

RESOLUTION No. 2023-62

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY CALLING A SPECIAL ELECTION ON MARCH 5, 2024 TO CONSIDER A TRANSACTIONS AND USE TAX

WHEREAS, the City Council desires to submit a general transactions and use tax ordinance (the "Ordinance") for voter approval; and

WHEREAS, the Ordinance imposes a general tax ("Tax"), the revenues from which can fund firefighting personnel, wildfire risk land management, other fire safety measures, or any other lawful purpose of the City; and

WHEREAS, the City Council desires to hold a special municipal election on March 5, 2024 (the "Election"); and

WHEREAS, on October 16, 2023, the City Council adopted by unanimous vote Resolution No. 2023-57 declaring a fiscal emergency under article XIII C, section 2, subdivision (b) of the California Constitution to allow the City to call the Election on the Tax; and

WHEREAS, Article XI of the Grass Valley City Charter provides that all elections shall be governed by the provisions of the Elections Code for the holding of elections in general law cities except as otherwise provided by the City Charter; and

WHEREAS, the City Council requests services from the Nevada County Clerk for the conduct of that election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRASS VALLEY AS FOLLOWS:

- 1. CALL OF SPECIAL MUNICIPAL ELECTION. Pursuant to Article XI of the City Charter and the laws of the State of California applicable to general law cities, the City Council of the City of Grass Valley hereby calls and notices a Special Municipal Election to be held on Tuesday, March 5, 2024, to consider the following measure:

Measure ___

Table with 2 columns: Measure description and Yes/No response box.

(0.375%) sales tax raising about \$3.4 million yearly, with yearly audits and a citizens' oversight committee, effective for 7 years unless voters end it sooner, be adopted?

No

This question requires the approval of a simple majority (50% plus 1) of those voting and the referenced Ordinance is attached hereto as Exhibit 1 and incorporated in this Resolution by this reference.

2. REQUEST TO CONDUCT ELECTION AND CANVASS

RETURNS. The Nevada County Board of Supervisors is hereby requested to authorize the Nevada County Registrar of Voters to render services necessary for the conduct of the Special Municipal Election this Resolution calls. Pursuant to Elections Code section 10402, the City Council hereby requests that the Nevada County Board of Supervisors consolidate the Special Municipal Election with any other election the Registrar of Voters is to administer on March 5, 2024 and order the Special Municipal Election to be conducted by the Nevada County Registrar of Voters. The City Council acknowledges and requests that the consolidated election be held and conducted in the manner prescribed in Elections Code section 10418. The ballots to be used in the election shall be in form and content as required by law.

The City Clerk is authorized and directed to work with the Nevada County Registrar of Voters and to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia as needed to properly and lawfully conduct the election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections. Pursuant to Elections Code section 10002, the City will reimburse Nevada County for the actual cost incurred in conducting the election upon receipt of a bill stating the amount due.

The notice of the time and place of holding the election is hereby given, and the City Clerk and Nevada County Registrar of Voters are authorized to give further notice of the election, as required by law, and the City Clerk shall forward a certified copy of this resolution to the Clerk of the Nevada County Board of Supervisors not later than 88 days before March 5, 2024.

3. IMPLEMENTATION. The City Clerk is directed to file certified copies of this Resolution with the Nevada County Board of Supervisors, with a copy to the Nevada County Registrar of Voters, pursuant to Elections Code section 10402. The City Clerk is further authorized and directed to perform all other acts necessary or required by law to implement this Resolution and related to the Special Election.

4. IMPARTIAL ANALYSIS. That the City Council directs the City Clerk to transmit copies of the measures to the City Attorney. The City Attorney shall prepare an impartial analysis of each measure showing the effect of the measure on the existing

law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk.

5. **BALLOT ARGUMENTS.** Members of the City Council are hereby authorized to prepare a written argument, not to exceed 300 words, in favor of the measure on behalf of the City Council, as specified in section 9282 of the California Elections Code.

Arguments against the Measure may not exceed 300 words and must be submitted to the City Clerk in compliance with sections 9282 and 9283 of the California Elections Code by the deadline established by the City Clerk.

Rebuttal arguments are authorized and may not exceed 250 words and must be submitted to the City Clerk as specified in section 9285 of the California Elections Code.

6. **CEQA.** The adoption 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 calling and noticing of a Special Municipal Election is not a project within the meaning of CEQA Guidelines section 15378, subsection (b)(4) [funding of unspecified projects] and section 15061, subsection (b)(3) [common sense exemption]. While some expenditures of the proceeds of the tax might have impacts on the environment, it would be unduly speculative to identify and evaluate those impacts now. That analysis will be more meaningful when the projects to be funded are selected and defined.

7. **CERTIFICATION.** The City Clerk of the City of Grass Valley shall certify to the passage and adoption of this resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

8. **SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The City Council of the City of Grass Valley hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

9. **EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption as a measure affecting an election.

PASSED AND ADOPTED by a two-thirds vote of all its members as required by Revenue & Taxation Code section 7285.9, on this October 24, 2023, by the following vote:

AYES: Councilmembers *Branstrom, Ivy, Caravelli, Hodge + Mayor Arbuckle*
NOES: Councilmembers: *None*
ABSENT: Councilmembers: *None*
ABSTAIN: Councilmembers: *None*



Jan Arbuckle, Mayor

ATTEST:


Taylor Day, City Clerk

APPROVED AS TO FORM:


For Michael G. Colantuono, City Attorney

COPY CERTIFICATION

I, Taylor Day, City Clerk of the City of Grass Valley, County of Nevada, State of California, do hereby certify under penalty of perjury, that the attached documents are true, full and correct copies of Grass Valley Resolution 2023-62, calling for an election on March 5, 2024 and request to consolidate the Election with the County of Nevada.

WITNESS my hand and the Seal of the City of Grass Valley affixed this 26th day of October, 2023.



TAYLOR DAY, CITY CLERK



ORDINANCE NO. 826

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY IMPOSING A 3/8-CENT TRANSACTIONS AND USE TAX FOR GENERAL GOVERNMENTAL USE TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, SUBJECT TO THE VOTER APPROVAL

THE PEOPLE OF GRASS VALLEY, CALIFORNIA, DO ORDAIN AS FOLLOWS:

SECTION 1. TITLE.

This ordinance shall be known as the 2023 Grass Valley Transactions and Use Tax Ordinance. The City of Grass Valley hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

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.

SECTION 3 PURPOSE.

This 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 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 City to adopt this tax ordinance which shall be operative if a 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 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 4. CONTRACT WITH STATE.

Prior to the operative date, the City 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 City 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 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 territory of the City at the rate of 0.375% 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 California Department of Tax and Fee Administration.

SECTION 7. USE TAX RATE.

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 ordinance for storage, use or other consumption in said territory at the rate of 0.375% 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 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

SECTION 9. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City 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 this City 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 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 "City" 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 District" 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 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 City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his or her 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 City 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-City 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-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

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

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

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

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

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

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

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such

property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

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

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

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. TERM.

The tax imposed by this ordinance shall be effective until 7 years after it is first collected, unless sooner repealed by voters.

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. INDEPENDENT OVERSIGHT; EXPENDITURE PLAN.

- A. The City Council shall establish a five-member Independent Citizens' Advisory Committee, which shall meet annually to review the expenditure of revenues generated by the tax imposed by this Ordinance and to make recommendations to the City Council regarding those expenditures. The City Council shall appoint committee members to one or more terms of not more than 4 years each. The Committee shall meet publicly at least quarterly to review all revenues and expenditures of the transactions and use tax imposed by this Ordinance, review annual audit reports related to the tax, and make at least one written annual report to the City Council at a public meeting summarizing the Committee's findings and including any appropriate recommendations. The minutes of the meetings of Independent Citizens' Advisory Committee shall be provided to the City Council and placed on the next available regular City Council meeting agenda for informational purposes.
- B. The City Council shall adopt after a noticed public hearing a plan to expend the proceeds of the tax imposed by this Ordinance. The Independent Citizens' Advisory Committee shall review the plan at least annually and recommend any changes to the City Council which shall consider them in conjunction with the City's annual budget. Once adopted, the City shall maintain the current plan on its website.

SECTION 15. AUDIT AND REVIEW.

The proceeds of the tax imposed by this Ordinance, as well as the expenditure thereof, shall be audited annually by an independent accounting firm. The City Council shall discuss the results of such audit at a meeting of the City Council that is open to the public. The report of such audit shall be posted on the City's website.

SECTION 16. 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 City, or against any officer of the State or the City, 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 17. 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 18. EFFECTIVE DATE.

This Ordinance shall take effect 10 days after the date the vote is declared by the City Council.

SECTION 19. CERTIFICATION; 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 California Department of Tax and Fee Administration.

PASSED AND ADOPTED by the City Council of the City of Grass Valley, State of California, on Month XX, XXXX, by the following vote:

AYES:

NOES:

ABSENT:

Jan Arbuckle, Mayor

Attest:

Taylor Day, Deputy City Clerk

Approved as to Form:

Michael G. Colantuono, City Attorney

CITY OF GRASS VALLEY STREET AND ADDRESS MAP

REVISION DATE: JULY 2022

