

AGENDA DATE: August 8, 2006



# RESOURCE MANAGEMENT AGENCY

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## AGENDA ITEM – REVISED (2)

ITEM NO. \_\_\_\_\_  
Countywide

### SUBJECT:

Placement of the Draft 2006 HALF-CENT TRANSPORTATION SALES TAX MEASURE  
EXPENDITURE PLAN AND USE TAX ORDINANCE on the November 7, 2006 ballot.

### REQUEST(S):

Approve the Resolution to place the Draft 2006 HALF-CENT TRANSPORTATION SALES TAX  
MEASURE EXPENDITURE PLAN AND USE TAX ORDINANCE on the November 7, 2006 ballot;  
and Authorize the transfer of appropriations from contingency 001-050-2000-3820 to Miscellaneous  
Administration 001-012-1010-2200 not to exceed \$100,000. for ballot printing costs.

### SUMMARY:

The Draft 2006 HALF-CENT TRANSPORTATION SALES TAX EXPENDITURE PLAN was approved  
at the July 24, 2006 meeting of the Tulare County Association of Governments (TCAG). At that meeting,  
Tulare County Transportation Authority set a special meeting for August 7, 2006 to approve the  
environmental document for the Tulare County Transportation Authority Ordinance No. 2006-01. The  
Transportation Authority will waive the second reading and adopt County Transportation Authority  
Ordinance No. 2006-01. The TCAG action also allows for clerical changes or editing to the first part of  
the ballot language.

At the same August 7<sup>th</sup> meeting, the TCAG Board is expected to approve a Resolution requesting the  
County of Tulare to place the proposed sales tax measure on the November 7, 2006 ballot, as set out in the

Tulare County Transportation Authority, USE TAX ORDINANCE No. 2006-01. The TCAG/Tulare County Transportation Authority request is attached along with the draft Ordinance No. 2006-01. At the time this Agenda Item went to print, final action had not been taken by TCAG.

The California Public Utilities Code, Section 180201, provides the County Board of Supervisors with the authority to place an expenditure plan and ordinance on the ballot; this is after approval is obtained by the Transportation Authority, as specified in Section 180206.

Acting in its capacity as the Tulare County Transportation Authority (as designated by Resolution No. 88-0548), TCAG is expected to adopt an ordinance proposing such tax. With the approval of the proposed Resolution attached, the Board of Supervisors will submit that ordinance to the voters for approval. This is in accordance with Public Utilities Code, Section 180000 et seq., pertaining to retail transactions and use tax.

The proposed ordinance would set in place the following:

1. A half-cent sales tax would be levied.
2. The Transportation Authority would be authorized to issue bonds payable from tax revenues.
3. An annual appropriation limit would be set.
4. Ballot language would be established.
5. The Transportation Authority would be authorized to allocate tax revenues pursuant to the existing Expenditure Plan, as amended.

The tax measure ordinance will not become operative unless, it is approved by a two-third's majority of the voters. If the tax measure is approved, the Transportation Authority would begin collecting the sales tax on the first day of the first calendar quarter; this would be more than 110 days after approval.

In addition, prior to the operative date, the Transportation Authority will be required to enter into an agreement with the California State Board of Equalization to administer the transactions and use tax.

August 11, 2006 is the deadline for filing a ballot measure to go on the November 7, 2006. In order to have the material available for the Elections deadline, the Board of Supervisors is requested to approve the Resolution.

## **FINANCING:**

According to the Elections Office, the initial cost to place the measure on the ballot will be between \$50,000 and \$75,000. This cost will be paid for by County contributions. If the measure is approved by the voters, the cost of the election will be funded with sales tax revenues by the Transportation Authority.

Over the next 30 years, passage of the measure will increase countywide revenues by \$652 million. This is with no growth rate in sales tax proceeds.

## **ALTERNATIVES:**

To not approve the sales tax measure would mean a loss in potential revenues.

**INVOLVEMENT OF OTHER DEPARTMENTS OR AGENCIES:**

TCAG prepared the Expenditure Plan.  
County Counsel drafted the Ordinance.

**SIGNATURE REQUIREMENTS:**

County Administrative Officer/Clerk of the Board of Supervisors or authorized Deputy to attest to the Resolution.

**ADMINISTRATIVE SIGN OFF:**

**RESOURCE MANAGEMENT AGENCY**

\_\_\_\_\_  
**Jean Brou**  
**Assistant Director - Transportation**

\_\_\_\_\_  
**Henry Hash, Director**

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**BEFORE THE BOARD OF SUPERVISORS**  
**COUNTY OF TULARE, STATE OF CALIFORNIA**

In the Matter of Calling a Special Election to be Consolidated with the Statewide Election on November 7, 2006, to Submit to the Voters an Ordinance to authorize the Tulare County Association of Governments Acting as the Tulare County Transportation Authority to Impose a One-Half Of One Percent Retail Transaction and Use ("Sales") Tax for a Period of Thirty Years to Implement the 2006 ½ CENT TRANSPORTATION SALES TAX MEASURE EXPENDITURE PLAN )  
RESOLUTION  
NO.

WHEREAS, pursuant to Sections 180200 - 180206 of the Public Utilities Code, on August 7, 2006, the Tulare County Association of Governments ("TCAG"), acting as the Tulare County Transportation Authority ("Authority"), adopted Tulare County Transportation Authority Ordinance No. 2006-01("Ordinance") to impose a one-half of one percent (½%) retail transactions and use ("sales") tax for implementation of the Tulare County 2006 ½ CENT TRANSPORTATION SALES TAX MEASURE EXPENDITURE PLAN ("Expenditure Plan") to be administered by the Tulare County Transportation Authority, subject to approval by not less than two-thirds of the voters voting on the measure; and

WHEREAS, pursuant to Section 180206 of the Public Utilities Code, the Expenditure Plan received the approval of the Tulare County Board of Supervisors and of the city councils representing both a majority of the cities in the county and a majority of the population residing in the incorporated areas of the county; and

WHEREAS, pursuant to Section 180203 of the Public Utilities Code, TCAG acting as the Authority has requested that the Tulare County Board of Supervisors place the Ordinance before the voters on the November 7, 2006 ballot; and

WHEREAS, pursuant to Section 180203 of the Public Utilities, if the Ordinance is approved by the voters voting on the Ordinance, the Authority shall reimburse the County of Tulare for its cost of placing the Ordinance on the November 7, 2006 ballot; and

WHEREAS, pursuant to Section 180203 of the Public Utilities Code, the sample ballot to be mailed to the voters, pursuant to Section 13303 of the Elections Code, shall be the full proposition, as set forth in the Ordinance calling the election, and the voter information handbook shall include the entire adopted Expenditure Plan.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Call for Election. Pursuant to Section 180201 of the Public Utilities Code, the Tulare County Board of Supervisors hereby calls a special election and places the Ordinance on the ballot of the November 7, 2006 election to be held within the boundaries of Tulare County to submit to the voters of the County the proposition in the format and as set out in Exhibit A attached hereto and

1 incorporated herein as if set out in full.

2 2. Election Date. The date of the special election shall be consolidated with the statewide  
3 election to be held on November 7, 2006, and the election shall be held solely within the boundaries of  
4 Tulare County.

5 3. Authority for Election. The authority for ordering the election is contained in Section  
6 180201 of the Public Utilities Code. Pursuant to Section 180201 of the Public Utilities Code and  
7 Subparagraph (d) of Section 2 of Article XIIC of the California Constitution, the proposition shall  
8 become effective only if it is approved by a two-thirds vote of the qualified voters of the County  
9 voting in the election on the issue.

10 4. Conduct of Election. The Registrar of Voters is hereby directed to take all steps to hold  
11 the election in accordance with law and these specifications, and the Registrar of Voters shall render  
12 all services specified by the Elections Code relating to the election. Article 3 of Chapter 2 of Division  
13 9 of the Elections Code relating to arguments concerning county measures shall apply, and the County  
14 Counsel is directed to prepare an impartial analysis.

15 5. Effective Date. This resolution shall take effect immediately upon its adoption.

16 The foregoing resolution was adopted on motion of Supervisor \_\_\_\_\_,  
17 seconded by Supervisor \_\_\_\_\_, at a regular meeting of this Board of  
18 Supervisors held on \_\_\_\_\_, 200\_\_, by the following vote:

19 AYES: \_\_\_\_\_

20 NOES: \_\_\_\_\_

21 ABSTAIN: \_\_\_\_\_

22 ABSENT: \_\_\_\_\_

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24  
25 ATTEST: C. BRIAN HADDIX, COUNTY  
26 ADMINISTRATIVE OFFICER/CLERK BOARD OF  
27 SUPERVISORS

28 By: \_\_\_\_\_

\*\*\*\*\*

Authorized the transfer of appropriations from contingency 001-050-2000-3820 to Miscellaneous  
Administration 001-012-1010-2200 not to exceed \$100,000.

Attachment A

| <b>Measure – Tulare County Transportation and Road Improvement Program-<br/>One-half Cent Transportation Sales Tax<br/>(Tulare County Transportation Authority Ordinance No. 2006-01)</b>  |     |
|--|-----|
| To address transportation needs in Tulare County by funding projects to improve and repair highways, interchanges, potholes, streets, bridges and sidewalks, enhance public transit, construct bike lanes and improve air quality and the environment, subject to the appropriations expenditure limit set out therein and with authority to issue bonds payable from tax proceeds, shall Tulare County Transportation Authority enact a half-cent sales tax ordinance with guaranteed independent annual audits and citizens oversight which automatically expires in 30 years? | YES |
|  | NO  |

TULARE COUNTY ASSOCIATION OF GOVERNMENTS  
In Its Capacity as the  
TULARE COUNTY TRANSPORTATION AUTHORITY  
ORDINANCE NO. 2006-01

AN ORDINANCE PERTAINING TO THE LEVY OF A RETAIL TRANSACTION  
AND USE TAX FOR TRANSPORTATION PURPOSES.

THE TULARE COUNTY ASSOCIATION OF GOVERNMENTS IN ITS CAPACITY  
AS THE TULARE COUNTY TRANSPORTATION AUTHORITY ORDAINS AS FOLLOWS:

Section 1.     **PURPOSE:** The road, transportation and circulation systems within the incorporated and unincorporated territories of Tulare County are of regional concern and the quality of such systems have a direct impact on residents, visitors, agriculture, business, industry and general economy within the county.

Most of the roads and other infrastructure supporting transportation and circulation within the Tulare County regional were constructed in the early to middle part of the last century, well before the adoption of Proposition 13, which proposition significantly limited the main source of income to the County and Cities for infrastructure maintenance, improvement and expansion. The loss of income for this purpose has not been adequately made up by other sources, including monies from the State and United States governments, so as to allow needed maintenance, upgrading or safety improvements to the existing infrastructure or the construction of the new infrastructure that the County and Cities anticipate will be needed to meet the demands of the future.

Section 2.     **SUMMARY:** This Ordinance provides for the imposition of a retail transaction and use tax of one-half percent for local transportation purposes for a period of thirty (30) years, the authority to issue limited tax bonds secured by such taxes, the administration of the tax proceeds and a county transportation expenditure plan.

Section 3.     **DEFINITIONS:**     The following definitions will apply to this ordinance:

A.     “Authority” means the Tulare County Transportation Authority. The Tulare County Association of Governments Transportation Planning Agency has been designated to serve as the Authority under the provisions of the California Public Utilities Code section 180050 by the Tulare County Board of Supervisors in its Resolution No. 88-0548.

B.     “County” means the County of Tulare.

C.     “The Expenditure Plan” means the the 2006 ½ CENT TRANSPORTATION SALES TAX MEASURE EXPENDITURE PLAN adopted by the Tulare County Association of Governments sitting as the Tulare County Transportation Authority in its Resolution No. 1630 as such plan may be amended from time to time in accordance with the provisions of Division 19 (commencing with section 180000) of the California Public Utilities Code, as such statutory provisions may be amended, renumbered or readopted from time to time. Such amendments may include, but are not limited to, amendments in response to incorporations or disincorporations or changes in City or County boundaries.

Section 4.     **LEGAL BASIS:**     This Ordinance is enacted and implemented pursuant to the provisions of Division 19 (commencing with section 180000) of the California Public Utilities Code and Part 1.6 (commencing with section 7251) of Division 2 of the California Revenue and Taxation Code, as such provisions may be amended, renumbered or readopted from time to time.

Section 5.     **IMPOSITION OF RETAIL TRANSACTION AND USE TAX:** Upon voter approval of this Ordinance in the ballot measure described below, the Authority shall impose within the incorporated and unincorporated territory of Tulare County, a retail



transaction and use tax (herein referred to as “the tax”) for transportation purposes in accordance with the provisions as provided in Division 19 (commencing with section 180000) of the California Public Utilities Code and Part 1.6 (commencing with section 7251) of Division 2 of the California Revenue and Taxation Code. The provisions of California Revenue and Taxation Code sections 7261 and 7262, as amended, renumbered or re-adopted from time to time are incorporated herein by reference as if set out in full.

Section 6.     **TAX RATE AND DURATION:**     The tax rate shall be one-half of one percent (0.5%) per dollar for a period of thirty (30) years commencing on the operative date of this ordinance. This tax shall be in addition to any other taxes authorized by law, including any existing or future state or local sales tax or transactions and use taxes.

Section 7.     **PURPOSES FOR USE OF TAX:**     The revenues derived from the tax shall be used for transportation purposes only and may include, but are not limited to, the administration of this Ordinance and the Expenditure Plan, including costs for initial and subsequent preparation and election, costs for legal actions related to the election, Ordinance and Expenditure Plan, and the costs and fees required for California State Board of Equalization services, and any and all costs and fees related to the transportation purposes set out in the Expenditure Plan. These purposes include expenditures for planning, environmental review, engineering and design costs, related special and expert consultant costs, and related right-of way acquisition and the administrative and legal costs associated therewith.

Section 8.     **ALLOCATION:**     After deduction of required State Board of Equalization fees and authorized administrative costs, revenues derived from the tax shall be allocated in accordance with the Expenditure Plan.

Section 9.     **CONTRIBUTIONS FROM NEW DEVELOPMENT:** No revenue generated from this tax shall be used to replace fair share contribution from new development.

Section 10.    **ADMINISTRATIVE OF PLANS:** The Authority shall impose and collect the tax, and shall administer the Expenditure Plan consistent with the provisions and priorities of the Expenditure Plan and consistent with the legal basis and authority cited herein.

Section 11.    **MANDATED TAXPAYER SAFEGUARDS:**     The following taxpayer safeguards set and described in detail in the expenditure are mandated and shall be implemented and followed throughout the life of this tax and period of collection.

A.     **Citizens' Oversight:** A Citizens' Oversight Committee shall be formed as set out in Appendix C to the Expenditure Plan.

B.     **Administrative Costs:**     The Authority shall expend only that amount of funds derived from the tax that is necessary and reasonable to carry out its responsibilities for auditing, administrative expenses, staff support and contract services as provided in Appendix A of the Expenditure Plan. In no event, shall the funds expended annually for salaries and benefits of the Authority Staff exceed one percent (1%) of the annual net amount of the revenue raised by the tax.

C.     **Maintenance of Effort:**     The Authority, by enactment of this Ordinance, intends the additional funds provided government agencies by the tax measure to supplement existing local transportation revenues being used for street and highway purposes. This retail transaction and use tax revenue shall not be used to replace existing local road funding programs or to replace requirements for new development to provide for its own road needs. Under this Measure, funding priorities should be given to addressing current and future road and transit

needs, easing congestion, improving roadway safety and mitigating environmental impacts associated with transportation demands.

Section 12.    **BONDING AUTHORITY:** Upon voter approval of this Ordinance, the Tulare County Association of Governments in its capacity as the Authority shall have the authority and power, pursuant to Public Utilities Code section 180250 and following, as amended, renumbered or readopted from time to time, to sell or issue bonds or other evidence or instruments of indebtedness, including but not limited to, capital appreciations bonds, in the aggregate principal amount at any one time outstanding not to exceed the estimated proceeds of the tax as determined by the Expenditure Plan, and to secure such indebtedness solely by way of future collection of taxes for capital outlay expenditures for the purposes set forth in Sections 5, 6, 7, and 8 hereof, including the carrying out of transportation projects described in the Expenditure Plan.

Section 13.    **ANNUAL APPROPRIATIONS LIMIT:** Upon voter approval of this Ordinance, the Tulare County Association of Governments, solely in its capacity as the Tulare County Transportation Authority, shall be subject to the government spending appropriations limit of \$100,000,000 as provided in Section 4 of Article XIII B of the California Constitution and California Public Utilities Code section 180202. The Authority appropriations shall be subject to this limitation through any initial partial year and then the first full year during which this tax is imposed and collected. In every subsequent year, the Authority appropriations limit shall be in determined as provided in Section 1 of Article XIII B of the California Constitution.

Section 14:    **ELECTION:** The Authority requests that the Tulare County Board of Supervisors call an election for the purpose of submitting the approval of this Ordinance and the imposition of this tax to the electors residing in the incorporated and unincorporated territories of

Tulare County and consolidate the special election with the Statewide General Election on November 7, 2006. The election shall be called and conducted in the same manner as provided for by law for the conduct of elections by a county. The sample ballot to be mailed to the voters shall be the full proposition set out in attachment A and the voter informational handbook shall include this Ordinance and the entire Expenditure Plan. Two-thirds of the electors voting in such election must vote in favor of the proposition set out in Exhibit A in order for this Ordinance to become operative and to approve the imposition of this tax.

Section 15.     **OPERATIVE DATES:**     Subject to voter approval, this Ordinance shall be operative on the first day of the first calendar quarter commencing more than one hundred ten (110) days after the election and after the Tulare County Transportation Authority has entered into a contract with the State Board of Equalization to perform all functions incidental to the administration and operation of this Ordinance.

Section 16.     **EXPENDITURE PLAN AMENDMENTS:**     The Expenditure Plan may only be amended, if required, in accordance with the process set out in the Expenditure Plan and in California Public Utilities Code section 180207 as such section may be amended, renumbered or readopted from time to time. Until such amendments have been made pursuant to this process, the existing Expenditure Plan shall remain in full force and effect.

Section 17.     **EFFECTIVE DATE:**     The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof shall be published once in the Times Delta, a newspaper printed and published in the County of Tulare, State of California, together with the names of the members of the governing Board of the Tulare County Association of Governments voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the members of the governing board of the Tulare County Association of Governments in its capacity as the Tulare County Transportation Authority on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, at a regular meeting of said board duly and regularly convened on said day by the following vote:

AYES:

NOES:

ABSENT:

Tulare County Association of Governments  
In its Capacity as the  
Tulare County Transportation Authority

\_\_\_\_\_  
Chair Phil Cox

ATTEST:     GEORGE FINNEY  
                 Executive Secretary  
                 Tulare County Association of Governments

By: \_\_\_\_\_  
                 Deputy

JJR/2006749/7/16/2006