

**ORDINANCE NO. 2019-01**

**TRANSPORTATION AGENCY FOR MONTEREY COUNTY  
AMENDING ORDINANCE 2016-01 FOR THE  
TRANSPORTATION SAFETY AND INVESTMENT PLAN  
AND RETAIL TRANSACTIONS AND USE TAX**

**Agency Counsel Summary**

This ordinance amends Section 11 of Ordinance 2016-01, the Transportation Safety and Investment Plan and Retail Transactions and Use Tax Ordinance, to revise the Maintenance of Effort calculation. It will not affect the period of the existing tax, nor increase its rate, nor impose a new tax.

The Board of Directors of the Transportation Agency for Monterey County ordains as follows:

The following language shall replace Section 11 of Ordinance 2016-01 in full:

**Section 11. LOCAL ROAD MAINTENANCE, POTHOLE REPAIRS AND SAFETY FUNDS.**

A. State Law. Pursuant to section 180200 of the Public Utilities Code, the revenues provided from transactions and use taxes imposed by this Ordinance shall be used to supplement existing revenues being used for transportation improvements and programs. Each local jurisdiction receiving funds pursuant to this ordinance shall meet the requirements of that section. Under State enabling legislation, funds generated pursuant to the retail transactions and use tax are to be used to supplement and not replace existing local revenues used for transportation purposes. To meet these requirements, a jurisdiction must demonstrate maintenance of a minimum level of local street and road expenditures in conformance with the requirements below.

B. Maintenance of Effort Requirements. Each local jurisdiction shall expend each fiscal year from its general fund for street and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 2009-10, 2010-11, and 2011-12 fiscal years, as reported to the Controller pursuant to Streets and Highways Code section 2151, but not less than what was expended in fiscal year 2016-17 when Measure X passed (the baseline amount). This baseline amount will be indexed annually to the Engineering News Record construction index.

C. Separate Account. For ease of tracking and to assure full transparency, all revenues received and expenditures of these funds will be accounted for and tracked in its own separate budget and fund titled "Transportation Safety & Investment Plan Account" and will not be comingled with any other funds.

D. Verification of Maintenance of Effort. TAMC may request fiscal data from local jurisdictions, in addition to data provided pursuant to Streets and Highways Code Section 2151 for the three previous fiscal years. Each local jurisdiction shall furnish the data to the TAMC not later than 120 days after receiving a request therefor. TAMC may withhold payments to local jurisdictions which do not comply with requests for information or which provide incomplete

information. At the conclusion of each fiscal year, each local jurisdiction shall verify compliance with the provisions in this ordinance. Subject to compliance with the provisions of this Ordinance and to any adjustment in the amount of such payments in accordance with this Ordinance, TAMC shall distribute Local Road Maintenance, Pothole Repair and Safety payments pursuant this Ordinance.

E. New Cities. For each local jurisdiction incorporated after the effective date of this Ordinance, the maintenance of effort requirement defined in Section 5 shall not apply for three years thereafter commencing with the date that the local jurisdiction was incorporated.

F. Pavement Management Program. Each city and the County of Monterey shall develop, or participate in the development of by TAMC, a pavement management program. They shall submit regular reports on the conditions of their streets, to ensure timely repairs and keep the public informed. Development of the pavement management program by TAMC is eligible to be funded out of this program prior to distribution of funds to the cities and County.

G. Regional Development Impact Fee. Each city and the County of Monterey shall maintain participation in the Transportation Agency for Monterey County's Regional Development Impact Fee program and impose these fees on new development as applicable to assure that new development pays for its impacts on the regional transportation system.

H. Tax Sharing Agreements. Each city and the County of Monterey shall enter into tax sharing agreements with TAMC that will include enforcement procedures, designed to reassure the public that tax revenues are spent in accordance with the ballot language. For example, each of the above conditions will be subject to verification and annual audit by the Transportation Agency for Monterey County. Failure to meet any of the above conditions will result in the suspension of the distribution of funds from the County Auditor-Controller to the deficient city/county. Resumption of funding distribution by the County Auditor-Controller to the deficient city/county will resume only after full repayment for any misuse, and conformation of compliance to each of the above conditions by the Transportation Agency for Monterey County. Transportation Safety & Investment Plan funding accrued due to the failure of a city/county to meet the above conditions will be held in trust for up to two (2) years for said jurisdiction, after which the funds will be redistributed to the remaining cities/county in Monterey County per formula. The tax sharing agreements will also provide that resumption of funding can occur at any time during the life of the Transportation Safety & Investment Plan upon compliance with the above conditions and full repayment of any prior misused funds.

**PASSED AND ADOPTED** by the Transportation Agency for Monterey County, State of California this — day of \_\_\_\_\_ 2019, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

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**ROBERT HUITT, CHAIR  
TRANSPORTATION AGENCY FOR MONTEREY COUNTY**

**ATTEST:**

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**DEBRA L. HALE, EXECUTIVE DIRECTOR  
TRANSPORTATION AGENCY FOR MONTEREY COUNTY**

**DRAFT**