COUNTY OF SONOMA
AGRICULTURE AND OPEN SPACE PRESERVATION
MEASURE C

Shall the people of Sonoma County approve an ordinance for agricultural land preservation and open space acquisition, imposing a 0.25 percent sales tax for a period not to exceed 20 years, with an annual appropriations limit of $40 million?

FULL TEXT OF MEASURE C

AGRICULTURAL LAND PRESERVATION AND OPEN SPACE EXPENDITURE PLAN

EXHIBIT A

The purpose of this expenditure plan is to implement the 1989 Sonoma County General Plan by preserving agricultural land use and open space. This purpose will be accomplished primarily through the purchase of development rights from willing sellers in areas of the County which are designated in the General Plan Open Space Element but may include the purchase of fee interests for public recreation where the public use would not be inconsistent with the Open Space designation provided below.

Designated open space areas include community separators, scenic landscape units, scenic corridors, critical habitat areas and riparian corridors.

1. Community separators are generally located between cities, providing visual relief from continuous urbanization. These lands are frequently subject to development pressures, and therefore, have been identified as priority sites for acquisition to prevent urban sprawl, to retain the rural and open character of the County and to preserve agricultural uses.
2. Scenic landscape units and scenic corridors are areas of high visual quality.
3. Critical habitat areas and riparian corridors, such as wetlands, rare and endangered species locations, fresh and salt water marshes, oak savannahs, streams and watercourses, are environmentally sensitive areas requiring protection and careful management.
4. Other areas of biotic significance which may be adversely impacted by development and incompatible land use are the Petaluma River, Laguna de Santa Rosa, and San Pablo Bay margin.
5. Other open space projects including, but not limited to, urban open space projects within incorporated areas of Sonoma County. Funds for these projects will be available on a competitive matching grant basis, with preference given to acquisition and development projects which affect both incorporated and unincorporated lands and watercourses. Examples of such projects include restoration of the Petaluma River and Santa Rosa Creek.

This expenditure plan shall be administered by the Sonoma County Agricultural Preservation and Open Space District and the Authority shall enter into a contract with the District for that purpose.

ORDINANCE NO. 1
(FULL TEXT)

AN ORDINANCE OF THE SONOMA COUNTY OPEN SPACE AUTHORITY IMPOSING A RETAIL TRANSACTIONS AND USE TAX, SUBJECT TO VOTER RATIFICATION, IN THE INCORPORATED AND UNINCORPORATED TERRITORY OF SONOMA COUNTY FOR A PERIOD OF TWENTY YEARS, AND ESTABLISHING AN ANNUAL APPROPRIATIONS LIMIT.

The Board of Directors of the Sonoma County Open Space Authority ordains as follows:

Section 1. TITLE. This ordinance shall be known as the Sonoma County Open Space Authority Transactions and Use Tax Ordinance. The Sonoma County Open Space Authority hereinafter shall be called "District." This ordinance shall be applicable in the incorporated and unincorporated territory of the County of Sonoma, which territory shall be referred to herein as "District."

Section 2. OPERATIVE AND EFFECTIVE DATES. "Operative date" means the first day of the first calendar quarter commencing more than 110 days after the ratification of this ordinance by the voters as required by Revenue and Taxation Code section 7285.5(a); provided, however, that the taxes imposed by this ordinance shall not be levied unless and until (1) Assembly Bill 3670, now pending in the Legislature, is enacted into law or (2) the State Board of Equalization acknowledges that the rate of the tax does not exceed 0.25 percent. "Effective date" means the date that this ordinance is adopted by the District's Board of Directors.

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

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code which authorizes the District 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 which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

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

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

E. To adopt a retail transactions and use tax ordinance which will produce revenue for the purposes set forth in the Expenditure Plan adopted by this Board of Directors on August 9, 1990 by its resolution no. 2 entitled: RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA COUNTY OPEN SPACE AUTHORITY ADOPTING AN EXPENDITURE PLAN and which resolution is attached hereto, marked Exhibit "A" and incorporated herein as though fully set forth.

Section 4. CONTRACT WITH STATE. Prior to the operative date, the District shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the District shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the District at the maximum rate of one quarter of one percent (0.25 percent) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 6. PLACE OF SALE. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 7. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the District of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one quarter of one percent (0.25 percent) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

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MEASURE C, FULL TEXT (Continued)

Section 8. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 9. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 10. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

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

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

(2) The result of that substitution would require action to be taken by or against this District or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance.

(3) In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

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

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

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

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

Section 11. EXEMPTIONS AND EXCLUSIONS.

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

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

(1) Sales of tangible personal property to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

(2) Sales of property to be used outside the District which is shipped to a point ouside the District, pursuant to the contract of sales, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the District shall be satisfied:

a. With respect to vehicles other than commercial vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9850) of the Vehicle Code, by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence; and

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

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

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

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

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

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

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

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

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

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

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

(7) "A retailer engaged in business in the District" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9850) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the District.

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

Section 12. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 13. TERMINATION OF TAXES. The taxes imposed by this ordinance shall remain in effect for not longer than 20 years but may be reimposed with a majority vote of the County's electors.

Section 14. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the District, or against any officer of the State or the District, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

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MEASURE C, FULL TEXT (Continued)

Section 15. APPROPRIATIONS LIMIT. Subject to voter approval, the annual appropriations limit of the District shall be $40 million.

Section 16. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 17. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the District transactions and use taxes and shall take effect immediately upon its adoption by District.

PASSED AND ADOPTED by the Board of Directors of the Sonoma County Open Space Authority, State of California, on August 9, 1990, by the following vote:

DIRECTORS:

ALYS: aye ANDERSON: absent COOKE: aye GILLEN: aye GOUIG: aye MERZ: aye
AYES: 5 NOES: 0 ABSENT: 1 ABSTAIN: 0

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

SO ORDERED.

Attest:
s/ Eeve T. Lewis

s/ Charles Cooke
Chairperson

IMPARTIAL ANALYSIS BY COUNTY COUNSEL SONOMA COUNTY AGRICULTURE AND OPEN SPACE PRESERVATION MEASURE C

Measure C requests voter approval of a one-quarter cent sales tax increase to fund the preservation of agricultural and other open-space lands as part of the general plans of the County and the County's cities.

California's land use planning laws require that every city and county have a general plan to guide the physical development of the community. Among other things, a general plan must have an open space element "for the comprehensive and long range preservation and conservation of open-space land."

In 1989, the Sonoma County Board of Supervisors adopted a new general plan whose open space element proposed the creation of an open space district to acquire, through purchase and donation, lands meeting certain open space criteria. This year, the Legislature authorized the creation of the Sonoma County Agricultural Preservation and Open Space District for that purpose. The formation of the District requires voter approval and appears on this ballot as Measure A.

To provide the District with funds, the Board of Supervisors created the Sonoma County Open Space Authority, which, subject to voter approval, may impose a sales and use tax. In August, the Authority adopted an ordinance that would impose a county-wide sales and use tax at the rate of 0.25 percent ($0.0025 per dollar) and requested an election for voter approval of the tax. The tax would be imposed for 20 years and is estimated to raise $271 million over that period.

The Authority also adopted an expenditure plan that identifies categories of open-space lands that may be purchased from willing sellers. The expenditure plan is set forth above in the full text of Measure C. Neither the District nor the Authority has the power of eminent domain. That is, a land owner cannot be compelled to sell land or easements for open-space preservation. Categories of open-space land that may be purchased include, but are not limited to, community separators, scenic landscape units and scenic corridors, critical habitat areas, and riparian corridors. Revenue raised by the tax is not "earmarked" for any specific project, and may be spent for any purpose identified in the expenditure plan.

Other duties of the Authority include assuring that open-space acquisitions meet the requirements of city or County general plans and periodically auditing the District's activities.

The California Constitution requires that a spending limit be established for the Authority. The Authority would be prohibited from spending tax money in excess of that limit, as adjusted according to law, without additional voter approval. Measure C would set the Authority's annual spending limit at $40 million.

s/ James P. Botz
County Counsel

ARGUMENT IN FAVOR OF MEASURE C SONOMA COUNTY AGRICULTURE AND OPEN SPACE PRESERVATION

The Sonoma County Agricultural Preservation and Open Space District established in Measure A on this ballot provides the necessary structure to PRESERVE our AGRICULTURAL LANDS, retain our SCENIC VISTAS, PROTECT our AIR and WATER QUALITY and PREVENT URBAN SPRAWL. To reach these vital and worthwhile goals, the District must have the necessary funds.

We believe that Sonoma County residents are committed to keeping the rural nature of our beautiful and scenic land. We also believe that our citizens are willing to devote a small portion of their resources to achieve that goal.

This measure proposes that the residents of this county agree to tax themselves and the visitors to this county one quarter of one cent per dollar of taxable purchases made here. The funds thus raised will be used by the District to buy land, development rights and easements FROM WILLING SELLERS in those areas already designated in the Sonoma County General Plan for priority protection - such as community separators.

For every 100 DOLLARS of taxable purchases that residents and visitors make in the County, 25 CENTS will be collected to protect and maintain the beauty and rural nature of our county. We believe that 25 CENTS is a small, but meaningful and worthwhile investment to make to preserve the quality of life in Sonoma County.

To keep Sonoma County the beautiful, productive and livable place that it is: VOTE YES for our future.

s/ Fred Kunde
Viticulturist/Farmer

s/ Barbara Schneiders
Sierra Club

s/ Al Alys
President & CEO
Northbay Savings Bank

s/ Allan Hemphill, President
Vinwood Cellars, Inc.

s/ George Mertens
Dairyman/Farmer

NO ARGUMENT AGAINST THIS MEASURE WAS SUBMITTED