and

WHEREAS, the revenues derived from Measure E are essential to maintain and continue to improve essential city services; however, due to rising costs and inflationary pressures, the revenues derived from Measure E are insufficient to continue to maintain the programs and services funded by Measure E; and

WHEREAS, the City Council desires to propose to the qualified voters of the City of Fortuna an ordinance to increase the TUT with all revenues continuing to be subject to an independent audit and overseen by a community oversight committee.

NOW, THEREFORE, the People of the City of Fortuna do ordain as follows:

SECTION 1. APPROVAL OF TAX INCREASE. The qualified votes of the City of Fortuna hereby approve and adopt an ordinance increasing the currently imposed transaction and use tax rate, as codified in Chapter 3.13 of Title 3 of the Fortuna Municipal Code, from three quarters of one percent per dollar to a rate not to exceed one-and one-half percent per dollar, effective April 1, 2025, through March 31, 2033, unless sooner repealed by the voters or rescinded by four-fifths vote of the City Council.

SECTION 2. AMENDMENT TO THE MUNICIPAL CODE. Section 3.13.050 of Chapter 3.13 of Title 3 of the Fortuna Municipal Code is hereby deleted and replaced in its entirety as follows:

3.13.050 Transactions tax rate.

- A. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of 0.75 percent per dollar 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 chapter.

- B. Effective April 1, 2025, and continuing thereafter through March 31, 2033, unless sooner repealed by the voters or rescinded by the City Council, the rate of .75 percent per dollar of the gross receipts set forth above in subdivision A of this Section 3.13.050 shall be increased to a rate of 1.5 percent per dollar of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory or a lesser rate (in one-eight increments) as approved by resolution of the City Council. The increased transaction tax rate of 1.5 percent shall be authorized and effective through March 31, 2033, unless sooner terminated in accordance with this Chapter.

SECTION 3. AMENDMENT TO THE MUNICIPAL CODE. Section 3.13.070 of Chapter 3.13 of Title 3 of the Fortuna Municipal Code is hereby deleted and replaced in its entirety as follows:

3.13.070 Use tax rate.

- A. An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of this chapter for storage, use or other consumption in said territory at the rate of 0.75 percent per dollar 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.
- B. Effective April 1, 2025, and continuing thereafter through March 31, 2033, unless sooner repealed by the voters or rescinded by the City Council, the rate of 0.75 percent per dollar of the sales price set forth in subdivision A of this Section 3.13.070 shall be increased to 1.5 percent per dollar of the sales price of the property or a lesser rate (in one-eight increments) as approved by resolution of the City Council. The increased use tax rate of 1.5 percent shall be authorized and effective through March 31, 2033, unless sooner terminated in accordance with this Chapter.

SECTION 4. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect only if approved by a majority of the voters voting on the measure at the November 5, 2024 General Municipal Election and shall become effective ten (10) days after the City Council declares and certifies by resolution the results of the election and that the measure was approved by a majority of the voters voting thereon.

SECTION 6. CERTIFICATION AND PUBLICATION. Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this ordinance and shall cause it to be published according to law and transmitted to the Board of Equalization.

SECTION 7. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. The approval of 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 enacted by this Ordinance is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. 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 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 either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

PASSED AND ADOPTED by the City Council of the City of Fortuna on the 20th day of May, 2024, by at least a two-thirds vote of the City Council, as follows:

AYES: Council Member Conley, Losey, Mobley, Mayor Pro Tem Johnson, Mayor Trent

NAYS: None

ABSENT: None

ABSTAIN: None



Fami Trent, Mayor

ATTEST:



Siana L. Emmons, City Clerk

Approved As To Form:



Ryan T. Plotz, City Attorney