

- 7.11 **Other Duties and Responsibilities.** NCTPA shall carry out such other duties and responsibilities as the Member Jurisdictions, by unanimous approval expressed through amendment of this Agreement or resolutions of their respective governing boards, may delegate to NCTPA.

SECTION 8. FINANCE

- 8.1 **Fiscal Year.** The fiscal year for NCTPA shall begin on July 1 and end on June 30.

- 8.2 **Budget.** A budget for NCTPA shall be adopted by the NCTPA Board for each fiscal year prior to June 30 of the preceding fiscal year. The budget shall include sufficient detail to constitute an operating guideline. It shall also include the anticipated sources of funds and the anticipated expenditures to be made for the operations of NCTPA. Approval of the budget by the NCTPA Board shall constitute authority for the Executive Director to expend funds for the purposes outlined in the approved budget, subject to the availability of funds on hand as determined by the NCTPA Auditor-Controller and subject to the constraints imposed upon general law counties pertaining to execution of contracts by purchasing agents. Nothing in this Section 8.2 shall be construed to limit the power of the NCTPA Board to modify the budget in whatever manner it deems appropriate and to instruct the Executive Director accordingly.

- 8.3 **Revenues.**

- 8.3.1 **General.** Unless otherwise agreed by the Member Jurisdictions by amendment of this Agreement, the total expenditures in the annual planning budget shall be paid for with revenues derived from funds paid directly to NCTPA by persons or entities, public or private, other than the Member Jurisdictions and from contributions from the Member Jurisdictions (in money or, upon approval by the NCTPA Board, in kind) based on the relative populations of the Member Jurisdictions. In determining said population ratios the latest population statistics by the State Department of Finance shall be used.

- 8.3.2 **Approval Required for Member Jurisdiction Contributions.** Notwithstanding the foregoing, no Member Jurisdiction shall be required to expend any of its general fund monies to support the operations of NCTPA in any fiscal year unless such expenditure has been first approved by the legislative body of the Member Jurisdiction.

- 8.3.3 **Transportation Funds.** In order to carry out the transportation duties and responsibilities of this Agreement, NCTPA shall be empowered to claim all TDA funds under Articles 4, 4.5 and/or 8 of Chapter 4 of the Public Utilities Code apportioned within Napa County by the Metropolitan Transportation Commission (MTC) commencing with the fiscal year 2001-2002 apportionment. All TDA funds, excluding those apportioned prior to the 2001-2002 fiscal year, will be used for purposes allowed under TDA regulations with the exception of those funds for streets and roads, Section 99400(a) of the Public Utilities Code. All

TDA funds claimed by NCTPA shall be used at the sole discretion of the NCTPA Board of Directors only for transit and paratransit services and capital improvements. TDA funds apportioned or allocated under Section 99233.3 are not subject to this agreement. Member Jurisdictions endorse a single apportionment by MTC, commencing with the 2001-2002 apportionment, under Sections 99233.8 and 99233.9 of the Public Utilities Code to the NCTPA on behalf of the jurisdictions of Napa County. If apportionment under Sections 99233.8 and 99233.9 of the Public Utilities Code are made to any Member Jurisdiction commencing with the fiscal year 2001-2002 apportionment, the NCTPA is authorized to claim all such apportionments for transit purposes without further action by the Member Jurisdiction. Funds available pursuant to Section 99313.6, excluding funds apportioned or allocated under Section 99314.3, shall be claimed solely by the NCTPA for transit purposes. No Member Jurisdiction shall claim funds apportioned or allocated under Section 99313.6, excluding funds apportioned or allocated under Section 99314.3.

8.3.4 Standards For Use of TDA Funds. Every two years, the NCTPA will prepare and adopt a Short Range Transit Plan ("Plan"). As warranted, at the discretion of the NCTPA Board, the Plan may be updated annually. The NCTPA Board will adopt the Plan and any updated Plan. The Plan shall provide the basis for evaluating what services are necessary and where services will be provided. Each Member Jurisdiction operating its own transit system during fiscal year 2000-2001 is guaranteed an amount of funding, in addition to TDA funds apportioned to that Member Jurisdiction prior to fiscal year 2001-2002 apportionment if such funds remain unallocated by MTC, sufficient to operate its system at the level of service existing for that system for fiscal year 2000-2001. In the case of a jurisdiction not operating local transit during fiscal year 2000-2001, an equitable amount of funding, in addition to TDA funds apportioned to that Member Jurisdiction prior to the fiscal year 2001-2002 apportionment if such funds remain unallocated by MTC, will be provided to that Member Agency for local transit as determined through a memorandum of understanding with the NCTPA.

8.4 Accountability.

8.4.1 Accountable to Member Jurisdictions. NCTPA shall be strictly accountable to the Member Jurisdictions for all receipts and disbursements of NCTPA.

8.4.2 Limitation on Expenditures. NCTPA may not obligate itself beyond the monies due to NCTPA under this Agreement plus any monies on hand or irrevocably pledged to its support from other sources.

8.4.3 Annual Audit. The NCTPA Board shall cause an annual audit to be prepared and filed to the extent required by Government Code section 6505.

8.5 Debts, Liabilities and Obligations.

8.5.1 General. Except as provided in Section 8.4.2, the debts, liabilities, and obligations of NCTPA shall be solely the obligation of NCTPA and not the debts, liabilities, and obligations of the Member Jurisdictions or their respective officers or employees. However, nothing in this Agreement shall prevent any Member Jurisdiction from separately contracting for, or assuming responsibility for, specific debts, liabilities, or obligations of NCTPA, provided that both the NCTPA Board and that Member Jurisdiction give prior approval of such contract or assumption.

8.5.2 Liability.

- (a) **Primary Liability.** If liability is imposed upon NCTPA by a court of competent jurisdiction by reason of negligent or willful acts or omissions of NCTPA or any of its officers, employees, agents, volunteers, or contractors, any resulting monetary judgment against NCTPA shall be paid first from the discretionary funds of NCTPA or, if the liability arose from the actions of a contractor, contribution shall be sought from the contractor.
- (b) **Insurance.** To comply with subsection (a), above, NCTPA shall obtain and maintain in force during the life of this Agreement insurance for errors and omissions, general liability, and vehicle liability in amounts deemed by the NCTPA Board to be sufficient to fully cover NCTPA, its officers, employees, board members, and agents, and the Member Jurisdictions for any reasonably foreseeable losses. Where services are provided by contract to NCTPA, the contract shall require the contractor to obtain insurance sufficient to hold NCTPA and the Member Jurisdictions harmless and indemnify them against any claims for liability arising from the provision of the services. The cost of such coverage, whether obtained directly by NCTPA or as any increased in the contract price for services obtained under contract, shall be a charge against NCTPA funds.
- (c) **Contribution by Member Jurisdictions.** If NCTPA funds or insurance coverage are insufficient, or if any Member Jurisdiction is sued and found liable for a negligent or willful act or omission of NCTPA or any of its officers, employees, agents, volunteers, or contractors and NCTPA funds or contractor contribution are insufficient to pay the judgment or to reimburse the sued Member Jurisdiction for paying the judgment, the Member Jurisdictions shall be responsible for the liability for purposes of contribution under Government Code section 895.4 in proportion to the voting power of each Member Jurisdiction on the NCTPA Board.

SECTION 9. RULES OF CONDUCT

- 9.1 **Bylaws.** The NCTPA Board may from time to time adopt bylaws for the conduct of the affairs of NCTPA and the NCTPA Board, provided such Rules of Conduct are not inconsistent with this Agreement.
- 9.2 **Quorum.** A majority of the voting power and seven of the twelve voting members (or their alternates) of the NCTPA Board shall constitute a quorum for the transaction of business at any meeting of the NCTPA Board. Notwithstanding the foregoing, if a quorum has been present at the commencement of the meeting, the affirmative vote of a majority of the voting power of the NCTPA Board shall constitute the act of the NCTPA Board even if, at the time of such vote, less than seven voting members (or their alternates) are present.
- 9.3 **Adjournment of Meetings.** Any meeting of the NCTPA Board, whether or not a quorum is present, may be adjourned from time to time by a vote of the majority of the voting members (or their alternates) present or, if no voting members or their alternates are present, may be adjourned by the person appointed to serve as Clerk or Secretary of the NCTPA Board.
- 9.4 **Brown Act.** All meetings of the NCTPA Board shall comply with the requirements of the Ralph M. Brown Act (Government Code section 54950 et seq.).

SECTION 10. NOTICES

- 10.1 **Method.** All notices which any Member Jurisdiction or NCTPA may wish to give in connection with this Agreement shall be in writing and served by personal delivery during business hours at the principal office of the Member Jurisdiction or NCTPA to an officer or person apparently in charge of that office, or by deposit in the United States mail, postage prepaid, and addressed to the Member Jurisdiction or NCTPA at its principal office or to such other address as the Member Jurisdiction or NCTPA may designate from time to time by written notice to NCTPA and each of the parties. Service of notice shall be deemed complete on the day of personal delivery (or 24 hours after such delivery for notice of special meetings) or three (3) days after mailing if deposited in the United States mail.
- 10.2 **Addresses for Notice.** Until changed by written notice to NCTPA and the Member Jurisdictions, notices under this Agreement shall be delivered to the following addresses:

NCTPA:	Executive Director Napa County Transportation Planning Agency 707 Randolph, Street, Suite 200 Napa, California 94559
COUNTY OF NAPA:	Clerk of the Board of Supervisors Room 310, County Administration Building

1195 Third Street
Napa, California 94559

CITY OF AMERICAN CANYON: American Canyon City Clerk
300 Crawford Way
American Canyon, California 94503

CITY OF NAPA: Napa City Clerk
955 School Street
Napa, California 94559

TOWN OF YOUNTVILLE: Yountville Town Clerk
6550 Yount Street
Yountville, California 94599

CITY OF ST. HELENA: St. Helena City Clerk
1480 Main Street
St. Helena, California 94574

CITY OF CALISTOGA: Calistoga City Clerk
1232 Washington Street
Calistoga, California 94515

SECTION 11. ASSIGNMENT, WITHDRAWAL AND TERMINATION

- 11.1 Assignment.** This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Member Jurisdictions, except that no Member Jurisdiction shall assign any of its rights under this Agreement except to a duly-formed public entity organized and existing under the laws of the State of California and then only when approved by amendment of this Agreement.
- 11.2 Withdrawal.** A Member Jurisdiction may withdraw from NCTPA without the consent of the other Member Jurisdictions by giving no less than ninety (90) days prior written notice to the NCTPA Board. A Member Jurisdiction may withdraw from NCTPA at any time with the written consent of all of the other Member Jurisdictions contained in an amendment of this Agreement. A Member Jurisdiction electing to withdraw prior to termination of the Agreement pursuant to Section 11.3 shall not be entitled to share in the distribution of assets provided for in Section 11.3.
- 11.3 Termination.** The Agreement shall continue in effect until terminated. The Agreement may be terminated at any time and NCTPA dissolved with the written consent of the majority of the then-existing Member Jurisdictions representing a majority of the votes on the NCTPA Board. Such consent shall be expressed in duly-authorized resolutions of the Member Jurisdictions.

11.4 Disposition of Assets. In the event of termination of the Agreement and dissolution of NCTPA, any remaining assets of NCTPA shall be sold or, if sale is prohibited under the terms of original acquisition, returned to or otherwise disposed of at the direction of the party or persons from whom they were obtained. After all liabilities, encumbrances and liens have been paid, the proceeds of such sales shall be allocated proportionately to the Member Jurisdictions based upon their respective populations as determined by the latest California State Department of Finance population figures. Notwithstanding the foregoing, in accordance with Government Code section 6512, any funds remaining at the time of termination which were contributed by the Member Jurisdictions shall be returned to the Member Jurisdictions in proportion to the contributions made.

SECTION 12. AMENDMENTS

12.1 Method of Amendment. Amendments to this Agreement shall be made only with the written consent of all then-existing Member Jurisdictions without regard to voting power on the NCTPA Board.

SECTION 13. WAIVER

13.1 Limitation. Waiver by any Member Jurisdiction of breach of any provision of this Agreement shall not constitute a waiver of any other breach of such provision or of any other provision of this Agreement, nor shall failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

SECTION 14. SEVERABILITY

14.1 General. Should any part, term or provision of this Agreement be decided by a final judgment of a court of competent jurisdiction to be illegal or in conflict with any State or federal law or regulation or any applicable local ordinance or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms and provisions shall not be affected.

SECTION 15. SECTION HEADINGS

15.1 Effect. All section numbers and headings contained in this Agreement are for convenience and reference only and are not intended to define or limit the scope of any provision of this Agreement.

SECTION 16. APPLICABLE LAW AND VENUE

16.1 Applicable Law. The rights, obligations, duties and liabilities of NCTPA and of the Member Jurisdictions under this Agreement shall be interpreted in accordance with and governed by the law of the State of California.

16.2 Venue for Disputes. Venue for any action filed by any Member Jurisdiction under state law to enforce this Agreement or any provision thereof shall be in the courts of Napa

County. Venue for any action filed by any Member Jurisdiction under federal law or as a federal action shall be in the federal courts for the Northern District of California.

SECTION 17. NO RIGHTS CREATED IN THIRD PARTIES

17.1 No Rights for Third Parties. The parties to this Agreement hereby expressly agree that it is not the intent of the parties to create, and this Agreement shall not be deemed or construed to create any third party beneficiaries or otherwise inure to the benefit of any third parties.

SECTION 18. ENTIRE AGREEMENT

18.1 Integrated Agreement. The terms and provisions of this Agreement constitute the full and entire agreement between the Member Jurisdictions with respect to the matters covered herein. This Agreement supersedes any and all other communications, representations, proposals, understandings or agreements, either written or oral, between the Member Jurisdictions with respect to such subject matter, including any prior agreement or amendment thereto relating to the CMA.