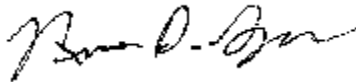


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Dan Takasugi, Public Works Director / City Engineer
DATE: March 20, 2012
SUBJECT: Discussion of a Sales Tax Ordinance Proposed by Napa Valley Transportation Authority

APPROVAL FOR FORWARDING:



Richard D. Spitler, City Manager

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ISSUE:

Discussion of a Sales Tax Ordinance Proposed by Napa Valley Transportation Authority.

RECOMMENDATION:

Discuss and provide direction to staff.

BACKGROUND/DISCUSSION:

The City Council, staff, and residents have long recognized the need to dedicate more funding to maintain our local streets and roads. The City’s 2010 Pavement Management Program update noted our Pavement Condition Index (PCI) at a level of 60. At a PCI level of 60, the 2011 MTC “Pothole Report” puts Calistoga at the bottom of the “Fair” condition rating (PCI 60-69). As no major street maintenance has occurred since 2010, the current PCI level is surely now in the “At Risk” condition (PCI 50-59), placing Calistoga in the bottom 25% of Bay Area municipalities.

22 In 2006 and 2008, county-wide transportation sales tax measures were proposed
23 that would have funded a variety of projects (street maintenance, intersections,
24 transit, bicycle projects, etc.) for each community. The sales tax measure in 2006
25 was not approved by a super-majority of voters, and the sales tax measure in 2008
26 never made it to the ballot.

27
28 The Napa County Transportation & Planning Agency (NCTPA), acting as the Napa
29 Valley Transportation Authority (NVTA), has prepared a draft NVTA ordinance that
30 would establish a countywide "transactions and use tax" (frequently referred to as
31 "sales tax") to be used for transportation purposes. As proposed, the half-cent tax
32 would become effective upon conclusion of the current flood control tax measure
33 ("Measure A") that will expire in 2018, and remain in effect for a period of twenty-five
34 years. The proposed ordinance has the potential to generate significant funding for
35 the local transportation system. Current estimates from NCTPA project as much as
36 \$285 million in revenue over the 25-year life of the proposed ordinance.

37
38 During preparation of the proposed transportation sales tax, NCTPA convened an
39 advisory group, the Napa Action Committee (NAC), comprised of stakeholders
40 representing the following groups:

- 41
42
- 43 • Wine Growers
 - 44 • Taxpayers Association
 - 45 • Farm Bureau
 - 46 • Napa Chamber of Commerce
 - 47 • Hispanic Chamber of Commerce
 - 48 • Vine Trail Coalition
 - 49 • Sierra Club
 - 50 • Hospice & Adult Day Services
 - 51 • Yountville Chamber of Commerce
 - 52 • Vintners Association
 - 53 • Hispanic Network
 - 54 • NCTPA Technical Advisory Committee
 - 55 • Board of Supervisors

56 The NAC recommended that 90% of the revenue generated from the proposed sales
57 tax measure be spent on maintenance of local streets and roads, while 10% would
58 be spent on alternative transportation projects, including transit pass "buy down" for
59 seniors, safe routes to schools/transit projects, pedestrian improvements or bicycle
60 improvements. The NAC did not take action on the specific allocation of funds
61 among the jurisdictions; this is currently being negotiated among staff
62 representatives of each agency and will need to be finalized prior to final approval by
63 the NCTPA Board in March.

64
65 In addition to spelling out the allowed uses of the revenue generated, as indicated
66 above, the proposed ordinance establishes the procedures for use of the funds, and

67 for maintaining accountability for their use. It specifically proposes the establishment
68 of an Independent Taxpayer Oversight Committee (ITOC) to review the fiscal and
69 program performance of the proposed sales tax measure, through biennial audits.
70 Additionally, a comprehensive review shall be performed by the NVTA after the tax
71 has been in effect for ten years.

72
73 At this time, NCTPA staff has distributed the proposed ordinance to all its member
74 jurisdictions for review and comment. Following receipt of agency comments, it is
75 anticipated that the NCTPA Board will take final action on the proposed ordinance
76 on March 21, 2012. Following final action by NCTPA, the proposal will come back
77 before the City Council for action to place the measure on the November 2012
78 ballot.

79
80 Staff has reviewed the proposed ordinance and has not identified any major issues
81 of concern. The sales tax revenue allocation formula to member jurisdiction is at the
82 final draft stage. The allocation is based upon a jurisdiction's Sales Tax Revenue
83 and Street Area. But a minimum 70% of the ½-cent sales tax would return to source
84 for each jurisdiction. Furthermore, instead of the NAC's recommendation of 90% to
85 Local Streets and Roads Maintenance, the draft allocation formula would assign
86 95% to Local Streets and Roads Maintenance. For Calistoga, over the 25-year span
87 of this sales tax initiative, we would expect to receive approximately \$7.41 million in
88 2011 dollars, depending upon economic conditions. For purposes of revenue
89 comparison, a ½-cent sales tax in Calistoga would be expected to generate
90 approximately \$10.6 million over the span of 25-years.

91
92 The Draft Sales Tax Ordinance will be on the NCTPA Board agenda for March 21,
93 2012 for discussion and comment.

94

95 **ATTACHMENTS:**

96 1. Draft Sales Tax Ordinance as proposed by NCTPA

DRAFT ORDINANCE

ORDINANCE NO. 12-01

NAPA VALLEY TRANSPORTATION AUTHORITY ORDINANCE AND TRANSPORTATION IMPROVEMENT EXPENDITURE PLAN IMPOSING A TRANSACTION AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

The Napa Valley Transportation Authority (Authority) ordains as follows:

SECTION 1. TITLE: This ordinance shall be known and may be cited as the Napa Valley Ordinance and Transportation Improvement Expenditure Plan (Authority Ordinance 12-01), hereinafter referred to as the Ordinance. This Ordinance establishes a retail transactions and use tax for a twenty-five year period commencing July 1, 2018, or upon expiration of the Measure A Flood Protection tax. Should the Flood Protection tax be extended by a vote of the electorate then this measure will not take effect until the expiration of such extension. Should the Flood Protection Tax be terminated prior to July 1, 2018 this tax shall commence at that earlier date.

SECTION 2. EXPENDITURE PLAN PURPOSES: This Ordinance provides for the implementation of the Napa Valley Transportation Authority Transportation Improvement Expenditure Plan (Expenditure Plan) which will provide funding resulting in countywide local street and road improvements and alternative transportation projects. This funding program will ensure improved maintenance of currently underfunded local community streets and adjacent facilities within the public right-of-way (i.e., sidewalks, gutters, curbs). The goal of this measure is to raise the Pavement Condition Index (PCI) countywide to a level of 75 or greater and maintain that level throughout the life of this ordinance. These needed improvements shall be funded by a one-half of one percent transactions and use tax established for a twenty-five year period commencing July 1, 2018, or upon expiration of the Measure A Flood Protection tax as expressed in Section 1 above. The revenues shall be deposited in a special fund, used solely for the identified improvements as provided herein, and made available to the agencies responsible for the improvements for all purposes necessary for the approval and implementation of the tasks. The identified improvements that are eligible to receive revenues from the tax are described in the Expenditure Plan, which is hereby incorporated by reference as if fully set forth herein.

SECTION 3. EXPENDITURE PLAN SUMMARY: The revenues received by the Authority from this Ordinance, after deduction of required Board of Equalization costs for performing the functions specified in Section 180204(b) of the Public Utilities Code, reimbursing the County of Napa for its cost in conducting the election if the measure is approved per Section 180203(a) of the Public Utilities Code, administration (Section 13 A), and annual and biennial audits of the Independent Taxpayer Oversight Committee (Section 12 A), shall be used to fund the improvements set forth herein. In the event the measure does not pass, the costs in conducting the election shall be borne by the Authority. A summary of the projects and programs that are eligible to receive this

DRAFT ORDINANCE

funding is provided in the following sections. All funding and revenues are expressed in 2011 dollars. The annual revenues shall be allocated as follows:

- A. **Local Streets and Roads Maintenance Program:** Of the annual revenues available, ninety percent (95%) shall be allocated on a fair and equitable basis to each city, town and the county (hereinafter referred to individually as Agency and collectively as Agencies) to provide revenue for such projects and to supplement other revenues available for Local Streets and Road Maintenance program. The revenues distributed to each Agency under this Section must be used for maintenance, rehabilitation and reconstruction of local streets and roads except as otherwise allowed by this Subsection. Total estimated funding = \$270.75 million (2011 dollars).

If the submittal of the five-year list of projects required under Section 6 shows a Pavement Condition Index (PCI), as determined by the Metropolitan Transportation Commission's (MTC) pavement management system exceeding a jurisdictional three (3)-year moving average of 75 out of a total of 100 using the MTC system, and additionally, should the MTC pavement condition assessment predict that the Pavement Condition Index will remain in excess of 75, or equivalent score, over the five year period covered by the submission under Section 6, the Agency may program in that submittal and the Authority may approve expending revenues awarded under this Section within the jurisdiction meeting the standard, for identified regional congestion relief projects as adopted in the Metropolitan Transportation Commission's Regional Transportation Plan as well as other local transportation projects that address capacity, safety, or operations of the local roadway system. The PCI is an averaging algorithm and therefore, upon a quantifiable review by the Independent Taxpayers Oversight Committee (ITOC) and approval by the Napa Valley Transportation Authority (Authority), a finding that the PCI goal has been met may be made.

(1) The Local Streets and Roads Maintenance Program shall be allocated and expended pursuant to the following distribution formula:

- a. To the City of American Canyon 7.4% of the annual revenues available.
- b. To the City of Calistoga 2.6% of the annual revenues available.
- c. To the City of Napa 38.7% of the annual revenues available.
- d. To the County of Napa 38.0% of the annual revenues available.
- e. To the City of St. Helena 5.7% of the annual revenues available.
- f. To the Town of Yountville 2.6% of the annual revenues available.

DRAFT ORDINANCE

Net revenues, plus interest earned, shall be apportioned to the Agencies transportation improvement account on a quarterly basis.

B. Alternative Transportation Projects: Of the annual revenues available, ten percent (5%) shall be allocated for alternative transportation projects - Total estimated funding = \$14.25 million (2011 dollars).

1. Senior citizen Fixed Route Transit pass buy-down, up to seventy-five percent (75%) off regular pass price.
2. Bicycle elements as identified in the approved Napa Countywide Bicycle Plan.
3. Actual costs, not to exceed 1% of the annual revenue, may be used for administration of this ordinance by the Authority.

SECTION 4. IMPOSITION OF RETAIL TRANSACTIONS AND USE TAX: In addition to any other taxes authorized by law, there is hereby imposed in the incorporated and unincorporated territory of the County of Napa, in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 and Section 7261 and 7262 of the Revenue and Taxation Code, which provisions are adopted by reference, and Division 19 of the Public Utilities Code commencing with Code Section 180000, a retail transactions and use tax at the rate of one-half of one percent (1/2%) for a twenty-five year period commencing July 1, 2018, or upon expiration of the Measure A Flood Protection tax, in addition to any existing or future authorized state or local transactions and use tax.

SECTION 5. CONTRACT WITH STATE: Prior to the operative date, the Authority 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 Authority 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 6. EXPENDITURE PLAN PROCEDURES:

- A. Each Agency shall biennially develop and submit to the Authority a five-year list of projects to be funded with revenues made available for the Local Streets and Roads Maintenance Program (Section 3(A)), and the Alternative Transportation Projects (Section 3(B)). A local public hearing and adopt a Resolution in

DRAFT ORDINANCE

support of the proposed list of projects shall be held by each Agency prior to submitting the project list to the Authority pursuant to Section 7. The performance audit of Agencies implementing this section shall be part of the Independent Taxpayers Oversight Committee audit (Section 12(B)).

- B. In the allocation of all revenues made available under Section 3, the Authority shall make every effort to maximize state, federal, and local transportation funding to the Agencies. The Authority may amend the Expenditure Plan in accordance with Section 17 as needed to maximize the transportation funding available throughout the County. It is also the intent of the Authority to encourage the purchase of goods and services for the projects described in Section 3 from suppliers based in Napa County.
- C. The Agencies and the Authority shall fully consider the needs of non-motorized travelers, including pedestrians, bicyclists and persons with disabilities, in all planning, maintenance, construction, operations and project development activities and products. Projects funded in full or in part with Authority revenues shall not remove or reduce existing facilities for bicycling or pedestrians.

SECTION 7. PROJECT PROGRAMMING APPROVAL: Upon the Operative Date of the tax the Authority shall biennially approve a five-year list of projects eligible to be funded with the revenues made available under Section 3 herein, provided that the submittal meets all of the requirements of this ordinance and funding is, or is estimated to be, available. The Independent Taxpayer Oversight Committee shall consider the biennial five-year list of projects and make a finding that such lists are consistent with the intent of the measure and make a recommendation on those lists to the Authority.

SECTION 8. COOPERATIVE FUNDING AGREEMENTS: To maximize the effectiveness of the retail transactions and use tax revenues, the Authority and/or Agency (ies) may loan revenues or exchange revenues for federal, state, or other local funds allocated or granted to any public agency within or outside the area of jurisdiction of the Authority provided that the percentage of revenues allocated for each purpose as provided in Section 3 is maintained over the duration of the Ordinance. The periods run consecutively with the first beginning on the effective date of the ordinance as described in Section 16. All proposed exchanges, including agreements between Agencies to exchange or loan revenues, must include detailed repayment provisions, including appropriate interest earnings, such that the Authority suffers no loss of revenue as a result of the exchange or loan. All loans and /or exchanges must be approved by the Authority by a majority vote and shall be consistent with any and all rules approved by the Authority relating thereto.

SECTION 9. MAINTENANCE OF EFFORT: It is the intent of the State Legislature and the Authority that revenues provided from this Ordinance be used to supplement, not replace, existing revenues being used for transportation improvements and programs as set forth in Section 3 herein. Each Agency receiving revenues pursuant to Section 3(A) shall annually maintain, as a minimum, the same level of local general fund revenues

DRAFT ORDINANCE

expended for the maintenance of Local Streets and Roads Maintenance and supporting infrastructure within the public right-of-way as the annual average of three fiscal years 2009, 2010, and 2011, for pavement sealing, overlays, reconstruction, associated infrastructure, as required, excluding any local revenues expended for the purpose of storm damage repair as verified by an independent auditor. One-time allocations that have been expended for Local Streets and Roads Maintenance, but which may not be available on an ongoing basis may not be considered when calculating an Agency's level of local discretionary revenues expended for road and infrastructure rehabilitation and maintenance purposes. The Authority shall not allocate any revenues pursuant to Section 3(A) to any eligible Agency in any fiscal year until that Agency has certified to the Authority that it will meet the maintenance of effort requirement included in this Section. Any Agency which does not meet its local maintenance of effort requirement for a three year moving average period shall have its funding under Section 3(A) the following year reduced by the amount the Agency did not meet its required average maintenance of effort level for the three prior years. Any funds not allocated due to failure to meet the maintenance of effort requirement shall be held for the Agency until any and all maintenance of effort expenditures are fulfilled. The maintenance of effort shall also be met prior to the programming, award or distribution by the Authority to the Agencies of any funds under Sections 3(B).

SECTION 10. PRIVATE SECTOR FUNDING: Revenues provided from this measure shall not be used to replace private developer funding that has been or will be committed for any project to help alleviate the direct traffic impacts of any new or redeveloped residential, commercial or industrial development in Napa County or its cities.

SECTION 11. BONDING AUTHORITY: "Pay as you go" is the preferred method of financing transportation improvements and programs. However, the Authority may use bond financing as an alternative method if it determines that the scope of the planned expenditures makes "pay as you go" financing unfeasible or uneconomical when compared to bond financing or when the safety and/or congestion relief benefits of a project appear to the Authority to outweigh the costs of bonding. Upon voter approval of the Ordinance, the Authority shall have the authority to issue bonds, encumbering no more than 25% of the revenue, payable from the proceeds of the tax and secured by a pledge of revenues from the proceeds of the tax, in order to finance and refinance improvements authorized by this Ordinance (including bond reserves and financing costs). The Authority, in allocating the annual revenues from the measure, shall meet all debt service requirements and other financing costs prior to allocating revenues for other purposes or projects.

SECTION 12. INDEPENDENT TAXPAYER OVERSIGHT COMMITTEE:

A. ITOC Goal and Functions

Voter adoption of this transportation retail transactions and use tax ordinance shall result in creation of the Independent Taxpayer Oversight Committee upon the Operative Date of this tax. The ITOC shall remain in existence for so long

DRAFT ORDINANCE

as the tax herein exists. The ITOC shall review the fiscal and program performance of the retail transactions and use tax transportation program through a biennial audit to ensure that all transportation retail transactions and use tax revenues are spent by the Authority in accordance with all provisions of the voter-approved Expenditure Plan and Ordinance. The ITOC's secondary mission is to provide positive, constructive advice to the Authority on how to improve implementation over the twenty-five year course of the program; this role shall include consideration by the ITOC of the biennial program of projects submitted by the Agencies under Section 6 and projects submitted under Sections 3. Up to \$70,000 per year, with adjustments for inflation based on the Consumer Price Index, may be used for activities necessary to the ITOC as described in this Section 12, including financial and performance audits of the Authority and the Agencies receiving revenue from the Authority.

B. **Audit Requirement**

The ITOC shall oversee the independent financial audit of the Authority and the financial and performance audits of the Authority and Agencies, which shall be performed in accordance with generally accepted auditing standards and Government Auditing Standards issued by the Comptroller General of the United States and performance goals adopted by the Authority consistent with Public Utilities Code Section 180000 et seq. The audits shall include the basic financial statements of the Authority as defined by the Governmental Accounting Standard Board pronouncement No. 34 and the performance of all aspects of the program based on the specific performance goals adopted by the Authority. The ITOC audit shall not relieve the Authority from performing its auditing obligations as imposed by law.

1. Role of Fiscal and Performance Audit and the ITOC

- (a) The ITOC shall, under the procurement rules of the Authority, jointly recommend with the active involvement of the Executive Director and the Authority Auditor, an independent external California Certified Public Accountant to conduct an annual financial audit of the Authority pursuant to the provisions of this Ordinance; to report findings based on the audit to the Authority; and to recommend any additional considerations which the ITOC believes may improve the financial operation, while meeting all voter mandates.
- (b) The ITOC shall, under the procurement rules of the Authority jointly recommend with the active involvement of the Executive Director and the Authority Auditor, an independent external California Certified Public Accountant to conduct a biennial performance audit of the Agencies, pursuant to the provisions of this Ordinance; to report findings based on the audits to the Authority; and to recommend any additional considerations with the ITOC believes may improve the

DRAFT ORDINANCE

integrity of program implementation, while meeting all voter mandates.

- (c) The ITOC shall receive copies of each Agency's standardized (such standards as adopted by the ITOC and approved by the Authority) annual financial audit for review; report relevant findings based on the audits to the Authority; and recommend any additional considerations which the ITOC believes may improve the financial operations, while meeting all voter mandates.
- (d) The Authority shall hold a publicly noticed meeting, which may be a regular or special Authority Board meeting, with the direct participation of the ITOC, to consider the findings and recommendations of the audits. A report of the findings and recommendations of each audit by the ITOC shall be made readily available to the public in print and on the Authority's electronic website.
- (e) The Authority shall publish a biennial report to the community to be published at the expense of tax revenues in all local Napa County newspapers of general circulation.

C. Membership and Selection Process

1. The Authority shall develop an open selection process, actively recruit, and appoint Five (5) committee members who shall be residents of the County of Napa possessing the following credentials:
 - (a) One member who is a professional, retired or active, in the field of municipal audit, finance and/or budgeting with a minimum of five years in a relevant and senior decision-making position in the public or private sector.
 - (b) One member who is a licensed civil engineer, retired or active, with at least five years of demonstrated experience in the fields of transportation in government and/or the private sector.
 - (c) One member who is a Certified Public Accountant (CPA) and experienced in financial audits
 - (d) One member shall be a representative of a Napa region Chamber of Commerce.
 - (e) One member from a recognized IRS 403b taxpayers association.
2. The Chair, Executive Director of the Authority, the Chair of the Napa County Transportation and Planning Agency Technical Advisory

DRAFT ORDINANCE

Committee, and the County Auditor-Controller shall serve as non-voting ex-officio members of the ITOC.

3. The Chair of the ITOC shall be a resident of Napa County.

D. Terms and Conditions for Committees

1. The initial Committee members shall serve a two, three, and four year term, determined by the drawing of lots. Thereafter, Committee members shall serve four-year terms.
2. The Authority shall develop By-laws for the operation of the ITOC the ITOC members shall receive a stipend of \$250 per quarterly meeting and no other payment shall be made for any purpose. This stipend will increase by \$50 per quarterly meeting every five years. Committee members who miss two meetings in any 12 month period shall be removed from the committee by the Authority.
3. Committee members cannot be a current local elected official in Napa County or a full time staff member of any city, town, or County government, a local transit operator, or state transportation agency.
4. Non-voting ex-officio committee members shall serve only as long as they remain incumbents in their respective positions and shall be automatically replaced by their successors in those positions.
5. If and when vacancies on the ITOC occur on the part of voting committee members, either due to expiration of term, death or resignation the Authority shall appoint an appropriate replacement within 90 days of the vacancy to fill the remainder of the term.

E. ITOC Operation Protocols

1. Given the twenty-five year duration of the retail transactions and use tax, the ITOC shall be appointed within 180 days after the Operative Date of the retail transactions and use tax and continue as long as retail transactions and use tax revenues from the current voter authorization are available for expenditure.
2. The Authority Board and staff shall fully cooperate with and provide necessary financial and staff support to ensure the ITOC successfully carries out its duties and obligations.

F. Conflict of Interest

1. ITOC voting members shall have no legal action pending against the Authority and are prohibited from participating in any commercial activity

DRAFT ORDINANCE

directly or indirectly involving the Authority or Napa County Transportation and Planning Agency (NCTPA), such as being a consultant or vendor to the Authority or NCTPA during their tenure on the ITOC.

2. ITOC voting members shall not have direct and/or indirect commercial interest or employment with any public or private entity which receives transportation retail transactions and use tax revenues authorized by this Ordinance.

SECTION 13. ADMINISTRATIVE FUNCTIONS AND EXPENSES:

- A. Revenues may be expended by the Authority for the actual expense of salaries, wages, benefits, overhead, and those services, including contractual services, necessary to administer the Ordinance; however, in no case shall such administrative expenditures exceed one percent of the annual revenues provided by the Ordinance.
- B. Administrative functions include providing overall program direction and management necessary to implement Authority policy; formulating organizational goals and objectives; coordinating activities with other agencies and organizations; performing finance, accounting, purchasing, personnel, government and community relations; and legal matters. Performing or contracting for project related work shall be paid from the revenues allocated to the appropriate purpose as set forth in Section 3 herein.

SECTION 14. ESTABLISHMENT OF SEPARATE ACCOUNTS: Each entity receiving revenues pursuant to Section 3 shall have its revenues deposited in a separate interest bearing Transportation Improvement Account. Interest earned on revenues allocated pursuant to this Ordinance shall be expended only for those purposes for which the revenues were allocated.

SECTION 15. IMPLEMENTING ORDINANCES: Upon approval of this Ordinance by the voters the Authority shall, in addition to the rules required to be provided pursuant to this Ordinance, adopt implementing ordinances, rules, and policies and take such other actions as may be necessary and appropriate to carry out its responsibilities.

SECTION 16. EFFECTIVE AND OPERATIVE DATES: This Ordinance shall be effective on November 6, 2012, if two-thirds of the electors voting on the ballot proposition approving the ordinance vote to approve the ballot proposition on November 6, 2012. The imposition of the tax authorized by this Ordinance shall be operative on July 1, 2018, or upon expiration of the Measure A Flood tax.

SECTION 17. AMENDMENTS: This Ordinance and Expenditure Plan may be amended to provide for the use of additional federal, state, and local revenues or to account for unexpected revenues by approval of a majority vote of the members of the Authority; the majority must include the City of Napa, the County of Napa, and at least

DRAFT ORDINANCE

three other jurisdictions. No amendment may, in the aggregate, reduce the level of funding directed to roadway projects as apportioned in Section 3. No amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Amendments constituting expenditures for new programs or new projects that were not a part of the voter approved Expenditure Plan or generally referred to in the Local Streets and Roads Maintenance Program may only be approved with the subsequent consent of the electorate.

SECTION 18. TEN-YEAR PROGRAM REVIEW: After the tax has been in effect for ten-years after the Operative Date, the Authority shall conduct a comprehensive review of all revenues, projects, and programs under the Expenditure Plan to evaluate the performance of the overall program over the previous ten-year period and to make revisions to the Expenditure Plan to improve its performance and allow for changed demographic conditions, transportation needs, revenues, and technology over the subsequent ten years. Revisions to the Ordinance and Expenditure Plan required as a result of the ten-year review shall be subject to the amendment process in Section 17 and/or the remaindered revenues provisions set forth in Section 22. However, the 95% local street and road allocation provided in Section 3 shall not be altered.

SECTION 19. DESIGNATION OF FACILITIES: Each project or program receiving in excess of \$250,000 funded in whole or in part by revenues from the Ordinance shall be clearly designated with project signage at the project site during its construction or implementation as being provided by revenues from the Ordinance.

SECTION 20. SEVERABILITY: If any section, part, clause, or phrase of this ordinance is for any reason held invalid or unconstitutional, the remaining portions shall not be affected but shall remain in full force and effect.

SECTION 21. DISTRIBUTION OF REMAINDERED REVENUES: In the event that the retail transactions and use tax revenues generated by this Ordinance, in combination with other revenues, are greater than needed to meet the funding requirements necessary to complete the projects and support the programs as identified in Section 3(B), the remaindered transactions and use tax revenues shall be distributed to the Agencies for the purposes and under the requirements of Section 3. Such funds shall be distributed by the following formula: the distributed amount is equal to the sum total of the remaindered amount multiplied by the distribution formula percentage for each Agency under Section 3A. Determination of when remaindered revenues become available will be made as part of each Five (5)-Year Expenditure period.

SECTION 22. ANNUAL APPROPRIATIONS LIMIT: Article XIII (B) of the California Constitution requires the establishment of an annual appropriations limit for certain governmental entities. The maximum annual appropriations limit for the Authority is hereby established as \$40 million. The appropriations limit shall be subject to

DRAFT ORDINANCE

adjustment as provided by law. All expenditures of the retail transactions and use tax revenues imposed in Section 4 are subject to the appropriations limit of the Authority.

SECTION 23. 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 Authority, or against any officer of the State or the Authority, 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 24. DEFINITIONS:

- A. *Agency.* Means those cities, town, and county that lie within the geographic boundaries of the County of Napa.
- B. *Authority.* Means the Napa Valley Transportation Authority created by the Napa County Board of Supervisors with the concurrence of a majority of cities having a majority of the incorporated population of the County.
- B. *Bonds.* Means indebtedness and securities of any kind or class, including but not limited to bonds, notes, revenue anticipation notes, commercial paper, leasor and installment sales agreements, credit enhancement, swaps and certificates of participation.
- C. *Expenditure Plan.* Expenditure Plan means the expenditure plan required by Section 180206 of the Public Utilities Code to be adopted prior to the call of an election on this Ordinance. The expenditure plan includes the allocation of revenues for each authorized purpose.
- D. *Effective Date.* Means the date the measure was passed by the electorate.
- E. *Highways.* Means all purposes necessary and convenient to the design, right-of-way acquisition, and construction of highway facilities, including all state highway routes and any other facilities so designated in the Expenditure Plan.
- F. *Infrastructure.* Means all components within the right-of-way necessary to support the roadway which includes road pavement, sub-layer, curb, gutter, sidewalks, drainage, traffic control devices, striping, marking, and signage.
- G. *Maintenance* means repair, reconstruction, rehabilitation and/or replacement of streets, roadways, and other infrastructure within the public right-of-way.
- H. *Operative Date.* Means the date the tax begins to collect revenue for this measure.

DRAFT ORDINANCE

- I. *Project* is a single effort with a beginning and an end that would cause the construction or maintenance or reconstruction of some tangible portion of a transportation asset owned or operated by public agency. A *project* is not repeated on an annual basis, it does not appear without a detailed description as to cost and location in a local agency budget, and it must appear in a capital budget.
- J. *Reconstruction or Rehabilitation* includes any overlay, including the placement or replacement of base materials and any sub-layer work or widening of the roadway, if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the State for 3R (reconstruction, resurfacing, and rehabilitation). This does not include widening for the purpose of increasing the traffic capacity of a street or highway. This does include additions, changes or reconstruction of Infrastructure directly associated with the function of a street or roadway. It also includes additions necessary to incorporate and/or maintain bicycle facilities called for in the Napa County Transportation and Planning Agency's Countywide Bicycle Plan or adopted bicycle plans of the Agencies and any improvements or alterations necessary to the roadway and or pedestrian or bicycle travel ways to improve overall circulation and to meet American's with Disabilities Act requirements.
- K. *Regional Transportation Improvement Program Submission*. Means any program of projects sent or otherwise caused to be delivered to the Regional Transportation Planning Agency for Napa County by the entity designated by the Regional Transportation Planning Agency with the submission of that program for the local agencies for consideration by the Regional Transportation Planning Agency for inclusion in the Regional Transportation Improvement Program or its related documents.
- L. *Local Streets and Roads*. Means the pavement facilities and supporting Infrastructure within the street, road, or highway right-of-way.
- M. *Senior citizen*. Anyone age 65 years or older.
- N. *Storm damage repair*. Means repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to storms and flooding, in those jurisdictions that have been declared disaster areas by the President of the United States and/or by the Governor of California.

SECTION 25. PUBLICATION OF ORDINANCE: A summary of this Ordinance shall be published at least five days before its passage in the local newspapers of general circulation published in the County of Napa, and at least once before the expiration of 15 days after its passage together with the names of the Directors voting for and against the same.

DRAFT ORDINANCE

The foregoing Ordinance was introduced and read at a regular meeting of the Napa Valley Transportation Authority, held on _____ and passed at a regular meeting of the Napa Valley Transportation Authority held on _____ by the following vote:

, NVTA Chair

Ayes:

ATTEST:

Karalyn E. Sanderlin, NVTA Board Secretary

Noes:

APPROVED:

Absent:

Janice D. Killion, NVTA Legal Counsel

Attachment (1) Napa Valley Transportation Authority Transportation Improvement Expenditure Plan

DRAFT ORDINANCE

ATTACHMENT 1

Napa Valley Transportation Authority Transportation Improvement Expenditure Plan

The revenues received by the Authority from the proposed transactions and use tax shall be distributed following the requirements of ordinance for the following projects, after deduction of required Board of Equalization costs for performing the functions specified in Section 180204(b) of the Public Utilities Code, reimbursing the County of Napa for its cost in conducting the special election if the measure is approved per Section 180203(a) of the Public Utilities Code, administration, and annual and biennial audits of the Independent Taxpayer Oversight Committee. . All funding and revenues are expressed in 2012 dollars over the twenty-five year life of the program.

Local Streets and Roads Maintenance Program

Description:

Under the ordinance the funds must be used for maintenance, rehabilitation and reconstruction of local streets, roads, and infrastructure within the public right-of-way. Exceptions will be approved only as allowed by ordinance for jurisdictions which meet and will continue to meet the pavement maintenance index set by the ordinance; such funds may be used by each agency for any transportation related project purpose including, but not limited to, additional expenditures for maintenance, safety, bike and pedestrian projects, signal timing, roundabout installation, signal installation, intelligent transportation systems, operational projects, and local system congestion relief projects, including transit, and environmental and design costs for the projects.

The estimated funding for the project is (millions of dollars):

Project	Percentage Distribution	Transaction and Use Tax
American Canyon	7.4%	\$21.09
Calistoga	2.6%	\$7.41
City of Napa	38.7%	\$110.29
Napa County	38.0%	\$108.3
St. Helena	5.7%	\$16.25
Yountville	2.6%	\$7.41
Alternative Transportation/Administrative	5.0%	\$14.25
Total	100%	\$285

DRAFT ORDINANCE

Alternative Transportation Projects

Description:

1. Senior citizen Fixed Route Transit pass buy-down, up to seventy-five percent (75%) off regular pass price.
2. Bicycle elements as identified in the approved Napa Countywide Bicycle Plan.
- .
3. Actual costs, not to exceed 1% of the annual revenue, may be used for administration of this ordinance by the Authority.

The estimated funding for the alternative transportation project is (28.75 million dollars):

Amendments

This Ordinance and Expenditure Plan may be amended to provide for the use of additional federal, state, and local revenues or to account for unexpected revenues by approval of a majority vote of the members of the Authority; the majority must include the City of Napa, the County of Napa, and at least three other jurisdictions. No amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Amendments constituting expenditures for new programs or new projects that were not a part of the voter approved Expenditure Plan or generally referred to in the Local Streets and Roads Maintenance Program may only be approved with the subsequent consent of the electorate.