



RESOLUTION No. 17-027

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION APPROVING AN AGREEMENT WITH THE STATE BOARD OF EQUALIZATION FOR THE ADMINISTRATION OF A TRANSACTIONS AND USE TAX FOR THE NEVADA COUNTY COMMUNITY LIBRARY, AND AUTHORIZING THE CHAIR OF THE BOARD OF SUPERVISORS TO EXECUTE THE AGREEMENT

WHEREAS, on November 8, 2016, the voters of Nevada County approved Measure A, providing for a local transactions and use tax for the benefit of the Nevada County Community Library; and

WHEREAS, the State Board of Equalization administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

WHEREAS, the State Board of Equalization will be responsible to administer and collect the Library transactions and use tax for the County of Nevada; and

WHEREAS, the State Board of Equalization requires that the County of Nevada enter into an Agreement setting forth the relative responsibilities of the County and the Board with respect to administration of transactions and use taxes.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada, State of California, that the "Agreement for State Administration of Nevada County Library Transactions and Use Taxes," by and between the County of Nevada and the State Board of Equalization pertaining to the administration of a County transactions and use tax ordinance for the Nevada County Community Library, be and hereby is approved in substantially the form attached hereto, and that the Chair of the Board of Supervisors be and hereby is authorized to execute the Agreement on behalf of the County of Nevada.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 10th day of January, 2017, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Hank Weston, Chair

1/10/2017 cc: Library*
AC*(hold)

4/17/2017 cc: Library*
AC* (Release)

**AGREEMENT FOR STATE ADMINISTRATION
OF COUNTY TRANSACTIONS AND USE TAXES**

The County Board of Supervisors of the County of Nevada has adopted, and the voters of the County of Nevada (hereafter called "County" or "District") have approved by the required majority vote, the County of Nevada Transactions and Use Tax Ordinance (hereafter called "Ordinance"), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the State Board of Equalization, (hereinafter called the "Board") and the City do agree as follows:

**ARTICLE I
DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section 7286.59, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "County Ordinance" shall mean the County's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. 2414, as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II
ADMINISTRATION AND COLLECTION
OF COUNTY TAXES**

A. Administration. The Board and County agree that the Board shall perform exclusively all functions incident to the administration and operation of the County Ordinance.

B. Other Applicable Laws. County agrees that all provisions of law applicable to the administration and operation of the State Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the County Ordinance. County agrees that money collected pursuant to the County Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Board pursuant to Article IV of this Agreement, and transmitting to County the amount to which County is entitled.

C. Transmittal of money.

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the County Ordinance shall be transmitted to County periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by County's self-imposed limits or by final judgment of any court of the State of California holding that County's ordinance is invalid or void, all district taxes collected under the provisions of the County Ordinance shall be transmitted to County not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the County designated and authorized by the County. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

D. Rules. The Board shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the County Ordinance and the distribution of the district taxes collected thereunder.

E. Preference. Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Board shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and County as their interests appear.

F. Security. The Board agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of County for district taxes owing to it as its interest appears. The Board shall not be required to change the terms of any security now held by it, and County shall not participate in any security now held by the Board.

G. Records of the Board.

When requested by resolution of the legislative body of the County under Section 7056 of the Revenue and Taxation Code, the Board agrees to permit authorized personnel of the County to examine the records of the Board, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the County, pertaining to the ascertainment of transactions and use taxes collected for the County. Information obtained by the County from examination of the Board's records shall be used by the County only for purposes related to the collection of transactions and use taxes by the Board pursuant to this Agreement.

H. Annexation. County agrees that the Board shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Board. The notice shall include the name of the county or counties annexed to the extended County boundary. In the event the County shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the County showing the area annexed and the location address of the property nearest to the extended County boundary on each side of every street or road crossing the boundary.

ARTICLE III
ALLOCATION OF TAX

A. Allocation. In the administration of the Board's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion of the Board, to all districts with which the Board has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Board, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund or credit applies.

B. Vehicles, Vessels, and Aircraft. For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Board in determining the place of use.

ARTICLE IV COMPENSATION

The County agrees to pay to the Board as the Board's cost of administering the County Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Board for the County.

ARTICLE V MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0027

Attention: Administrator,
Local Revenue Branch

Communications and notices to be sent to the County shall be addressed to:

Marcia Salter
Auditor Controller
950 Maidu Ave., Suite 230
Nevada City, CA 95959

Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on April 1, 2017. This Agreement shall continue until December 31 next following the expiration date of the County Ordinance, and shall thereafter be renewed automatically from year to year until the Board completes all work necessary to the administration of the County Ordinance and has received and disbursed all payments due under that Ordinance.

C. Notice of Repeal of Ordinance. County shall give the Board written notice of the repeal of the County Ordinance not less than 110 days prior to the operative date of the repeal.

ARTICLE VI
ADMINISTRATION OF TAXES IF THE
ORDINANCE IS CHALLENGED AS BEING INVALID

A. Impoundment of funds.

1. When a legal action is begun challenging the validity of the imposition of the tax, the County shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the County shall transmit to the Board the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

B. Costs of administration. Should a final judgment be entered in any court of the State of California, holding that County's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Board may retain all payments made by County to Board to prepare to administer the County Ordinance.

2. County will pay to Board and allow Board to retain Board's cost of administering the County Ordinance in the amounts set forth in Article IV of this Agreement.

3. County will pay to Board or to the State of California the amount of any taxes plus interest and penalties, if any, that Board or the State of California may be required to rebate or refund to taxpayers.

4. County will pay to Board its costs for rebating or refunding such taxes, interest, or penalties. Board's costs shall include its additional cost for developing procedures for processing the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Board's staff for use in making these rebates or refunds and any other costs incurred by Board which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Board's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Board. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by County.

6. Any dispute as to the amount of costs incurred by Board in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Board in connection with such refunds shall be billed by Board on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding County's Ordinance invalid or void becomes final. Thereafter Board shall bill County on or before the 25th of each month for all costs incurred by Board for the preceding calendar month. County shall pay to Board the amount of such costs on or before the last day of the succeeding month and shall pay to Board the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Board costs incurred in making those refunds.

COUNTY OF

STATE BOARD OF EQUALIZATION

By Hank Weston
(Signature)

By John P. Beckleson
Administrator,
Local Revenue Branch

Hank Weston
(Typed Name)

Chairman of the Board of Supervisors
(Title)



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