

Exhibit "A"

ORDINANCE NO. 1570

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA, CALIFORNIA, ADDING ARTICLE 5.5 – SUPPLEMENTAL TRANSACTIONS AND USE TAX TO CHAPTER 5 – TAXATION, OF TITLE II – ADMINISTRATION OF THE ARCATA MUNICIPAL CODE INCREASING THE TRANSACTIONS AND USE TAX FOR GENERAL REVENUE TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, Article XIIC, Section 2 of the California Constitution authorizes a city to impose a general tax if approved by a majority vote of the qualified electors; and

WHEREAS, Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code, and Section 7285.9 of the California Revenue and Taxation Code, authorizes a city to adopt a transactions and use (sales) 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; and

WHEREAS, service and program priorities identified by City registered voters through a community survey include: 1) emergency, disaster and climate change preparedness and response; 2) services addressing homelessness and its impacts to the City; 3) providing clinical mental health response to people in crisis; 4) improved sidewalks, bike lanes and trails; and 5) preserving recreation and local parks; and

WHEREAS, to preserve and fund essential City services, including those discussed herein, the City must identify a reliable source of locally controlled funding; and

WHEREAS, local, voter-approved funding for essential services will provide a guaranteed source of funding for the City of Arcata that cannot be taken by the state or federal governments, as all funds will be legally required to be spent in Arcata; and

WHEREAS, the proposed measure will include strict accountability requirements such as public disclosure of all spending; annual independent financial audits that ensure funds are used effectively and as promised and only to benefit the Arcata community; and annual review by the Transactions and Use Tax Oversight Committee (TUTOC); and

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ARCATA DO RESOLVE, HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ADOPTION OF A NEW ARTICLE. Subject to the approval of a majority of the voters of the City of Arcata at the scheduled election so designated by the City Council in a resolution placing this Ordinance on the ballot for such election, Article 5.5 – Supplemental Transactions and Use Tax is added to Chapter 5 - Taxation, in Title II – Administration, of the Arcata Municipal Code to read as follows:

ARTICLE 5.5

SUPPLEMENTAL TRANSACTIONS AND USE TAX

SEC. 2684.50 Title.

This Ordinance shall be known as the “Supplemental Transactions and Use Tax.” The City of Arcata hereinafter shall be called “City.” This Ordinance will be applicable to the incorporated territory of the City. This Ordinance shall complement, and not replace or supersede, the City’s existing Transactions and Use Tax, as described in Chapter 5, Article 5 §§ 2684-2684.15.

SEC. 2684.51 Definitions.

For the purpose of this Ordinance the following words and terms shall have the meaning given in this section:

IN THE CITY. Includes all territory within the Arcata city limits.

OPERATIVE DATE. The first day of the first calendar quarter commencing more than 110 days after the adoption. Since the measure was approved at the November 5, 2024, election, the operative date shall be April 1, 2025.

TERMINATION DATE. The date this Ordinance is repealed by voters.

SEC. 2684.52 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 § 7251) of Division 2 of the California Revenue and Taxation Code and § 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 California Revenue and Taxation Code.

(C) To adopt a retail transactions and use tax Ordinance that imposes a tax and provides a measure 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 California 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.

SEC. 2684.53 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.

SEC. 2684.54 Transaction 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 three-fourth of a cent (3/4%) 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 Ordinance. The tax in addition to the City's existing sales and use tax set forth in §§2684-2684.15 of the Arcata Municipal Code.

SEC. 2684.55 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 or her 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.

SEC. 2684.56 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 three-fourth of a cent (3/4%) 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.

SEC. 2684.57 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 California Revenue and Taxation Code, all of the provisions of Part 1 (commencing with § 6001) of Division 2 of the California Revenue and Taxation Code are hereby adopted and made a part of this Ordinance as though fully set forth herein.

SEC. 2684.58 Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the California 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 therefore. 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 California 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; or

(4) In §§ 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the California Revenue and Taxation Code.

(B) (1) The word "city" shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in § 6203 and in the definition of that phrase in § 6203.

(2) "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 exceed \$500,000. For purposes of this section, a person is related to another person if both persons are related to each other pursuant to § 267(b) of Title 26 of the United States Code and the regulations thereunder.

SEC. 2684.59 Permit Not Required.

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

SEC. 2684.60 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 subsection, 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 § 4000) of Division 3 of the Cal. Vehicle Code, aircraft licensed in compliance with § 21411 of the California Public

Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with § 9840) of the California 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 subsections (B)(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 §§ 6366 and 6366.1 of the California Revenue and Taxation Code.

(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 (C)(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 subsection (C)(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 § 4000) of Division 3 of the California Vehicle Code, aircraft licensed in compliance with § 21411 of the California Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with § 9840) of the California 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 California 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.

SEC. 2684.61 Amendments.

All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the California 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 California Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the California 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.

SEC. 2684.62 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 California Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SEC. 2684.63 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.

SEC. 2684.64 Effective Date.

This Ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

SEC. 2684.65 Termination Date.

The authority to levy the tax imposed by this Ordinance shall expire when rescinded by voters.

SEC.2684.66 Fiscal Accountability Provisions.

Consistent with Arcata's value to be accountable and transparent, the existing Transactions and Use Tax Oversight Committee (TUTOC) is tasked with conducting an annual review of all the expenditures of revenues generated by the tax to ensure fiscal accountability and public participation.

SECTION 2. COUNCIL AUTHORITY TO AMEND. This is a City Council-sponsored initiative Ordinance which otherwise would only be subject to amendment by the voters of the City. However, pursuant to Elections Code Section 9217, the City Council shall have and retain the right and authority to amend the Ordinance to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the City Council) in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Arcata hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 4. CEQA. The adoption of this Ordinance is not a "project" subject to the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Section §§ 21000 *et seq.*). CEQA Guideline § 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

SECTION 5. APPROPRIATIONS LIMIT. Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of Arcata is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this tax.

SECTION 6. EFFECTIVE DATE. If a majority of the voters of the City of Arcata voting at the General Municipal Election of November 5, 2024, vote in favor of this Ordinance, then this Ordinance shall become a valid and binding Ordinance of the City of Arcata, and shall be considered as adopted upon the date that the vote is declared by the City Council, and this Ordinance shall go into effect ten (10) days after that date, pursuant to Election Code section 9217.

SECTION 7. EXECUTION; CERTIFICATION. The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the approval thereof and cause the same to be published or posted pursuant to law.

DATE: _____, 20____

ATTEST:

APPROVED:

City Clerk, City of Arcata

Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1570, passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, on the ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

City Clerk, City of Arcata