

**YREKA CITY COUNCIL**  
**SPECIAL MEETING AGENDA**  
**Thursday July 10, 2014 @ 5:30 p.m.**  
**Yreka City Council Chamber 701 Fourth Street, Yreka, CA**

**PUBLIC COMMENTS:** This is an opportunity for members of the public to address the Council on subjects within its jurisdiction, whether or not on the agenda for this meeting. Persons speaking during the public comment period will be limited to three (3) minutes. The Council may ask questions, but may take no action during the Public Comment portion of the meeting. For items, which are on this agenda, speakers are encouraged to wait to be heard instead at the time the item is to be acted upon by the Council.

**SPEAKERS:** Please step up to the microphone, state your name and mailing address so that City Staff can respond to you in regard to your comments, or provide you with information, if appropriate. You are not required to state your name and address if you do not desire to do so.

**Public Hearing:** Discussion and Possible Action to:

- 1) Adopt Resolution 2014-28 Calling for an Election on November 4, 2014 for City Voters to Determine Whether an Ordinance entitled "An Ordinance of the City of Yreka Imposing a Local Transactions and Use Tax to Improve the Quality of Life in Yreka" is Enacted; which Resolution 2014-28 Amends and Restates Resolution 2014-27 and Finds that the Enactment of the Measure is not Subject to CEQA.
- 2) Waive Reading of the Ordinance in Full and Read by Title.

**Adjournment.**

All documents produced by the City which are related to an open session agenda item and distributed to the City Council are made available for public inspection in the City Clerk's Office during normal business hours.

In compliance with the requirements of the Brown Act, notice of this meeting has been posted in a public accessible place, 24 hours in advance of the meeting.



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**CITY OF YREKA**  
**CITY COUNCIL AGENDA MEMORANDUM**

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To: Yreka City Council

By: David Simmen, Mayor

Title: Conduct a Public Hearing, Waive Full Reading of the Ordinance and Consider Adopting the Amended Resolution Calling for an Election on November 4, 2014 to Approve a One-Quarter of One Percent (0.25%) Transactions and Use (Sales) Tax to Improve the Quality of Life for Yreka Residents and finding that the measure is not Subject to CEQA.

Date: July 10, 2014

Recommended Action:

1. Conduct a public hearing, waive full reading of the ordinance and adopt the resolution by a 2/3 vote of all members of the Council (i.e. 4 votes).

Background:

This is the second hearing on this resolution. The resolution was adopted at the City Council meeting held on June 19, 2014 but it is being brought before you once again because the wording of the measure exceeded its 75-word limit as required by the Elections Code. The measure's language has been condensed to meet this requirement.

A group of citizens has been meeting in an effort to create a funding mechanism to support the organizations that improve and implement the quality of life in Yreka and to do this is such a way that it also stimulates Yreka's business community to enrich and create vitality in the City of Yreka. Initially, we were planning to place this measure on the ballot as an initiative through a voter petition, however, the statute allowing for local sales tax measures requires a four-fifths vote of the City Council (as opposed to other initiatives requiring the Council to either adopt the initiative or place it on the ballot). Upon learning of this requirement, the citizens group voted to request that the City Council place the Quality of Life Stimulus Measure on the ballot for voter consideration.

Ballot Measure Language

The attached resolution proposes to place on the November 4, 2014 general election ballot an ordinance that would implement a local sales tax (transactions and use tax), in the amount of (0.25) percent. This will be a special tax, legally restricting the funds generated from the tax to the purposes set forth in the measure. Passage requires a

two-thirds vote of the electorate, and the City Council must determine by a two-thirds vote to place it on the ballot. The question to be placed before the voters is:

<p><b>Quality of Life Stimulus Measure</b></p> <p>To improve the Yreka's Quality of Life shall a ordinance be enacted for a local sales tax of one-quarter of one percent, solely for 1) Advancing Culture, the Arts and Entertainment thereby stimulating business; and/or 2) Advancing Education and Youth Activities in the City of Yreka thereby stimulating business; and 3) Operational expenses of an overseeing independent nonprofit corporation that expires in six years?</p>	<p><input type="checkbox"/> YES</p> <p><input type="checkbox"/> NO</p>
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The ordinance attached to the resolution, Exhibit A, at Section 350.030(A)(11), provides for mandatory audits, and community oversight and reporting, through the formation of a private nonprofit corporation with appointment of a governing board consisting of Yreka residents and business representatives appointed by the City Council. Its budget is subject to the City Council's approval. The tax will automatically expire in six years.

Transactions and Use Tax:

In California there are approximately 100 cities and counties with local sales tax measures, and many more special districts and counties. In fact, 90% of the State's population resides in at least one district that has a local sales tax (transactions and use tax). This additional tax revenue stays in each city, and **cannot be taken by the County or State.**

As explained in more detail below, sales tax is paid by purchasers of retail taxable goods from businesses located in Yreka. Thus, the tax is imposed on purchasers of goods, whether Yreka residents or not. In this way the tax burden is not imposed exclusively on Yreka residents. Local sales tax measures have enjoyed recent popularity because the cost increment is low, it is not a property-based tax, out-of-town visitors share in the cost, and the sales tax is not applied to groceries or prescription medication.

Statutory authority to schedule an election for a special tax is set forth in the State Revenue and Taxation Code, section 7285.91, which provides:

*As an alternative to the procedure set forth in Section 7285.9, the governing body of any city may levy, increase, or extend a transactions and use tax for specific purposes. The tax may be levied, increased, or extended at a rate of 0.125 percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:*

**(a)** *The ordinance proposing that tax is approved by a two-thirds vote of all members of the governing body and is subsequently approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue.*

- (b) The transactions and use tax conforms to the Transactions and Use Tax Law Part 1.6 (commencing with Section 7251).*
- (c) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.*

Although referred to as a "local sales tax" throughout this staff report, this revenue source is formally known as a "transactions and use tax" in State law. A transaction and use tax is imposed on the same goods and merchandise as sales tax; however, a sales tax (formally known in State law as a Bradley Burns sales and use tax) is allocated to the jurisdiction where the sale is negotiated or the order for the sale is taken. A transactions and use tax, on the other hand, is allocated to the City where the goods are delivered or placed into use. Merchandise purchased in a "walk-in" retail store is assumed by the state to be used within the city in which the store is located, unless the retailer is asked to ship the merchandise outside the city as part of the sale or it is a motor vehicle that can be driven away. For sales contracts that require shipment of merchandise, the local sales tax (transactions and use tax) is levied for the city to where the merchandise is shipped. A similar situation exists with vehicles that require registration: the local sales tax (transactions and use tax) of the city in which the vehicle is registered applies, regardless of where it was purchased.

If this local revenue measure passes, Yreka will enter into two contracts with the State: the first to set up the tax and the second for ongoing administration. The tax will not be operative until the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance at the election. This means that a tax passed in November, 2014, would not be imposed and collected until the beginning of the second quarter of the year on April 1, 2015.

Three potential types of tax measures could bring in the necessary revenue: a local sales tax, an increase in the utility user's tax, or a parcel tax. For the following reasons, a sales tax is considered to be the best approach:

Participant Diversity:

Sales tax is paid on a wide variety of goods, excluding (primarily) groceries and medicine. It is therefore a highly diversified source of revenue. A sales tax would be paid by a wide variety of individuals, including residents, local businesses, and workers in the City, and individuals from outside the City who purchase taxable goods in the City. Sales tax on motor vehicle purchases would be paid only by individuals registering the vehicle in Yreka, regardless of where the vehicle was purchased. The sales tax would be paid by the highest number of payers relative to other revenue options such as a parcel tax or increase in the utility user's tax, and therefore has the most participant diversity of the three options.

Impact on Low/Fixed Income:

A sales tax increase would be paid only by purchasers of taxable goods in Yreka. Because low income and fixed income individuals spend a large proportion of their incomes on non-taxable goods and services, a sales tax increase would not have as significant an impact on these individuals. Further, many purchases subject to sales tax are discretionary purchases, allowing low and fixed income individuals to

minimize the impact of the new tax.

Impact on Business Community:

A sales tax increase would have a low impact on the business community, as the tax would be paid by purchasers of taxable goods rather than the business itself. Most office and service businesses would see little impact except for their own purchases of taxable goods in Yreka. Anecdotal data from other California counties where city sales tax measures have been adopted indicates these measures had virtually no impact on the retail sales volumes in those cities, when comparing periods prior to and after adoption of a sales tax.

Impact on Residential Community:

A sales tax would have a medium to low impact on residents. It would apply only to taxable purchases and not to mortgage, other debt payments, utilities, services, medicine and most grocery purchases, which make up the majority of resident spending. Individuals purchasing a vehicle that is registered in Yreka would pay the increased tax, regardless of whether the vehicle was purchased in Yreka or another city.

Election Procedures:

Submission of Ballot Arguments

Deadlines established by the Siskiyou County Clerk/Registrar of Voters require that arguments for or against *the* measure must be submitted by time fixed by that Election's Official. Arguments may not exceed three hundred (300) words, and cannot be signed by more than five (5) persons.

Council Preparation of Argument In Support of Measure

Under Elections Code section 9282, a ballot argument on this city council-submitted measure may be authored by the city council, or any members of the council authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations. The City Council is asked to designate, by motion, Mayor David Simmen and any other interested councilmember to author the ballot argument in support of the measure. The argument may not exceed three hundred (300) words. The councilmember(s) selected may solicit additional signatories, not to exceed five total signatories.

Impartial Analysis

The City Attorney will prepare an impartial analysis of the measure, not to exceed 500 words *in* length, showing the effect of the measure on the existing law and the operation of the measure, and transmit the impartial analysis to the Elections Division.

Roles and Limitations During Ballot Measure Campaign Period

The City can provide educational materials to the public, informing them about the Measure. But the City cannot expend any time, money or effort advocating a position supporting passage of the ballot measure. Council members and staff can work on the

campaign on their own time and at their own expense, provided it is made clear that they are doing so on their own time and not with City resources.

Fiscal Impact:

The Siskiyou County Clerk/Registrar of Voters estimates the cost of adding this measure to the November 4, 2014 General Election to be approximately \$800. This expense will be reimbursed to the City when the measure passes. If the measure fails the city will bear this expense. The Finance Director currently estimates that a one-quarter cent sales tax would raise approximately \$400,000 to \$450,000 per year to improve the Quality of Life in Yreka.

CEQA Compliance:

Approval of this Resolution to place on the ballot a special tax that will provide funding for 1) business stimulation, 2) advancing culture, the arts and/or entertainment; and 3) advancing education and youth activities, is exempt from the California Environmental Quality Act under CEQA Guidelines § 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. In addition, the activity is not a project under CEQA pursuant to Guidelines Section 15378(b)(5): Organizational or administrative activities of nonprofit organizations will not result in direct or indirect physical changes in the environment.

The resolution directs the City Clerk to ensure that a notice of exemption is filed immediately with the County Clerk.

Approved by: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Steven Baker", written over a horizontal line.

Steven Baker, City Manager

**RESOLUTION NO. 2014-28**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YREKA  
AMENDING AND RESTATING RESOLUTION NO. 2014-27 CALLING FOR AN  
ELECTION ON NOVEMBER 4, 2014 TO APPROVE A ONE-QUARTER OF  
ONE PERCENT (0.25%) TRANSACTIONS AND USE (SALES) TAX TO  
IMPROVE THE QUALITY OF LIFE FOR YREKA RESIDENTS AND A  
FINDING THAT THE MEASURE IS NOT SUBJECT TO CEQA.**

**RECITALS**

**WHEREAS**, The Quality of Life Stimulus Measure has been proposed to fund and support organizations that improve and implement the quality of life in Yreka, stimulating the business community to enrich and create vitality in the City of Yreka; and

**WHEREAS**, a majority of Yreka's sales tax is paid by people coming to local destinations and the proposed revenue measure would ensure that these out-of-town shoppers who use our local services such as streets, sidewalks, parks and police protection, pay their fair share and is not a property tax; and

**WHEREAS**, the tax to be submitted to the voters, if approved, would be imposed on retail transactions involving and use of personal property. The tax rate would be one quarter of one percent (.25%) of the sales price of the property. The tax revenue would be collected by the State Board of Equalization and remitted to the City. The tax shall be approved if the measure receives at least a 2/3 affirmative votes of the qualified electors of the city; and

**WHEREAS**, Elections Code Sections 9219 and 9282 set forth the procedures for arguments in favor of or in opposition of any City measure; and

**WHEREAS**, Elections Code Sections 9220 and 9285 set forth the procedures for rebuttal arguments; and

**WHEREAS**, the City Council held a duly noticed public hearing on July 10, 2014 to accept public comments and to review and consider the proposed Resolution and Ordinance; and

**WHEREAS**, the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378, subdivisions (2) and (4) of subdivision (b), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

**BE IT RESOLVED BY THE COUNCIL OF YREKA** as follows:

SECTION I. The foregoing Recitals are true and correct and are hereby adopted by the City Council.

SECTION II. Pursuant to California Constitution Article XIIC, Section 2; Government Code Section 53724; and Elections Code Section 9222, the City Council of the City of Yreka hereby calls an election at which it shall submit to the qualified voters of the City, a measure that, if approved, would adopt a temporary special transactions and use tax, as authorized by Revenue and Taxation Code section 7285.9. This measure shall be designated by letter by the Siskiyou County Elections Department. Pursuant to Election Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 4, 2014.

SECTION III. The ordinance authorizing the general tax to be approved by the voters pursuant to Section II is as set forth in Exhibit A attached hereto. The City Council hereby approves the form of the ordinance, and its submission to the voters of the City at the November 4, 2014 election, as required by Revenue and Taxation Code section 7285.9, subject to the approval of at least 2/3 of the qualified Yreka city voters voting on the measure at the election called by the adoption of this resolution. The entire text of the ordinance, attached hereto as Exhibit A, shall be made available to the public upon request. The ordinance specifies that the rate of the transactions tax shall be one-quarter percent of one percent (.25%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies that the rate of the use tax shall be one-quarter percent of one percent (.25%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

SECTION IV. The proposed transactions and use tax ordinance shall be submitted to the voters on the ballot in the form of the following question:

<p><b>Quality of Life Stimulus Measure</b></p> <p>To improve the Yreka's Quality of Life shall a ordinance be enacted for a local sales tax of one-quarter of one percent, solely for 1) Advancing Culture, the Arts and Entertainment thereby stimulating business; and/or 2) Advancing Education and Youth Activities in the City of Yreka thereby stimulating business; and 3) Operational expenses of an overseeing independent nonprofit corporation that expires in six years?</p>	<p><input type="checkbox"/> YES</p> <p><input type="checkbox"/> NO</p>
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SECTION V. The official ballot to be used at said election shall conform to the laws of the State of California with relation thereto.

SECTION VI. The City Attorney shall prepare an impartial analysis of the ballot measures not to exceed five hundred words in length showing the effect of the measures on the existing law and the operation of the measure.

SECTION VII. The deadline for filing arguments for and against the ballot measure with the Siskiyou County Clerk/Registrar of Voters shall be within the deadline set by the Siskiyou County Clerk/Registrar of Voters and the argument shall not exceed 300 words in length. Rebuttal arguments shall be filed with the Siskiyou County Clerk/Registrar of Voters and shall not exceed 250 words in length. The Mayor is hereby authorized to prepare a written argument in favor of the proposed ordinance, not to exceed 300 words. At the Mayor's discretion, the argument may also be signed by bona fide associations or by individual voters who are eligible to vote. Pursuant to Section 9285 of the California Elections Code, when the Siskiyou County Clerk/Registrar of Voters has selected the arguments for and against the measure, which will be printed and distributed to the voters, the Siskiyou County Clerk/Registrar of Voters shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut.

SECTION VIII. The City Council authorizes the Registrar of Voters to consolidate this election with the established election on November 4, 2014 for the ease and convenience of the registered voters and to take advantage of any cost savings possible by such consolidation.

SECTION IX. The City Clerk may request the assistance of the County of Siskiyou Election Department in regard to said General Municipal Election, as the City Clerk deems necessary, and the City shall pay the incurred cost of such assistance.

SECTION X. In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in a newspaper of general circulation, circulated in the City of Yreka and hereby designated for that purpose by the Council of Yreka. The City Clerk may request that the Siskiyou County Clerk/Registrar of Voters prepare and publish the required notice.

SECTION XI. The election on the measure set forth in Sections III and IV of this resolution shall be held and conducted, the votes canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars not prescribed in this resolution, the election shall be held as prescribed in the Elections Code of the State of California. The Board of Supervisors of the County of Siskiyou is authorized to canvas the returns of that election with respect to the votes cast in the City of Yreka and certify the results to the City Council. At the next

regular meeting of the City Council occurring after the returns of the election have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.

SECTION XII. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the measure on the election ballot.

SECTION XIII. This Resolution shall be forthwith entered upon the minutes of this Council and kept and maintained by the City Clerk of Yreka.

SECTION XIV. The City Clerk is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit a copy hereof so certified to the Board of Supervisors and the Registrar of Voters of Siskiyou County.

PASSED AND ADOPTED this 10<sup>TH</sup> day of July, 2014, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
David Simmen, Mayor

Attest:

\_\_\_\_\_  
Elizabeth E. Casson, City Clerk

**AN ORDINANCE OF THE CITY OF YREKA IMPOSING A LOCAL TRANSACTIONS  
AND USE TAX TO IMPROVE THE QUALITY OF LIFE IN YREKA**Recitals

WHEREAS, the City Council, on the behest of its residents, desires to place a Transactions and Use (Sales) Tax Ordinance, as authorized by Revenue and Taxation Code section 7285.9 and attached hereto as Exhibit A, as a measure before the voters at the November 4, 2014 general election. Such tax shall be a special tax, intended to Improve the Quality of Life here in Yreka with the revenues of which shall only be used to fund 1) Business Stimulation, 2) Advancing Culture, the Arts and Entertainment; and 3) Advancing Education and Youth Activities in the City of Yreka and 4) reimburse the City of Yreka for its costs incurred in the administration of this program.

WHEREAS, all funds from this local revenue measure are required to stay in Yreka to improve our quality of life and stimulate business and cannot be taken by the State or county. Fiscal accountability will be ensured by requiring independent citizens' oversight, mandatory financial audits, and yearly reports to the community;

WHEREAS, the tax, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property. The tax revenue would be collected by the State Board of Equalization and remitted to the City.

WHEREAS, the transactions and use tax to be submitted to the voters is a special tax that may only be used for the purposes specified in the ordinance. It shall be approved if the measure receives at least a two-thirds vote of city residents voting at the consolidated general election to be held on November 4, 2014.

THE PEOPLE OF THE CITY OF YREKA DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.50 is hereby added to the Yreka Municipal Code to read as follows:

27 "3.50.010. Title. This ordinance shall be known as the **City of Yreka Quality of Life**  
28 **Transactions and Use Tax Ordinance**. The City of Yreka hereinafter shall be called "City."  
29 This ordinance shall be applicable in the incorporated territory of the City.

30 3.50.020. Use of Tax Proceeds and Expenditure Plan. All proceeds of the tax levied and  
31 imposed hereunder, net of City Reimbursement, shall be accounted for and paid into a special  
32 Quality of Life Stimulus Fund or account designed for use by an independent nonprofit oversight  
33 board only for 1) Advancing Culture, the Arts and Entertainment thereby stimulating business;  
34 and/or 2) Advancing Education and Youth Activities in the City of Yreka thereby stimulating  
35 business; and 3) Costs and expenses incurred to operate the independent nonprofit oversight  
36 board together with the payment of its debt service, capital outlays, contract services, operating  
37 expenses and personnel and benefit costs.

38 City Reimbursement means reimbursement to the City of Yreka for all its direct and  
39 indirect costs expended towards preparation of this measure, election related costs,  
40 administration of the Authority and for capital outlays, operating expenses and personnel and  
41 benefit costs relating to the Authority and collection of the sales tax revenue.

42 The foregoing is intended to constitute an "expenditure plan" describing the specific  
43 projects for which the revenues from the tax may be expended as required by Cal Revenue and  
44 Taxation Code § 7285.91.

45 3.50.030. Composition, Duties and Responsibilities of the Quality of Life Stimulus  
46 Authority.

47 A. The Quality of Life Stimulus Authority shall:

- 48 1. Be referred to the Quality of Life Stimulus Authority ("QOLSA" or  
49 "Authority").
- 50 2. Be created by the City of Yreka as a nonprofit corporation for the purpose of  
51 overseeing the expenditures of Sales Tax revenues, net of city expense  
52 reimbursement, that is generated when this ordinance become operative.
- 53 3. Have the duty and responsibility to monitor, evaluate and take corrective  
54 action relating to the performance of any and all contracts and grants  
55 authorized by the Board.
- 56 4. Be deemed to be a "legislative body" within the definition of Cal Gov't Code  
57 § 54952(c)(1)(A). As such, it shall be subject to the Brown Act to the same

58 extent that a “legislative body” is subject to the Brown Act (Cal Gov’t Code §  
59 54950, et seq.).

- 60 5. Be subject to the Public Records Act to the same extent that a “local agency”  
61 is subject to the Public Records Act (Cal Gov’t Code § 6250 et seq.).
- 62 6. Be governed by the QOLSA Board of Directors (the “Board”)
- 63 7. Annually propose its budget to the Yreka City Council for approval. The City  
64 Council shall have the discretion to modify the proposed budget and approve  
65 its own version of the budget. The Board shall not make any appropriations  
66 that do not conform with the approved budget.
- 67 8. Adopt an investment policy and the policy’s content and modification is  
68 subject to the review and approval of the Yreka City Council.
- 69 9. Shall make report of its activities to the Yreka City Council not less than  
70 annually. Additional reports may be made from time to time as the  
71 circumstances require or as the City Council directs. Said reports shall  
72 contain, but not be limited to, proposed plans and status of existing plans,  
73 programs, contracts and such other subjects.
- 74 10. Have the City of Yreka’s Treasurer as the Authority’s Treasurer. The treasurer  
75 is designated as the depository of the Authority to have custody of all the  
76 money from whatever source, and as such to have the treasurer’s powers,  
77 duties and responsibilities with respect thereto. With the consent of the City  
78 Council the treasurer’s powers, duties and responsibilities may be assigned to  
79 a third party.
- 80 11. Have the same contract auditor that the City of Yreka engages from time to  
81 time for its annual audit. The Authority shall be audited on an annual or  
82 biannual basis as may be directed by the Yreka City Council.
- 83 12. Procure Officers & Directors, volunteers, employment practices, fidelity as  
84 well as such other forms of insurance and bonds as the Board directs.

85 B. The Authority’s Governing Board shall:

- 86 1. Have a governing board consisting of five (5) members comprised of  
87 residents or persons having businesses within the City of Yreka (the “Board”).
- 88 2. Of the members first appointed, three shall be appointed for terms of two  
89 years and two for three years. Their successors shall be appointed for terms of  
90 three years. In no case shall any Governing Board member serve more than

91 two terms. A member who is appointed to fill a partial term that is less than 2  
92 years shall be allowed to serve for 2 full terms in addition to the time served  
93 during the partial term.

- 94 3. Serve at the pleasure of the Yreka City Council whom shall have the  
95 discretion to terminate any appointment of any Board member by majority  
96 vote of the City Council without cause.
- 97 4. Serve without compensation, except that they shall be reimbursed for  
98 authorized travel and other expenses directly related to the work of the  
99 Authority.
- 100 5. Designate a President, Vice-President and Secretary.
- 101 6. Have the Secretary, or designee, keep minutes of each meeting and draft and  
102 post the Authority's agenda. The minutes of the open session of all meetings  
103 of the Board shall be kept by the Secretary and shall, as soon as possible after  
104 each meeting, but in no case more than seven (7) days after such meeting,  
105 forward draft minutes to each Board member, Yreka's City Manager and City  
106 Clerk as well as the minutes that are approved by the Board.
- 107 7. Be prohibited from acting in any commercial activity directly or indirectly  
108 involving the Authority, such as being a consultant or vendor to the Authority  
109 during their tenure on the Board. Board members shall not have a direct  
110 commercial interest or employment with any public or private entity that  
111 receives sales tax funds authorized by the voters in this ordinance.

112 3.50.030. Operative date. "Operative Date" means the first day of the first calendar  
113 quarter commencing more than 110 days after the adoption of this ordinance, the date of such  
114 adoption being as set forth below.

115 3.50.040. Purpose. This ordinance is adopted to achieve the following, among other  
116 purposes, and directs that the provisions hereof be interpreted in order to accomplish those  
117 purposes:

118 A. To impose a retail transactions and use tax in accordance with the  
119 provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and  
120 Taxation Code and Section 7285.91 of Division 2 which authorizes the City to adopt this tax  
121 ordinance which shall be operative if two-thirds of the electors voting on the measure vote to

122 approve the imposition of the tax at an election called for that purpose.

123           B.     To adopt a retail transactions and use tax ordinance that incorporates  
124 provisions identical to those of the Sales and Use Tax Law of the State of California  
125 insofar as those provisions are not inconsistent with the requirements and limitations contained  
126 in Part 1.6 of Division 2 of the Revenue and Taxation Code.

127           C.     To adopt a retail transactions and use tax ordinance that imposes a tax and  
128 provides a measure therefore that can be administered and collected by the State Board of  
129 Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible  
130 deviation from, the existing statutory and administrative procedures followed by the State Board of  
131 Equalization in administering and collecting the California State Sales and Use Taxes.

132           D.     To adopt a retail transactions and use tax ordinance that can be  
133 administered in a manner that will be, to the greatest degree possible, consistent with the provisions  
134 of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the  
135 transactions and use taxes, and at the same time, minimize the burden of record keeping upon  
136 persons subject to taxation under the provisions of this ordinance.

137           3.50.050. Contract with State. Prior to the operative date, the City shall contract with the  
138 State Board of Equalization to perform all functions incident to the administration and operation of  
139 this transactions and use tax ordinance; provided, that if the City shall not have contracted with the  
140 State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such  
141 a case the operative date shall be the first day of the first calendar quarter following the execution  
142 of such a contract.

143           3.50.060. Transactions tax rate. For the privilege of selling tangible personal property at  
144 retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the  
145 rate of 0.25% of the gross receipts of any retailer from the sale of all tangible personal property  
146 sold at retail in said territory on and after the Operative Date of this ordinance.

147           3.50.070. Place of sale. For the purposes of this ordinance, all retail sales are consummated  
148 at the place of business of the retailer unless the tangible personal property sold is delivered by the  
149 retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-  
150 state destination. The gross receipts from such sales shall include delivery charges, when such

151 charges are subject to the state sales and use tax, regardless of the place to which delivery is made.  
152 In the event a retailer has no permanent place of business in the State or has more than one place of  
153 business, the place or places at which the retail sales are consummated shall be determined under  
154 rules and regulations to be prescribed and adopted by the State Board of Equalization.

155 3.50.080. Use tax rate. An excise tax is hereby imposed on the storage, use or other  
156 consumption in the City of tangible personal property purchased from any retailer on and after  
157 the operative date of this ordinance for storage, use or other consumption in said territory at the  
158 rate of 0.25% of the sales price of the property. The sales price shall include delivery charges  
159 when such charges are subject to state sales or use tax regardless of the place to which delivery is  
160 made.

161 3.50.090. Adoption of provisions of state law. Except as otherwise provided in this  
162 chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2  
163 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section  
164 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of  
165 this ordinance as though fully set forth herein.

166 3.50.100. Limitations on adoption of State law and collection of use taxes. In adopting  
167 the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

168 A. Wherever the State of California is named or referred to as the taxing agency,  
169 the name of this City shall be substituted therefor. However, the substitution shall not be made  
170 when:

171 1. The word "State" is used as a part of the title of the State Controller,  
172 State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the  
173 Constitution of the State of California;

174 2. The result of that substitution would require action to be taken by or  
175 against this City or any agency, officer, or employee thereof rather than by or against the State  
176 Board of Equalization, in performing the functions incident to the administration or operation of  
177 this Ordinance.

178 3. In those sections, including, but not necessarily limited to sections  
179 referring to the exterior boundaries of the State of California, where the result of the substitution

180 would be to:

181                   a. Provide an exemption from this tax with respect to certain sales,  
182 storage, use or other consumption of tangible personal property which would not otherwise be  
183 exempt from this tax while such sales, storage, use or other consumption remain subject to tax by  
184 the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

185                   b. Impose this tax with respect to certain sales, storage, use or other  
186 consumption of tangible personal property which would not be subject to tax by the state under  
187 the said provision of that code.

188

189                   4. In Sections 6701, 6702 (except in the last sentence thereof),  
190 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

191                   B. The word "City" shall be substituted for the word "State" in the phrase  
192 "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in  
193 Section 6203.

194                   3.50.110. Permit not required. If a seller's permit has been issued to a retailer under  
195 Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be  
196 required by this chapter.

197                   3.50.120. Exemptions and exclusions.

198                   A. There shall be excluded from the measure of the transactions tax and the use  
199 tax the amount of any sales tax or use tax imposed by the State of California or by any city, city  
200 and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the  
201 amount of any state-administered transactions or use tax.

202                   B. There are exempted from the computation of the amount of transactions tax  
203 the gross receipts from:

204                   1. Sales of tangible personal property, other than fuel or petroleum  
205 products, to operators of aircraft to be used or consumed principally outside the county in which  
206 the sale is made and directly and exclusively in the use of such aircraft as common carriers of

207 persons or property under the authority of the laws of this State, the United States, or any foreign  
208 government.

209                   2. Sales of property to be used outside the City which is shipped to a point  
210 outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his  
211 agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the  
212 purposes of this paragraph, delivery to a point outside the City shall be satisfied:

213                   a. With respect to vehicles (other than commercial vehicles) subject  
214 to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the  
215 Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code,  
216 and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the  
217 Vehicle Code by registration to an out-of-City address and by a declaration under penalty of  
218 perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of  
219 residence; and

220                   b. With respect to commercial vehicles, by registration to a place of  
221 business out-of-City and declaration under penalty of perjury, signed by the buyer, that the  
222 vehicle will be operated from that address.

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

226  
227                   4.           A lease of tangible personal property which is a continuing sale of  
228 such property, for any period of time for which the lessor is obligated to lease the property for an  
229 amount fixed by the lease prior to the operative date of this ordinance.

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

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

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

238                   2.    Other than fuel or petroleum products purchased by operators of  
239 aircraft and used or consumed by such operators directly and exclusively in the use of such  
240 aircraft as common carriers of persons or property for hire or compensation under a certificate of  
241 public convenience and necessity issued pursuant to the laws of this State, the United States, or  
242 any foreign government. This exemption is in addition to the exemptions provided in Sections  
243 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

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

246                   4.    If the possession of, or the exercise of any right or power over, the  
247 tangible personal property arises under a lease which is a continuing purchase of such property  
248 for any period of time for which the lessee is obligated to lease the property for an amount fixed  
249 by a lease prior to the operative date of this ordinance.

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

255                   6.    Except as provided in subparagraph (7), a retailer engaged in business  
256 in the City shall not be required to collect use tax from the purchaser of tangible personal  
257 property, unless the retailer ships or delivers the property into the City or participates within the  
258 City in making the sale of the property, including, but not limited to, soliciting or receiving the  
259 order, either directly or indirectly, at a place of business of the retailer in the City or through any  
260 representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of  
261 the retailer.

262                   7.    "A retailer engaged in business in the City" shall also include any  
263 retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing  
264 with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section

265 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5  
266 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use  
267 tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the  
268 City.

269 D. Any person subject to use tax under this ordinance may credit against that  
270 tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or  
271 retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and  
272 Taxation Code with respect to the sale to the person of the property the storage, use or other  
273 consumption of which is subject to the use tax.

274 3.50.130. Amendments. All amendments subsequent to the effective date of this chapter  
275 to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and  
276 which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation  
277 Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation  
278 Code, shall automatically become a part of this chapter, provided however, that no such  
279 amendment shall operate so as to affect the rate of tax imposed by this chapter.

280 3.50.140. Enjoining collection forbidden. No injunction or writ of mandate or other legal  
281 or equitable process shall issue in any suit, action or proceeding in any court against the State or  
282 the City, or against any officer of the State or the City, to prevent or enjoin the collection under  
283 this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any  
284 amount of tax required to be collected.

285 SECTION 2. Mandatory Duty Savings Clause. By the use of such words as "shall" and  
286 "must" herein the City Council does not intend to create a mandatory duty upon the city. In  
287 imposing duties in this ordinance the City is assuming an undertaking only to promote the  
288 general welfare. It is not assuming, nor is it imposing on its officers and employees, an  
289 obligation for breach of which it is liable in money damages to any person who claims that such  
290 breach proximately caused injury.

291 SECTION 3. Independent Organization. This ordinance is not intended to be a joint  
292 exercise of powers agreement. The creation of the Authority shall not create Joint Powers  
293 between QOLSA and the City of Yreka. Although the Authority is classified as a legislative  
294 body due to the manner of its formation, it is not a public entity. Sharing of tort liability as

295 defined by Gov't Code § 985.2 is not contemplated and each party assumes full liability imposed  
296 upon it or upon any of its officers, agents, or employees by law, for injury caused by a gross  
297 negligent or wrongful act or omission occurring in the performance of their respective duties to  
298 the same extent that such liability would be imposed in the absence of Section 895.2 of said  
299 Code.

300 SECTION 4. Severability. If any section, subsection, part, clause, sentence or phrase of  
301 this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional  
302 by a decision of any court of competent jurisdiction, the validity of the remaining portions of this  
303 Ordinance, the application thereof, shall not be effected thereby but shall remain in full force and  
304 effect, it being the intention of the City Council to adopt each and every section, subsection, part,  
305 clause, sentence phrase regardless of whether any other section, subsection, part, clause, sentence  
306 or phrase or the application thereof is held to be invalid or unconstitutional.

307  
308 SECTION 5. Effective Date. This ordinance shall take effect thirty days after its final  
309 adoption by the Yreka City Council by a two-thirds vote, or upon adoption by a two-thirds vote  
310 of the electorate of the ballot measure described in Section IV of the Yreka City Council  
311 Resolution, whichever date is later, provided that the ordinance shall only take effect if Quality  
312 of Life Stimulus measure is approved by both the Yreka City Council and the electorate.

313 SECTION 6. Sunset Date. This ordinance shall expire six (6) years from its Operative  
314 Date unless otherwise extended by voter approval.

315 SECTION 8. Implementing Ordinances. Upon approval of this measure by the  
316 voters, the City of Yreka shall, in addition to the local rules required to be provided pursuant  
317 to this ordinance, adopt implementing ordinances and rules and take such other actions as  
318 may be necessary and appropriate to carry out its responsibilities.

319 SECTION 9. Publication. Within \* days of its passage, this ordinance shall be published  
320 with the names of the Councilmembers voting for and against the same in a newspaper of general  
321 circulation in the County of Siskiyou. The publication shall include the votes of the City Council  
322 members voting to place this ordinance on the ballot.

323 SECTION 10. Codification. The City Clerk is directed and authorized to instruct the

324 publisher of the City of Yreka Municipal Code that codification of this Ordinance is limited to  
325 Section 1.

326 SECTION 11. Execution. The Mayor and City Clerk are authorized to subscribe this  
327 ordinance where indicated below to evidence its approval by the voters of the City.

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\_\_\_\_\_  
David Simmen, Mayor

ATTEST:

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Elizabeth E. Casson, City Clerk