



## STAFF REPORT

### TOWN COUNCIL MEETING OF JANUARY 12, 2016

To: Town Council

From: Town Manager  
Town Attorney

Subject: Potential Actions regarding the Loomis Library including Emergency Findings, Ordinance and Resolution, Authorization to Expend Funds

Date: January 5, 2016

#### **RECOMMENDATION:**

Hear staff presentation, hold discussion and hear public testimony. See Council Actions/Options analysis below.

#### **DISCUSSION:**

The Council has directed staff to prepare the necessary resolution and ordinance to place a general tax measure on the June, 2016 election. Attached is the Resolution and Ordinance necessary to do so. Staff has also provided a number of other options for the Council to consider. Please understand, this is not an exclusive list of alternatives, nor does this staff report cover every conceivable nuance which may arise through the negotiation process with the County.

Contrary to recent comments made by a Placer County Supervisor, the first public statement regarding the potential closure of the Loomis Library occurred on February 26, 2015 (less than 11 months ago) at a Friends of the Loomis Library meeting. At that meeting, Mary George, Director of Library Services, announced that she would be recommending to the Placer County Board of Supervisors that the Loomis Library be closed.

Discussion of the Library was placed on the March, 10, 2015 Town Council meeting at which the Council adopted the attached Resolution in support of the Loomis Library (Attachment A). In addition, at the April 14, 2015 meeting, the Mayor appointed an ad-hoc committee to review ways to keep the Loomis Library open.

Subsequently, the Placer County Board of Supervisors voted to fund the Loomis Library through December 31, 2015 to allow the Loomis Ad Hoc Committee to prepare a plan to present to the Supervisors to keep the Loomis Library open. At the October 29, 2015 Town Council meeting, the Town Council authorized the expenditure of up to \$20,000 to fund a polling of Loomis residents regarding the potential ballot measure implementing a ¼ percent transaction and use tax to fund the continued operation of the Loomis Library.

On December 8, 2015, the Placer County Board of Supervisors heard a presentation by the Loomis Library Ad Hoc committee on their plan to keep the Loomis Library open. The plan requested 4 items from the County:

- Transfer ownership of the Library Property to the Town
- Contract for traditional Library services with Placer County
- Keep the Library open until Loomis voters provide sufficient and sustainable funding on the June 2016 ballot
- Modify Library hours to be more convenient for the community

At the meeting the Board of Supervisors voted 4-1 in favor of a motion which “directed staff to keep the Loomis and Meadow Vista Libraries open until June 2016 and return with a Budget Revision at the January 5, 2016 meeting to facilitate this direction, contingent upon legal discussions with the Town of Loomis. The Board requested a comprehensive plan be submitted to the Board for the Meadow Vista Library “.

Town staff met with the Placer County CEO and Assistant CEO on December 30, 2015. At that time Town staff was notified that there would be no budget amendment at the January 5, 2016 BOS meeting and that they would await the action of the Town Council on January 12, 2016 regarding the placement of a measure on the June, 2016 Ballot.

At the January 5, 2015 meeting, Placer County staff presented an update on the next steps related to the Placer County Library Services consolidation to the Board of Supervisors. The staff informed the Board they needed more time ascertain a comprehensive understanding of all fiscal impacts relating to:

- The timing, legal framework, and potential approval of the proposed Transactional Use Tax measure which may be considered at the Loomis Town Council on January 12, 2016; and the implications of resulting funding streams related to continued operations at the Library branch in Loomis.
- An update of the FY 2015-16 Library Fund anticipated budget –to-actual (two year model) consistent with maintaining existing service levels for all library branches through the end of the current fiscal year.
- Staffing and resource requirements to appropriately maintain sustainable countywide library service delivery for the balance of FY 2015-16 and into the future.

## ISSUES:

- **Negotiations/Timing:**

Although there has been much work done by the Library Ad Hoc committee on the myriad of potential and existing models for contracting and running libraries, the recommendations of the Placer County Administrative staff have never wavered. They have continued to recommend to their Board to close the Loomis Library, consistent with the goals of their 2013 Library Strategic Plan. In all of the examples of MOUs and JPAs between a County and City, the participants were working toward a common goal; the operation and maintenance of a library. Unfortunately in this case, the Town of Loomis and Placer County appear to not share the same goal. With limited time available to meet during the Holidays, completing negotiations on an agreement with the Placer County Board of Supervisors was not a possibility.

- **Cost:**

Negotiating terms of an agreement for the County to contract with the Town of Loomis to provide traditional Library services using the proposed ballot measure funds will take time (several months or more) with no guarantee that an agreement can be reached before the June election. In addition, there has been no definitive answer from Placer County to the fundamental question of cost: It was stated by the Head Librarian at the December 8, 2015 BOS meeting that the cost, based on square footage, was \$356,000/year to run the Loomis Library. Other estimates which include staffing, material resources and circulation/delivery services are in the \$220,000-\$230,000/year range at existing staffing and service levels.

According to the Town's Finance Director/Treasurer, based on our current sales tax revenue, we would collect about \$250,000. But a range that uses the previous recession as the low yields estimates as little as \$125,000 and as much as \$275,000 per year.

## COUNCIL ACTIONS/OPTIONS:

- I. **Place a General Services Tax Measure Together with a Companion Advisory Measure On the June 2016 Election and continue negotiations with Placer County**

### Actions Required:

1. Adopt the attached Resolution by unanimous vote declaring an Emergency and placing a General Services Transaction and Use Tax Measure together with a companion advisory measure before the Loomis voters in June, 2016 (Attachment B).

2. Adopt the attached Ordinance by a majority vote imposing a Transaction and Use Tax to be administered by the State Board of Equalization. The action tonight would be a first reading, with adoption occurring at the February Council meeting.
3. Authorize staff to spend General Fund money and prepare the necessary documents to place the measure on the June, 2016 Election by February 3, 2016 (Estimated at up to \$20,000+).
4. Direct staff to continue negotiations with Placer County for the County to continue providing traditional Library services at the Loomis Library (as a component of the County library system) for a negotiated price; and to negotiate Town ownership of the Library building.

**Pros:**

- This action is consistent with the Loomis Library Ad Hoc Committee recommendations to the Town Council and Board of Supervisors with the exception of hours/days of operation.
- This action provides approximately 4 ½ months to reach a negotiated agreement with Placer County (approved by the Board of Supervisors and Town Council) for operation of traditional library services and Town ownership of the building.

**Cons:**

- Once the measures are placed on the ballot on February 3, 2016, the Town is committed -- the measures cannot be removed from the ballot.
- There is no guarantee that the negotiations will be successfully completed by the June election. As stated previously, Placer County staff, and to some degree, some members of the Board of Supervisors have never wavered in the recommendation to close the Loomis Library so the negotiations are likely to be difficult.
- It is highly likely that Placer County will take the position that should they agree to provide traditional services under contract, and Loomis remains in the Placer County system, the Loomis Library will be under the control of the Placer County Head Librarian in regards to operations, in line with the other remaining libraries. It is possible the negotiations could lead to receiving the same services (staffing, hours and days of operation) that the Town received last year, only now the Town would be paying additional monies for this service.
- As of today, the Town has not been successful at determining the actual yearly cost of operating the Loomis Library. It is possible under this scenario that the potential cost could reach or exceed the anticipated revenue of the transaction Use Tax.
- Should the agreement not be reached, and the ballot measure passes, it is possible there will not be a library to spend the tax dollars on. Although the measure will be a general tax and could be spent elsewhere by the Town Council, there could be

resentment from residents if the money generated is used for purposes other than a library.

**II. Place a General Services Tax Measure Together with a Companion Advisory Measure On the November, 2016 Election and continue negotiations with Placer County**

**Actions Required:**

1. A motion to direct staff to prepare the necessary paperwork and ballot measure language to place a general services tax measure together with a companion advisory measure on the November, 2016 election no later than July 6, 2016.
2. Direct staff to continue negotiations with Placer County for the County to continue providing traditional Library services at the Loomis Library (as a component of the County library system) for a negotiated price; and to negotiate Town ownership of the Library building.
3. Authorize staff to spend General Fund money and prepare the necessary documents to place the measure on the November, 2016 Election by July 6, 2016 (Estimated at up to \$6,000).

**Pros:**

- This action does not require an emergency finding by the Town Council.
- This action is consistent with the Loomis Library Ad Hoc Committee recommendations to the Town Council and Board of Supervisors with the exception of hours/days of operation.
- This action provides additional time to reach a negotiated agreement with Placer County (approved by the Board of Supervisors and Town Council) for operation of traditional library services and Town ownership of the building.
- This action would keep the Library open until the November election and possibly beyond.
- This action would result in the continued operation of the Library with no lapse in service until the November, 2016 election.
- Election costs would be less at around \$6,000.

**Cons:**

- Once the measures are placed on the ballot on July 6, 2016, the Town is committed and the measures cannot be removed from the ballot.
- Placer County has stated there would be no more expenditure by the County to fund the Library beyond June 30, 2016 so the Town would be responsible for the costs of keeping

the Library open from July 1, 2016 until the November election and beyond if the measure passes.

- The costs to keep the Library open beyond July 1, 2016 until the November election are unknown at this time.
- As in Option I., the Loomis Library will be under the control of the Placer County Head Librarian in regards to operations, in line with the other remaining libraries, which would include staffing, hours and days of operation.
- Cash flow to the Town from the tax measure would not occur until the end of June, 2017.

**III. Place a General Services Tax Measure Together with a Companion Advisory Measure on the November, 2016 Election and Withdraw from County library system and activate a municipal library system.**

**Actions Required:**

1. A motion to direct staff to prepare the necessary paperwork and ballot measure language to place a general services tax measure on the November, 2016 election together with a companion advisory measure.
2. A motion to direct staff to thoroughly evaluate the necessary actions by the Town to create a municipal library in Loomis, including applicable law, cost and operational issues.
3. Authorize staff to spend General Fund money and prepare the necessary documents to place the measure on the November, 2016 Election by July 6, 2016 (Estimated at up to \$6,000).
4. Direct staff to negotiate with Placer County Town ownership of the Library building.
5. Direct staff to pursue a long term contract to provide circulation and delivery services to the Loomis Municipal Library.

**Pros:**

- If successful, allows the Town to run the Library under Town control, including staffing, hours and days of operation, as well as on-site activities within a defined budget.
- This action is consistent with 2 of the 4 Loomis Library Ad Hoc Committee recommendations.
- Provides 5 ½ months to negotiate ownership of the Library building, find a provider of circulation and delivery services and prepare a list of the necessary actions to form a municipal library.

### **Cons:**

- Once the measures are placed on the ballot on July 6, 2016, the Town is committed and the measures cannot be removed from the ballot.
- The cost of operating a municipal library are unknown at this time and could exceed the anticipated tax revenue. It is assumed that library employees would be employees of the Town and would be subject to health, retirement and other benefits.
- There appear to be few entities with which to negotiate circulation and delivery services.
- Should the agreement to provide circulation and delivery services not be reached, and the ballot measure passes in November, it is possible there will not be a library to spend the tax dollars on. Although the measure will be a general tax and could be spent elsewhere by the Town Council there could be resentment from residents if the money generated is used for purposes other than a library.
- Given that the Placer County Board of Supervisors action was predicated on the Town placing a ballot measure on the June, 2016 election, the County could rescind its agreement to fund the library through June, 2016 and take action to close the library forthwith and direct the removal of County owned library related property. Under this scenario, the Library will be closed until the passing of the ballot measure in November, 2016.

#### **IV. Do not declare an emergency, do not place the measure on the June or November 2016 election.**

#### **Actions Required:**

1. A motion to direct staff to negotiate with Placer County for ownership of the building and the placement of an express library at the building keeping Loomis in the Placer County Library system. In addition, direct staff to request that Placer County honor its commitment to keep the Loomis Library open through the fiscal year allowing for the building ownership and placement of an express library to be negotiated with no disruption/reduction in service until July 1, 2016.

### **Pros:**

- This action would allow the Town to negotiate with Placer County for ownership of the building and the possible placement of an express library at the building keeping Loomis in the Placer County Library system.
- If Loomis gets ownership of the building, it allows the Town to operate non-traditional library activities at the site.
- It allows the Town the option to place a Transaction and Use Tax on a ballot at a later date for other purposes such as public service infrastructure needs.
- This action would be consistent with the stated desires of Placer County.

- This action would not risk Town monies.

**Cons:**

- This action is inconsistent with all of the Loomis Library Ad Hoc Committee recommendations.
- The Town would not have a traditional library located within the Town and residents would need to go to the Rocklin Library or another for library services.

**Summary:**

Clearly the actions of Placer County beginning in February, 2015 to close the Loomis Library have placed the Town in a position that there is a chance that the Town will not succeed in reversing. With the exception of two extensions by the Board of Supervisors, there has been no change in the recommendations of Placer County staff to close the Loomis Library. What was initially presented as a fiscal problem by the County, has evolved into what is now perceived as a Library Strategic Plan roadblock for Placer County and there appears to be no desire of Placer County to revisit their Library Strategic Plan.

**CEQA :**

The proposed actions are exempt from CEQA.

**FINANCIAL IMPLICATIONS:**

Financial impacts to the Town will be dependent on the action chosen.

**Attachments:**

Attachment A: Town Resolution No. 15-01

Attachment B: Resolution placing a Ballot Measure on the June, 2016 Election with accompanying Ordinance.

# TOWN OF LOOMIS

## RESOLUTION NO. 15 – 01

### A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS IN SUPPORT OF KEEPING THE LOOMIS LIBRARY OPEN AND IN OPPOSITION TO THE RECOMMENDED CLOSING OF THE LOOMIS LIBRARY

WHEREAS, the Town of Loomis became aware of the recommendation to close the Loomis library at a "Friends of the Library" meeting on February 26, 2015 and through the local Loomis News that same day; and

WHEREAS, in February of 1937 a library branch was opened in Loomis and as it grew it moved from the Loomis Post Office to the McKellips building and finally in 1980 to the new building on Library Drive where it has been used continually by the citizens of Loomis; and,

WHEREAS, small town Libraries are often more valuable in many ways than larger city Libraries as they provide a variety of diverse services, and

WHEREAS, the Loomis Library serves as a community gathering place, is a hub/core of our community, helps teach our youth important life lessons, is where home school teachers meet with their students, is where those without access to computers or the internet can go, is a place where Story Time is enjoyed by toddlers and preschoolers weekly, and;

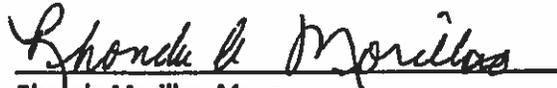
WHEREAS, the Loomis Town Library is located within walking distance of downtown, and

WHEREAS, the current recommendation by the Director of Library Services failed to account for the pending application to develop 400 + homes directly adjacent to the existing library, thus keeping the existing Library open would be consistent with the Placer County's Transportation Plan and SACOG's direction to develop walkable communities,

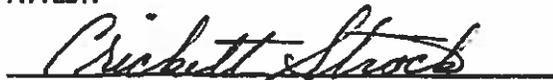
NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Loomis does hereby proclaim the Town's support in keeping the Loomis Library open for the next budget year while the Town and County work together to preserve the Loomis Library.

PASSED AND ADOPTED this 10<sup>th</sup> day of March, 2015 by the following vote:

AYES:	Baker, Black, Morillas, Ucovich, Wheeler
NOES:	None
ABSENT:	None
ABSTAIN:	None

  
Rhonda Morillas, Mayor

ATTEST:

  
Town Clerk

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS  
CALLING A SPECIAL MUNICIPAL ELECTION TO BE HELD ON JUNE 7, 2016, FOR THE  
PURPOSES OF APPROVING AN ORDINANCE IMPOSING A ONE-QUARTER PERCENT  
TRANSACTION AND USE TAX FOR LIBRARY AND OTHER GENERAL COMMUNITY SERVICES;  
APPROVING AN ADVISORY BALLOT MEASURE; DECLARING AN EMERGENCY; REQUESTING  
THAT THE PLACER COUNTY BOARD OF SUPERVISORS CONSOLIDATE THE ELECTION WITH  
THE STATEWIDE ELECTION; AUTHORIZING THE TOWN COUNCIL TO PREPARE A WRITTEN  
ARGUMENT IN SUPPORT OF THE TAX AND ADVISORY MEASURES; AND DIRECTING THE  
TOWN ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURES**

**WHEREAS**, on March 10, 2015, the Director of Placer County Library Services informed the Town Council that Placer County intended to close the Loomis branch of the County library system (the "Loomis Library") in June, 2015, in response to which the Town Council adopted Resolution 15-01 in support of keeping the Loomis Library open; and

**WHEREAS**, on April 14, 2015, the Mayor appointed an ad hoc committee of Town residents (the "Committee") to explore options for keeping the Loomis Library in operation beyond the end of the fiscal year; and

**WHEREAS**, in April, 2015, the Placer County Board of Supervisors agreed to keep the Loomis Library open until December 31, 2015, so that the Committee could present to the Town Council with options for keeping the Loomis Library open; and

**WHEREAS**, at the Town Council's meeting of October 24, 2015, the Committee recommended that the Council place a one-quarter cent general transaction and use tax on the next available regular election date to provide the Town with a source of funding for community services, including the Loomis Library; and

**WHEREAS**, on December 8, 2015, the Placer County Board of Supervisors agreed to keep the Loomis Library open until July 1, 2016, to permit the Town enough time to place a general transaction and use tax measure on the June 2016 ballot; and

**WHEREAS**, Town general fund revenues are inadequate to provide for the continued operation of the Loomis Library and other community services desired by the residents of the Town of Loomis, and additional long-term revenues are necessary to keep the Loomis Library open after July 1, 2016; and

**WHEREAS**, the Loomis Library has been operated and maintained for the use, benefit, and enjoyment of all residents of the Town, and the Loomis Library is a critical asset to the community by providing books and reading rooms, as well as gathering spaces that foster community and civic engagement for Town residents; and

**ATTACHMENT B**

**WHEREAS**, it is in the public interest that residents of the Town be able to utilize and enjoy the Loomis Library after July 1, 2016; and

**WHEREAS**, delaying a vote on a general tax measure until November 2016 will mean closure of the Loomis Library, or will obligate the Town to pay for the operation of the Loomis Library without knowing whether a long-term funding source is available to continue Library operations.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council of the Town of Loomis hereby resolves, declares, determines and orders as follows:

**Section 1.** The foregoing recitals are true and correct, and hereby incorporated by reference. By unanimous consent and for the reasons stated above, the Town Council hereby declares that an emergency exists and that it is necessary to place the following general transaction and use tax measure before the Loomis voters in June 2016.

**Section 2.** Pursuant to California Constitution Article XIII C, section 2; and Elections Code section 9222, the Town Council of the Town of Loomis submits to the qualified voters of the Town, the Loomis Library and General Services Tax Measure (the "Tax Measure"), which if approved, would adopt a general transactions and use tax, as authorized by revenue and Taxation Code section 7285.9. This Tax Measure shall be designated by letter by the Placer County Elections Department. Pursuant to Election Code section 10400, et seq., the election for this Tax Measure is hereby called and shall be considered with the regular election to be conducted on June 7, 2016.

**Section 3.** The Tax Measure to be presented to the voters shall be as set forth below. This question requires the approval of a majority of qualified electors' casting votes:

PROPOSITION "___": To support the continued operation of the Loomis library, and for other general fund purposes, shall a quarter percent transactions and use tax ("sales tax") be adopted for a period of ten years, subject to annual audits?	Yes  No
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**Section 4.** The ordinance authorizing the general tax to be approved by the voters pursuant to Sections 2 and 3 of this resolution is set forth in full in **Exhibit A**, attached hereto.

**Section 5.** Pursuant to California Constitution Article XIII C, section 2; and Elections Code section 9222, the Town Council of the Town of Loomis also submits to the qualified voters of the Town, the Loomis Library and General Services Advisory Measure (the "Advisory Measure").

This Advisory Measure shall be designated by letter by the Placer County Elections Department. Pursuant to Election Code section 10400, et seq., the election for this Advisory Measure is hereby called and shall be considered with the regular election to be conducted on June 7, 2016.

**Section 6.** The Advisory Measure to be presented to the voters shall be as set forth below. This question requires the approval of a majority of qualified electors' casting votes:

<p>PROPOSITION "___": ADVISORY VOTE ONLY: If a local transactions and use tax is enacted in the Town of Loomis, should its revenue be used predominantly to support the continued operation of the Loomis library?</p>	<p>Yes</p> <p>No</p>
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**Section 7.** The Town Clerk is authorized, instructed and directed to work with the Placer County Registrar of Voters, as needed, in order to properly and lawfully conduct the election. The ballots to be used in the election shall be in the form and content as required by law. The Placer County Registrar of Voters is authorized to canvass the return of the municipal election. In all Particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**Section 8.** The Board of Supervisors is requested to instruct its Registrar of Voters to provide such services as may be necessary for the holding of the consolidated election. The election shall be held in all respects as if there were only one election. The Town of Loomis recognizes that the county will incur additional costs because of this consolidation and agrees to reimburse the county for those costs. The Town Manager is hereby authorized and directed to expend the necessary funds to pay for the Town's cost of placing the Tax Measure and the Advisory Measure on the election ballot. Such services provided by the county may include, but are not limited to, the following:

- Publication of notices calling the election
- Publications of notices calling for ballot arguments
- Provision of voter lists
- Obtaining and staffing polling places
- Provision and delivery of precinct supplies
- Counting of ballots and certification of election
- Other election activities authorized by law
- All aspects of election not specified above may be agreed upon by the County Clerks and the Town Manager

**Section 9.**

- a. Pursuant to California Elections Code section 9282, on behalf of the Town Council, the Mayor is hereby authorized to prepare a written argument in favor of the proposed Tax Measure and the proposed Advisory Measure, not to exceed three hundred (300) words each. At the Mayor's discretion, the arguments may also be signed by members of the Town Council or a bona fide association of citizens, or by individual voters who are eligible to vote on the Tax Measure and the Advisory Measure. In the event that an argument is filed against the Tax Measure and/or Advisory Measure, the Mayor is also authorized to prepare rebuttal argument(s) on behalf of the Town Council, which may also be signed by members of the Town Council or bona fide association of citizens, or by individual voters who are eligible to vote on the Measures.
  
- b. Pursuant to California Elections Code section 9280, the Town Council hereby directs the Town Clerk to transmit a certified copy of the Tax Measure and the Advisory Measure to the Town Attorney. The Town Attorney shall prepare an impartial analysis of the Tax Measure and of the Advisory Measure, each not to exceed five hundred (500) words in length, showing the effect of the Tax Measure and the Advisory Measure on the existing law and the operation of the Tax Measure, and transmit the impartial analyses to the Placer County Registrar of Voters.
  
- c. Pursuant to California Election Code section 9285, when the Town Clerk has selected the arguments for and against the Tax Measure and the Advisory Measure, which will be printed and distributed to the voters, the Town Clerk is directed to send copies of the arguments in favor of the Tax Measure and the Advisory Measure to the authors of the arguments against, and copies of the arguments against to the authors of the arguments in favor.

**Section 10.** The Town Clerk is directed to file certified copies of this resolution with the Board of Supervisors and the Registrar of Voters of the County of Placer, together with the attached ballot measures.

**Section 11.** The jurisdictional boundaries of the Town of Loomis have not changed since the last General Municipal Election.

**Section 12.** This resolution shall become effective immediately upon its passage and adoption.

**PASSED AND ADOPTED**, this \_\_\_\_ day of January, 2016 by the following vote to wit:

**AYES:** Council Members:  
**NOES:** Council Members:  
**ABSENT:** Council Members:  
**ABSTAIN:** Council Members:

\_\_\_\_\_  
**Brian Baker, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Crickett Strock, Town Clerk**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN OF LOOMIS  
IMPOSING A TRANSACTIONS AND USE TAX TO BE  
ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

Section 1. **TITLE.** This ordinance shall be known as the Loomis Transactions and Use Tax Ordinance. The Town of Loomis hereinafter shall be called "Town." This ordinance shall be applicable in the incorporated territory of the Town.

Section 2. **OPERATIVE DATE.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

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 and Section 7285.9 of Part 1.7 of Division 2 which authorizes the Town 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 Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore 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 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 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.

Section 4. CONTRACT WITH STATE. Prior to the operative date, the Town 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 Town 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 territory of the Town at the rate of .25% 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 Town 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 .25% 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.

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. 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 Town 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 Town 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 provision 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 "Town" 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 10. 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 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 Town, Town 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 Town which is shipped to a point outside the Town, pursuant to the contract of sale, 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 Town 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 Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-Town 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-Town 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 subparagraphs (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 Town 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 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 subparagraphs (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 Town 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 Town or participates within the Town 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 Town or through any representative, agent, canvasser, solicitor, subsidiary, or person in the Town under the authority of the retailer.

7. "A retailer engaged in business in the Town" 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 Division 3.5 (commencing with Section 9840) 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 Town.

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 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 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 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. 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 Town, or against any officer of the State or the Town, 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.

Section 14. 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 15. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the Town transactions and use taxes and shall take effect immediately.

Section 16. TERMINATION DATE. The authority to levy the tax imposed by this ordinance shall expire \_\_\_\_\_ [ten years] \_\_\_\_\_.

PASSED AND ADOPTED by the Town Council of the Town of Loomis, State of California, on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Brian Baker, Mayor

Attest: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Crickett Strock, Town Clerk

## EXHIBIT A