

DEPARTMENT: County Counsel

BY: Thomas P. Guarino

2nd 4/8/04

CA-6
PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

9/25 Waive first reading and introduce Ordinance 4/8 Waive second reading and adopt Ordinance increasing the Transaction and Use Tax by 1/2 of 1% for the benefit of the John C. Fremont Hospital District for a 20 year period and placing the Ordinance before the electorate of Mariposa County and approve the Indemnity Agreement between the John C. Fremont Healthcare District and the County of Mariposa.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The voters of Mariposa County approved a 1/2 of 1% increase of the Transaction and Use Tax for the benefit of the John C. Fremont Healthcare District on March 7, 2000, becoming effective on July 1, 2000. That increase will expire by its own terms on June 30, 2004.

Since the voters of Mariposa County did not approve a 1/2 of 1% increase of the Transaction and Use Tax for the benefit of the John C. Fremont Healthcare District on March 2, 2004 they are requesting that the Board adopt another Ordinance to allow them to place the measure back on for the November 2004 ballot.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Financial Impact? () Yes () No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		Proposed Ordinance
Source:		Expenditure Plan
Internal Transfer		Indemnity Agreement
Unanticipated Revenue	4/5's vote	
Transfer Between Funds	4/5's vote	
Contingency	4/5's vote	
() General () Other		

CLERK'S USE ONLY:

4/25 Res. No.: 04-231 Ord. No. 1007
Vote - Ayes: _____ Noes: _____
Absent: _____
() Approved
✓ () Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _____
Deputy

COUNTY ADMINISTRATIVE OFFICER:

✓ Requested Action Recommended
_____ No Opinion
Comments:

CAO: RAH



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

GARRY R. PARKER, CHAIR
DOUG BALMAIN, VICE-CHAIR
LEE STETSON
BOB PICKARD
JANET BIBBY

DISTRICT IV
DISTRICT II
DISTRICT I
DISTRICT V
DISTRICT III



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: TOM GUARINO, County Counsel

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: INTRODUCTION OF AN ORDINANCE INCREASING THE TRANSACTION AND USE TAX BY ONE-HALF (1/2) OF ONE-PERCENT (1%) FOR THE JOHN C. FREMONT HEALTHCARE DISTRICT
Resolution No. 04-231

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on May 25, 2004

ACTION AND VOTE:

Tom Guarino, County Counsel;

Tom Guarino advised that the following matters were placed on the agenda by his office as has been the past practice, and that he asked the John C. Fremont Healthcare District and the Mariposa County Unified School District to give a presentation on their requests.

A) PUBLIC HEARING to Waive First Reading and Introduce an Ordinance Increasing the Transaction and Use Tax by One-Half (1/2) of One Percent (1%) for the Benefit of the John C. Fremont Healthcare District for a Twenty Year Period and Placing the Ordinance Before the Electorate of Mariposa County and Approve the Indemnity Agreement Between the John C. Fremont Healthcare District and the County of Mariposa

BOARD ACTION: The public portion of the hearing was opened and input was provided by the following:

Elnora George, Chief Executive Officer of the John C. Fremont Healthcare District, provided input on their request for the sales tax to keep the hospital in operation. She reviewed the improvements that were made in the last four years with the sales tax that was received, and she reviewed the planned improvements for the future.

Suzette Prue, Chair of the Board for the John C. Fremont Healthcare District, advised that the hospital has been declared economically fragile according to a report just issued by the California Healthcare Association, and she noted that it is a Critical Access Hospital. She explained these designations, and she asked for the Board's support of this request.

Candy O'Donel-Browne, member of the Board for the John C. Fremont Healthcare District, presented a "question and answer" position paper on Measure "G", the sales tax ballot measure.

The public portion of the hearing was closed and the Board commenced with deliberations. Tom Guarino responded to a question from the Board as to whether the Ordinance and Indemnity Agreement meet the requirements and have his recommendation for approval. (M)Pickard, (S)Bibby, first reading was waived and the Ordinance was introduced as recommended; and Res. 04-231 was adopted approving the Indemnity Agreement. The Clerk of the Board read the title of the Ordinance into the record. Ayes: Unanimous. The hearing was closed.

cc: Mary Hodson, Deputy County Administrative Officer
Ken Hawkins, Auditor
Marjorie Wass, Tax Collector
Elnora George, John C. Fremont Healthcare District
File

MARIPOSA COUNTY ORDINANCE NO. 1007

AN ORDINANCE OF THE COUNTY OF MARIPOSA IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

(NOT TO BE CODIFIED)

Section 1. TITLE. This ordinance shall be known as the Mariposa County Healthcare Transactions and Use Tax Ordinance. The County of Mariposa, hereinafter, shall be called “County” and “District.” This ordinance shall be applicable in the incorporated and unincorporated territory of the County.

Section 2. 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 3. PURPOSE. This ordinance is adopted to achieve the following purpose, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use 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 which authorizes the County to adopt this tax ordinance which shall be operative if a (2/3) 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 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 4. CONTRACT WITH STATE. Prior to the operative date, the County 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 County 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 5. 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 6. 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 7. 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 8. 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 I (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 9. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part I 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 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 Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
2. The result of that substitution would require action to be taken by or against this County 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 10. 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 11. 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 Chapter 2 of 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 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 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 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 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 Chapter 2 of 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 12. EXPENDITURE PLAN. In conformance with Section 7285.5 of the Revenue and Taxation Code, the specific projects for which the revenues from the tax set forth in this ordinance may be

expended is attached hereto in Attachment 1 entitled "Expenditure Plan."

Section 13. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 14. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in court against the State or the County, or against any officer of the State or the County, 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 15. 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 16. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the District transactions and use taxes and shall take effect immediately only if two-third (2/3) or more of the elections voting on the measure of the election held on November 2, 2004 vote to approve this ordinance.

Section 17. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire 20 years following its operative date unless extended by a two-thirds (2/3) vote of the elections voting at an election called for that purpose by the County.


PASSED AND ADOPTED by the Board of Supervisors of Mariposa County this 8th day of June, 2004 by the following vote:

AYES: STETSON, BALMAIN, BIBBY, PARKER, PICKARD

NOES: NONE

ABSENT: NONE

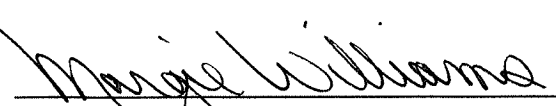
ABSTAINED: NONE



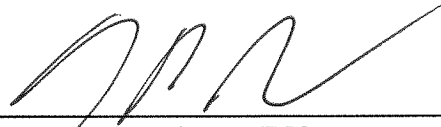
GARRY R. PARKER, Chairman
Mariposa County Board of Supervisors

ATTEST:

APPROVED AS TO FORM



MARGIE WILLIAMS
Clerk of the Board



THOMAS P. GUARINO
County Counsel

JOHN C. FREMONT HEALTHCARE DISTRICT EXPENDITURE PLAN

In July 2000, the Sales Tax Measure passed by Mariposa County's voters provided the John C. Fremont Healthcare District (Healthcare District) one-half percent (1/2 %) of Mariposa County's sales tax revenue. This extra revenue covered the Healthcare District's approximately \$500,000 annual operating loss, which is largely due to the shortfall in payments received from MediCal, Medicare, private insurance and lack of payment from mandated charity care. In addition, it helped cover unfunded government mandates and debts incurred by years of operating without adequate reimbursement, including \$520,000 per year to cover the monthly payments on the Insured Health Facility Bonds, Series 1994, which will be paid within twenty (20) years.

THE SALES TAX EXPIRED AS OF JUNE 30, 2004. WITHOUT THESE FUNDS, THE HEALTHCARE DISTRICT IS, ONCE AGAIN, OPERATING IN THE RED.

Measure G will reinstate a one-half percent (1/2%) sales tax for the Healthcare District for the next twenty (20) years, until projected population growth in the service area is large enough to support a rural hospital and its associated services through operating income.

The Healthcare District includes the John C. Fremont Hospital and Emergency Department, Outpatient Surgery, Laboratory, Cardiopulmonary Department, Imaging Department, Rural Health Clinic, Skilled Nursing Facility (Ewing Wing), Home Health, Hospice and Private Duty Agency and all support services.

Reinstated sales tax revenues under this ordinance may be used to cover the Healthcare District's shortfalls in the following areas:

- Operation and maintenance expenses, including costs of personnel, contracts, insurance, training and education, pharmaceuticals, utilities, grounds and facility upkeep.
- Replacement or purchase of equipment, including diagnostic equipment and support equipment to meet operating needs of the Healthcare District.
- Replacement or expansion of facilities, other improvements to existing buildings and grounds, planning and construction of new buildings, satellite clinic(s), additional parking and acquisition of property.
- Expansion of existing Healthcare District services and programs
- Repayment of debt.

The Governing Board of the Healthcare District shall approve any expansion of facilities and services that are proposed over the next twenty (20) years.

Approved Board of Directors meeting, 4/29/04