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## **Napa Valley Transportation Authority (NVTA)**

### **Board of Directors**

### **AGENDA**

**Wednesday, May 16, 2012  
1:30 p.m.**

**NCTPA/NVTA Conference Room  
707 Randolph Street Suite 100  
Napa CA 94559**

***All materials relating to an agenda item for an open session of a regular meeting of the NVTA Board of Directors are posted on our website at [www.nctpa.net/m\\_a.cfm](http://www.nctpa.net/m_a.cfm) at least 72 hours prior to the meeting and will be available for public inspection, on and after at the time of such distribution, in the office of the Secretary of the NVTA Board of Directors, 707 Randolph Street, Suite 100, Napa, California 94559, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except for NVTA holidays. Materials distributed to the present members of the Board at the meeting will be available for public inspection at the public meeting if prepared by the members of the NVTA Board or staff and after the public meeting if prepared by some other person. Availability of materials related to agenda items for public inspection does not include materials which are exempt from public disclosure under Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.***

***Members of the public may speak to the Board on any item at the time the Board is considering the item. Please complete a Speaker's Slip, which is located on the table near the entryway, and then present the slip to the Board Secretary. Also, members of the public are invited to address the Board on any issue not on today's agenda under Public Comment. Speakers are limited to three minutes.***

***This Agenda shall be made available upon request in alternate formats to persons with a disability. Persons requesting a disability-related modification or accommodation should contact Karrie Sanderlin, NVTA Board Secretary, at (707) 259-8631 during regular business hours, at least 48 hours prior to the time of the meeting.***

***This Agenda may also be viewed online by visiting the NCTPA website at [www.nctpa.net](http://www.nctpa.net), click on Minutes and Agendas – NVTA Board or go to [www.nctpa.net/m\\_a.cfm](http://www.nctpa.net/m_a.cfm)***

**ITEMS**

- 1. Call to Order – Chair Keith Caldwell
- 2. Pledge of Allegiance
- 3. Roll Call

Members:

Joan Bennett	City of American Canyon
Leon Garcia, Mayor	City of American Canyon
Michael Dunsford	City of Calistoga
Jack Gingles, Mayor	City of Calistoga
Jim Krider	City of Napa
Jill Techel, Mayor	City of Napa
Keith Caldwell, BOS Chair	County of Napa
Bill Dodd	County of Napa
Del Britton, Mayor	City of St. Helena
Peter White	City of St. Helena
Lewis Chilton	Town of Yountville
John F. Dunbar, Mayor	Town of Yountville

- 4. Public Comment

5. **CONSENT ITEM (5.1)**

**RECOMMENDATION**

- 5.1 Approval of Meeting Minutes of April 4, 2012  
(Karrie Sanderlin) *(Pages 4-5)*

APPROVE

6. **REGULAR AGENDA ITEMS - TRANSPORTATION**

**RECOMMENDATION**

- 6.1 Approval of Resolution No. 12-01 Adopting a  
Napa Countywide Road Maintenance Act and  
Making Related CEQA Findings (Paul W. Price)  
*(Pages 6-13)*

APPROVE

Authority action will approve adopting the Napa Countywide Road Maintenance Act and making related CEQA findings.

7. **PUBLIC HEARING – ORDINANCE No. 12-01**

7.1 First Reading and Intention to Adopt Ordinance 2012-01 of the Napa Valley Transportation Authority which enacts the Napa Countywide Road Maintenance Act, Pending Voter Approval, which Proscribes the Imposition, Division, Distribution, and Management of a Retail Transactions and Use Tax Under Section 180000 et. seq of the California Public Utilities Code (Paul W. Price) (*Pages 14-32*)

APPROVE

Authority action will lead towards placing the issue of a transportation sales tax before the voters on the November, 2012 ballot.

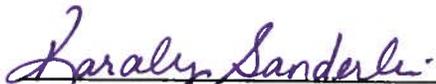
8. **ADJOURNMENT**

**RECOMMENDATION**

7.1 Approval of Meeting Date of June 20, 2012 and Adjournment

APPROVE

I hereby certify that the agenda for the above stated meeting was posted at a location freely accessible to members of the public at the NCTPA offices, 707 Randolph Street Suite 100 Napa CA, by 5:00 p.m. Friday May 11, 2012.



Karalyn E. Sanderlin, NVTA Board Secretary

**Napa Valley Transportation Authority (NVTA)**

**Board of Directors**

**\*\*\*\*\*SPECIAL MEETING\*\*\*\*\*  
MINUTES**

**Wednesday, April 4, 2012**

**ITEMS**

**1. Call to Order**

Chair Caldwell called the meeting to order at 10:33 a.m.

**2. Pledge of Allegiance**

Chair Caldwell led the salute to the flag.

**3. Roll Call**

Members Present:

Joan Bennett	City of American Canyon
Leon Garcia	City of American Canyon
Michael Dunsford	City of Calistoga
Jack Gingles	City of Calistoga
Jim Krider	City of Napa
Jill Techel	City of Napa
Keith Caldwell	County of Napa
Bill Dodd	County of Napa
Peter White	City of St. Helena
John Dunbar	Town of Yountville
Lewis Chilton	Town of Yountville

Members Absent:

Del Britton	City of St. Helena
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**4. Public Comment - None**

**5. REGULAR AGENDA ITEMS - TRANSPORTATION**

**5.1 Transportation Sales Tax Consideration**

Staff reviewed the proposed Sales Tax Ordinance, 2012-01 including a proposed amendment to Section 3.B, which was read as follows:

**MSC - Motioned, Seconded, and Unanimously Carried**

Once this measure becomes operative, in order to receive annual allocations under this measure, the Agencies (collectively) must demonstrate that at least six and sixty-seven one-hundredths percent (6.67%) of the value of the allocations each year under Section 3(A) has been committed to Class I Bike land project(s) indentified in the current adopted Countywide Bicycle Plan, as it may be amended from time to time, thorough finding not derived from the Ordinance. This obligation may be fulfilled by the NCTPA and NVTA in programming Congestion Mitigation and Air Quality Improvement (CMAQ) funding (or its successor), plus other local or formula specific funds, in an amount that equals 6.67% over the term of this ordinance. Funding for Class I Bike lane projects that are funded by philanthropy, state discretionary funding or federal discretionary funding shall not count toward the six and sixty-seven one-hundredths percent (6.67%). As used in the Section, discretionary funding means any funding that is not tied to a specific state or federal program or formula.

In addition to the above, the Board recommended changing the title of the Ordinance, to something that better described what the ordinance contained. A better alternative that was suggested and agreed upon is: The Napa Countywide Road Maintenance Act.

Public Comment was provided by the following individuals:

Chuck McMinn  
Steve Ledere, Napa County

**MSC\* GARCIA / DUNSFORD to APPROVE** (1) Request that each member jurisdiction act by resolution to approve the proposed Sales Tax Ordinance, NVTA 12-01 and expenditure plan which is to include the proposed amendment to Section 3.B as provided above, and title change to the Napa Countywide Road Maintenance Act, for inclusion on the November 2012 ballot; (2) That staff bring back the final measure, should the County and a majority of the jurisdictions concur, to the June 20, 2012 NCTPA Board meeting for review and, pending Board approval, forward it to the Board of Supervisors for placement on the November 2012 ballot for a public vote; and (3) That the NVTA Board, at its June 20, 2012 meeting, consider and approve the environmental finding as it pertains to NVTA Ordinance 12-01.

## **6. ADJOURNMENT**

### **6.1 Approval of Meeting Date of May 16, 2012 and Adjournment**

The next regular meeting will be held Wednesday May 16, 2012 at 1:30 p.m.

The meeting was adjourned by Chair Caldwell at 12:20 p.m.

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Karalyn E. Sanderlin, NVTA Board Secretary

**MSC - Motioned, Seconded, and Unanimously Carried**



May 16, 2012  
NVTA Agenda Item 6.1  
Continued From: New  
**Action Requested: APPROVE**

## **NAPA VALLEY TRANSPORTATION AUTHORITY Board Agenda Letter**

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**TO:** Board of Directors  
**FROM:** Paul W. Price, Executive Director  
**REPORT BY:** Paul W. Price, Executive Director  
(707) 259-8634 / Email: [pprice@nctpa.net](mailto:pprice@nctpa.net)  
**SUBJECT:** Approval of Resolution No. 12-01 Adopting a Transportation Improvement Expenditure Plan and Making Related California Environmental Quality Act (CEQA) Findings

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### **RECOMMENDATION**

That the NVTA Board approve Resolution No. 2012-01 (Attachment 1) whereby the Authority adopts the Napa Countywide Road Maintenance Act Expenditure Plan and makes related CEQA findings.

### **COMMITTEE RECOMMENDATION**

None.

### **EXECUTIVE SUMMARY**

Board action will have the Authority officially adopt the Expenditure Plan which has received unanimous member jurisdiction approval. The action comports with Public Utilities Code section 180206 requiring Authority adoption of the Expenditure Plan.

The action will also make the necessary CEQA findings associated with adoption and implementation of the Expenditure Plan, finding that the Napa Countywide Road Maintenance Act is Categorical Exempt.

### **PROCEDURAL REQUIREMENTS**

1. Staff Report
2. Public Comment
3. Motion, Second, Discussion and Vote

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## **FINANCIAL IMPACT**

There is no financial impact from approving this item. However, should the Measure succeed that stems from this action, there would potentially be new revenues available for each jurisdiction to address long standing infrastructure needs throughout all communities.

## **CEQA REQUIREMENTS**

The proposed action is a project as defined in Section 15378 of the CEQA Guidelines, which define a project as an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change. CEQA review is accommodated under this agenda item with the adoption of the Resolution finding the Act Categorically Exempt:

There is no possibility that implementation of the Expenditure Plan may have a significant effect on the environment and therefore CEQA is not applicable [See Guidelines for the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)]; and

Alternatively, because implementation of the Expenditure Plan consists of the maintenance, reconstruction or rehabilitation of local streets, roads and infrastructure within the public right-of-way, the approval of the Expenditure Plan is categorically exempt from CEQA [See 14 CCR 15300 et seq., and the Authority's local CEQA guidelines, where it has been determined these such projects do not have a significant effect on the environment and are therefore are categorically exempt from the requirement for the preparation of environmental documents; see Class 1 "Existing Facilities" which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301].

## **BACKGROUND AND DISCUSSION**

In April and May of 2012, the Cities, town, and County (1) approved the proposed Napa Countywide Road Maintenance Act Expenditure Plan (Plan), (2) passed a Resolution that the Napa Countywide Road Maintenance Act was exempt from CEQA. Adoption of the proposed Resolution will take the same actions with respect to the Authority itself.

Board action will have the Authority officially adopt the Expenditure Plan which has received unanimous member jurisdiction approval. The action comports with Public Utilities Code section 180206 requiring Authority adoption of the Expenditure Plan.

The action will also make the necessary CEQA findings associated with adoption and implementation of the Expenditure Plan, finding that the Napa Countywide Road Maintenance Act is Categorically Exempt.

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In reviewing the surrounding communities' efforts and the specific needs of all of the communities of Napa the following conceptual framework was proposed for discussion and review:

- At least 99% of the funds raised would be dedicated to maintaining and repairing existing streets and roads throughout the county
- The remaining up to 1% of funds raised by this measure would be for administration of the Act
- The measure would be a ½-cent sales tax that would begin upon the expiration of the Napa Flood Control sales tax (July 1, 2018) sunset in 25 years
- To ensure that all funds are spent locally and efficiently, an independent Oversight Committee, based on the most effective practices of comparable watchdog committees in California, would be formed

#### **SUPPORTING DOCUMENTS**

- Attachments: (1) NVTA Resolution 12-01  
(2) April 9, 2012 Memo from Napa County Conservation, Planning, And Development Regarding California Environmental Quality Act (CEQA) Findings

**RESOLUTION NO. 12-01**

**A RESOLUTION OF THE  
NAPA VALLEY TRANSPORTATION AUTHORITY (NVTA)  
ADOPTING THE NAPA COUNTYWIDE ROAD MAINTENANCE ACT  
EXPENDITURE PLAN AND MAKING RELATED CEQA FINDINGS**

**WHEREAS**, on November 15, 2005, the Napa County Board of Supervisors created the Napa Valley Transportation Authority ("Authority"), a local transportation authority with all the powers and functions set forth in Division 19 (commencing with Section 180000) of the California Public Utilities Code. Among the powers of the Authority is the ability to adopt, upon voter approval, a retail transactions and use tax ordinance to provide a local transportation funding source; and

**WHEREAS**, a component of the tax ordinance is an adopted county transportation expenditure plan detailing the purposes for which the tax revenues may be expended; and

**WHEREAS**, prior to Authority adoption of a county transportation expenditure plan, the expenditure plan must receive the approval of the board of supervisors and of the city/town councils representing both a majority of the cities in the county and a majority of the population residing in the incorporated areas of Napa County; and

**WHEREAS**, the Expenditure Plan has been approved by Napa County, the Town of Yountville, and the Cities of American Canyon, Calistoga, Napa, and Yountville; and

**WHEREAS**, the development of a local transportation funding source in Napa County is critical to address local transportation funding shortfalls, to provide local match funds for state and federal transportation funds, and to maintain Napa County's quality of life and economic viability by providing funds for a local streets and roads maintenance program; and

**WHEREAS**, the Authority is proposing the adoption of a tax ordinance and expenditure plan which imposes a one-half of one percent transactions and use tax for a period of twenty-five years commencing July 1, 2018, or upon earlier termination of the Flood Protection tax; and

**WHEREAS**, at its April 4, 2012, meeting the Authority gave tentative approval to a proposed Napa Countywide Road Maintenance Act Expenditure Plan, attached hereto as Exhibit A, which will benefit the citizens of Napa county by providing much needed revenue for local streets and roads maintenance; and

**WHEREAS**, the proposed Ordinance 2012-01 does not provide for the ability to bond against expected revenues from this Ordinance; and

**WHEREAS**, based on the record it can be seen with certainty that there is no possibility that implementation of the Expenditure Plan may have a significant effect on the environment and therefore CEQA is not applicable [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)]; and

**WHEREAS**, alternatively, because implementation of the Expenditure Plan consists of the maintenance, reconstruction or rehabilitation of local streets, roads and infrastructure within

the public right-of-way, the approval of the Expenditure Plan is categorically exempt from CEQA [See 14 CCR 15300 et seq., and the Authority's local CEQA guidelines, where it has been determined these such projects do not have a significant effect on the environment and are therefore are categorically exempt from the requirement for the preparation of environmental documents; see Class 1 "Existing Facilities" which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301].

**NOW, THEREFORE, BE IT RESOLVED** by the Napa Valley Transportation Authority as follows:

1. The foregoing recitals are true and correct.
2. The Napa Valley Transportation Authority finds that the project was evaluated under the California Environmental Quality Act and it has been determined that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable [14 CCR 15061(b)(3)];
3. Alternatively, this type of project does not have a significant effect on the environment and therefore is exempt from the California Environmental Quality Act [14 CCR §15301];
4. That the Napa Valley Transportation Authority hereby approves the proposed Napa Countywide Road Maintenance Act Expenditure Plan attached hereto as Exhibit A for purposes of adoption as provided in Public Utilities Code section 180206(b).

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED** at a regular meeting of the Napa Valley Transportation Authority held on the 16<sup>th</sup> day of May, 2012, by the following vote:

\_\_\_\_\_  
Keith Caldwell, NVTA Chair

Ayes:

Noes:

Absent:

ATTEST:

\_\_\_\_\_  
Karalyn E. Sanderlin, NVTA Board Secretary

APPROVED:

\_\_\_\_\_  
Janice Killion, NVTA Legal Counsel

**EXHIBIT A**

**NAPA COUNTWIDE ROAD MAINTENANCE ACT EXPENDITURE PLAN**

The net revenues received by the Authority from the proposed transactions and use tax shall be used to fund the projects described below after paying for the costs of this election, the costs of the Independent Taxpayer Oversight Committee, and administering the program. Only one percent (1%) of the net revenues may be expended on the costs of administration. The revenues received by the Authority will be less than the gross revenues actually collected because the fees the State Board of Equalization charges to collect the sales tax will be deducted before the revenues are transferred to the Authority. All funding and revenues are expressed in 2011 dollars over the twenty-five year life of the program.

The revenue allocated to each Agency under this Expenditure Plan may be used for any direct costs of design, materials testing, all project required environmental reviews, construction management, inspection, and construction of the projects.

**Local Streets and Roads Maintenance Program**

**Description:**

Of the annual revenues available, ninety-nine percent (99%) shall be allocated to the Local Streets and Roads Maintenance Program. Under the Ordinance, the funds for the Local Streets and Roads Maintenance Program must be used for maintenance, reconstruction or rehabilitation of local streets, roads, and infrastructure within the public right-of-way as defined.

The estimated funding for the Local Streets and Maintenance Program is (millions of dollars):

Project	Percentage Distribution	Transaction and Use Tax
American Canyon	7.7%	\$21.945
Calistoga	2.7%	\$7.695
City of Napa	40.35%	\$114.997
Napa County	39.65%	\$113.003
St. Helena	5.9%	\$16.815
Yountville	2.7%	\$7.695
<b>Total</b>	<b>99%</b>	<b>282.15</b>

**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 two-thirds vote of the members of the Authority; the two-thirds 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 referred to in the Local Streets and Roads Maintenance Program may only be approved with the subsequent consent of the electorate.



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Hillary Gitelman  
Director

To: Janice Killion, County Counsel	From: R. Patrick Lowe, Deputy Director Conservation, Development and Planning
Date: April 9, 2012	Re: Napa Valley Transportation Authority, Transportation Improvement Expenditure Plan

This memo is in response to your request for a determination of California Environmental Quality Act (CEQA) compliance for the proposed Transportation Improvement Expenditure Plan (Expenditure Plan).

On November 15, 2005, the Napa County Board of Supervisors created the Napa Valley Transportation Authority (Authority). The Authority has the ability to adopt, upon voter approval, a retail transaction and use tax ordinance to provide a local transportation funding source. The development of a local transportation funding source in Napa County is critical to addressing local transportation funding shortfalls, by providing funds for a local streets and roads maintenance program. The Streets and Roads Maintenance Program would consist of, maintenance, reconstruction or rehabilitation of local streets, roads and infrastructure within public right-of-ways.

Under the Expenditure Plan, approximately 99% of the annual revenues available shall be allocated on a fair and equitable basis to each city and town within Napa County, and the county itself to provide revenue for such projects listed above, and to supplement, but not supplant, other revenue available for the Local Streets and Road Maintenance Program. The total estimated funding is approximately \$282.15 million dollars (2011 dollars).

The revenue allocated for maintenance, reconstruction or rehabilitation of local streets, roads and infrastructure within public right-of-ways shall be distributed as follows<sup>1</sup>:

- a) City of American Canyon 7.7%
- b) City of Calistoga 2.7%
- c) City of Napa 40.35%
- d) County of Napa 39.65%
- e) City of St. Helena 5.9%
- f) Town of Yountville 2.7%

<sup>1</sup> Refer to Resolution for additional details.

The Expenditure Plan would not result in physical changes to the environment, nor will it result in any foreseeable direct impact to environmental resources. While the Expenditure Plan is anticipated to result in the maintenance, reconstruction or rehabilitation of local streets, roads and infrastructure within public right-of-ways, the extent and nature of those projects are unknown and unknowable at this time. CEQA does not require a lead agency to speculate about potential future projects or their potential environmental impacts. However, as the Expenditure Plan is limited to existing streets, roads and public right-of-way, the proposed action would be considered Categorical Exempt from CEQA pursuant to Title 14 CCR Section 15301 Class 1-Existing Facilities, which provides for the operation, repair, maintenance, permitting, leasing or minor alterations to existing structures, facilities, and mechanical equipment, including interior or exterior alterations involving negligible or no expansion of use.

The proposed action is not anticipated to impact any known environmentally sensitive areas, and its impact on the environment would be less than significant, both individually and cumulatively. As noted above, because the Expenditure Plan is limited to existing streets, roads and public right-of-way, the Expenditure Plan does not involve alteration of existing lands or structures; therefore, there is no reasonable possibility that the proposed action will have a significant effect on the environment or that it will damage scenic resources. Pursuant to CEQA Section 15061(b)(3), it can be seen with certainty that the revisions to the Expenditure Plan will not result in a significant effect on the environment and it is therefore not subject to CEQA under the "General Rule."

If you have any questions or need additional information, please contact Kelli Felker, Planner II at 265-2325, or by e-mail at: [kelli.felker@countyofnapa.org](mailto:kelli.felker@countyofnapa.org), or Brian Bordona, Supervising Planner at 259-5935 or by e-mail at [brian.bordona@countyofnapa.org](mailto:brian.bordona@countyofnapa.org).



May 16, 2012  
NVTA Agenda Item 7.1  
Continued From: New  
**Action Requested: APPROVE**

## NAPA VALLEY TRANSPORTATION AUTHORITY Board Agenda Letter

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**TO:** Board of Directors  
**FROM:** Paul W. Price, Executive Director  
**REPORT BY:** Paul W. Price, Executive Director  
(707) 259-8634 / Email: [pprice@nctpa.net](mailto:pprice@nctpa.net)  
**SUBJECT:** First Reading and Motion of Intent to Adopt NVTA Ordinance 2012-01 Enacting the Napa Countywide Road Maintenance Act Expenditure Plan, which, Proscribes, Pending Voter Approval, the Imposition, Division, Distribution, and management of a Retail Transaction and Use Tax under Section 180000 et seq. of the California Public Utilities Code

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### **RECOMMENDATION**

That the NVTA Board approve the first reading, by title only, and motion of intent to adopt NVTA Ordinance 2012-01, the Napa Countywide Road Maintenance Act (Attachment 1).

### **COMMITTEE RECOMMENDATION**

None.

### **EXECUTIVE SUMMARY**

The Napa Valley Transportation Authority (NVTA) is proposing the adoption of an ordinance that would impose, pending voter approval, a one-half of one percent retail transactions and use tax to fund transportation projects identified in the Napa Countywide Road Maintenance Act Expenditure Plan. The Expenditure Plan was the subject of the previous agenda item. The Ordinance requires two readings, with today's action being the introduction of the Ordinance and a motion of intent to adopt.

A second NVTA meeting has been set for Wednesday June 16, 2012 at 1:30 p.m. for final adoption.

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## **PROCEDURAL REQUIREMENTS**

1. Open Public Hearing
2. Staff reports
3. Public comments
4. Close Public Hearing
5. Secretary Reads the Ordinance Title
6. Motion, Second, Discussion and Vote to waive the balance of the reading of the Ordinance
7. Motion, Second, Discussion and Vote on Intention to Adopt the Ordinance

## **FINANCIAL IMPACT**

None: However successful voter approval of the Ordinance would result in approximately \$285 million (2011 dollars) for new transportation programs and projects.

## **CEQA REQUIREMENTS**

The proposed action is a project as defined in Section 15378 of the CEQA Guidelines, which define a project as an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change. CEQA review has been accommodated under the previous agenda item, with approval of the Resolution Adopting the Napa Countywide Road Maintenance Act Expenditure Plan.

## **BACKGROUND AND DISCUSSION**

The Napa Valley Ordinance and Transportation Improvement Expenditure Plan is the vehicle for the imposition of a transportation retail transactions and use tax in Napa County. Voter approval of the Ordinance, which controls the imposition, distribution, use and administration of the tax, is required.

Approval of the first reading and intent to adopt will allow the NVTA Board to consider adoption of the Ordinance at the next regular meeting (June 20, 2012) and then request the Board of Supervisors to place the Ordinance on the November, 2012 ballot for voter approval.

## **SUPPORTING DOCUMENTS**

Attachment: (1) NVTA Ordinance 2012-01 Napa Countywide Road Maintenance Act

**NAPA VALLEY TRANSPORTATION AUTHORITY (NVTA)  
ORDINANCE NO. 2012-01**

**NAPA COUNTYWIDE ROAD MAINTENANCE ACT  
IMPOSING A TRANSACTION AND USE TAX  
TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

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

**SECTION 1. TITLE:** This Ordinance shall be known and may be cited as the Napa Countywide Road Maintenance Act, 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 early termination of the Measure A Flood Protection tax provided however that 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.

**SECTION 2. EXPENDITURE PLAN PURPOSES:** This Ordinance provides for the implementation of the Napa Valley Transportation Authority Transportation Improvement Expenditure Plan (the "Expenditure Plan") which will provide funding resulting in countywide local street and road improvements. This funding program will ensure improved maintenance of currently under-funded local community streets and supporting infrastructure (e.g., sidewalks, gutters, curbs) within the public right-of-way. These 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. Notwithstanding any other provision of this Ordinance, identified improvements (the "projects" or "programs") that are eligible to receive revenues from the tax are described in the Expenditure Plan, which Expenditure Plan 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 12 A), and the costs of the annual financial and biennial performance audits (Section 11), shall be used to fund the improvements set forth herein. In the event the measure does not pass, the costs for conducting the election shall be borne by the Authority. A summary of the projects and programs that are eligible to receive this 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:** Subject to Paragraph B, of the annual revenues available, ninety-nine percent (99%) shall be allocated on a fair and equitable basis (pursuant to the distribution formula set forth below) 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, but not supplant, other revenues available for the Local Streets and Road Maintenance Program. The revenues allocated to each Agency under this Section 3(A) must be used for maintenance, reconstruction or rehabilitation of local streets, roads, and infrastructure within the public right-of-way. Total estimated funding = \$282.15 million (2011 dollars).

1) The revenue allocated to the Local Streets and Roads Maintenance Program shall be allocated to, and expended by, each Agency pursuant to the following distribution formula:

- a. To the City of American Canyon 7.7% of the annual revenues available.
- b. To the City of Calistoga 2.7% of the annual revenues available.
- c. To the City of Napa 40.35% of the annual revenues available.
- d. To the County of Napa 39.65% of the annual revenues available.
- e. To the City of St. Helena 5.9% of the annual revenues available.
- f. To the Town of Yountville 2.7% of the annual revenues available.

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

B. Once this measure becomes operative, in order to receive annual allocations under this measure, the Agencies (collectively) must demonstrate that at least six and sixty-seven one-hundredths percent (6.67%) of the value of the allocations each year under Section 3(A) has been committed to Class I Bike lane project(s) identified in the adopted Countywide Bicycle Plan, as that Plan may be amended from time to time, through funding not derived from this Ordinance. This obligation may be fulfilled by the NCTPA and NVTA in programming Congestion Mitigation and Air Quality Improvement (CMAQ) funding (or its successor), plus other local or formula specific funds, in an amount that equals 6.67% over the term of this ordinance. Funding for Class I Bike lane projects that are funded by philanthropy, state discretionary funding or federal discretionary funding shall not count toward the six and sixty-seven one-hundredths percent (6.67%). As used in this Section, discretionary funding means any funding that is not tied to a specific state or federal program or formula.

- C. **Administration:** Actual costs, not to exceed one percent (1%) of the annual revenue, may be used for administration of this Ordinance by the Authority. Total estimated funding = \$2.82 million (2011 dollars).

**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 of the Revenue and Taxation Code, and Sections 7261 and 7262 of the Revenue and Taxation Code 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, and Division 19 of the Public Utilities Code commencing with Section 180000, which provisions are adopted by reference, 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, which tax shall be in addition to any existing or future authorized state or local transactions and use tax.

**SECTION 5. CONTRACT WITH STATE:** The Authority shall notify the State Board of Equalization at least 110 days prior to the operative date and 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)). Each Agency shall conduct a local public hearing and adopt a Resolution in support of the proposed list of projects prior to submitting the project list to the Authority pursuant to Section 7.
- 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 21 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:** Prior to the operative date of the tax, and biennially thereafter, the Authority shall 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. Prior to Authority approval, the Independent Taxpayer Oversight Committee shall consider each Agency's biennial five-year list of projects and make a finding that such projects are consistent with the intent of the measure, and make a recommendation on which of the items on those project lists should be approved 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 actually received, allocated or granted to any public agency within the area of jurisdiction of the Authority provided that the percentage of revenues allocated as provided in Section 3 is maintained over the duration of the Ordinance. Any exchange or loan agreement must include detailed repayment provisions, including appropriate interest earnings based upon the current treasury rate of interest. All loans and/or exchanges must be approved by the Authority's Auditor and 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 supplant, existing local general fund revenues being used for the transportation improvements described in the Expenditure Plan (see Attachment 1). Each Agency receiving revenues pursuant to Section 3 shall annually maintain, as a minimum, the "maintenance of effort" as defined in this Section 9. The maintenance of effort shall be maintained at the same level that local general fund revenues were expended on average for fiscal years 2007/08, 2008/09 and 2009/10 for Local Streets and Roads Maintenance and supporting infrastructure within the public right-of-way 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 shall not be considered when calculating an Agency's annual maintenance of effort. Prior to the operative date, Agencies shall determine and certify to the Authority the Agency's average maintenance of effort for the 2007/08, 2008/09 and 2009/10 fiscal years. Prior to the beginning of each fiscal year thereafter, Agencies shall certify to the Authority that the maintenance of effort requirement required by this Section will be met that fiscal year, copies of which shall be provided to the Authority Auditor. Any Agency that does not meet its local maintenance of effort requirement for a three year average period shall have its funding under Section 3 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 reserved for the Agency until any and all maintenance of effort expenditures are fulfilled.

**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. 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 (“ITOC”) upon the operative date of this tax. The ITOC shall remain in existence for so long 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 performance 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 project lists submitted by the Agencies under Section 6. 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 11, 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 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 California Certified Public Accountant to conduct an annual financial audit of the Authority pursuant to the provisions of this Ordinance, 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, retention of an independent California Certified Public Accountant to conduct a biennial performance audit of the Agencies, pursuant to the provisions of this Ordinance, report findings based on the audits to the Authority, and recommend any additional considerations which the ITOC believes may improve the integrity of program implementation while meeting all voter mandates.
- c. The ITOC shall review each Agency's annual independent financial audit, report relevant findings based on the audits to the Authority, and recommend any changes which the ITOC believes may improve the financial operations while meeting all voter mandates.
- d. The Authority shall hold a publicly noticed meeting annually, 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 seven (7) 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 bona fide taxpayers association.

- f. Two members from the public at-large.
- 2) The Chair and the Executive Director of NCTPA, the Chair of the Napa County Transportation and Planning Agency Technical Advisory Committee, and the County Auditor-Controller shall serve as non-voting ex-officio members of the ITOC.

**D. Terms and Conditions for Committees**

- 1) The voting 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. A position on the Committee shall become vacant as a result of a member failing to attend two consecutive meetings.
- 3) The voting Committee members cannot be current local elected officials 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 or a vacancy occurring during a term, the Authority shall appoint an appropriate replacement within 90 days of the vacancy to fill the remainder of the term pursuant to the provisions of Government Code Sections 54970, *et. seq* (the Maddy Act).

**E. ITOC Operation Protocols**

- 1) The ITOC shall be appointed within 180 days prior to 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 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 12. ADMINISTRATIVE FUNCTIONS AND EXPENSES:**

- A. Revenues may be expended by the Authority for the actual expense of salaries, wages, benefits, and those services, including contractual services, necessary to administer the Ordinance; however, in no case shall such administrative expenditures exceed one percent (1%) 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.

**SECTION 13. RECEIPT AND ALLOCATION OF TAX REVENUES:** The Authority Auditor shall receive the tax revenue and shall allocate funds to the Agencies on a calendar quarter basis, together with any accrued interest, by the 20<sup>th</sup> day of the month following the end of the quarter.

**SECTION 14. ESTABLISHMENT OF SEPARATE ACCOUNTING:** Each Agency receiving the revenues identified in Section 3 shall have its revenues deposited in a separate interest bearing Transportation Improvement Fund. Interest earned on revenues allocated pursuant to this Ordinance shall be expended only for those purposes permitted by this Ordinance.

**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 that are not inconsistent with the purpose and intent of this Ordinance 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 termination of the Flood Protection tax, and after at least 110 days notice to the State Board of Equalization.

**SECTION 17. 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 18. 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 county shall be substituted therefor. However, the substitution shall not be made:
  - 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 Authority 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 "County" 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 19. 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 20. EXEMPTIONS AND EXCLUSIONS:**

- A. There shall be excluded from the computation 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 city, city 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 the 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 county which is shipped to a point outside the county, 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 county 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-county 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-county 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 county 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 county 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 county or participates within the county 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 county or through any representative, agent, canvasser, solicitor, subsidiary, or person in the county under the authority of the retailer.

- 7) "A retailer engaged in business in the County" 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 county.

- 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 21. 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 two-thirds vote of the members of the Authority; the two-thirds must include the City of Napa, the County of Napa, and at least three other jurisdictions. No amendment may, in the aggregate, reduce the percentage of tax revenue allocated to the Local Streets and Roads Maintenance Program as apportioned in Section 3. No amendment shall operate so as to affect the rate or duration 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 referred to in the Local Streets and Roads Maintenance Program may only be approved with the subsequent consent of the electorate.

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 22. 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 21.

However, the 99% local street and road allocation provided in Section 3 shall not be altered.

**SECTION 23. 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 24. 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 25. ANNUAL APPROPRIATIONS LIMIT:** Article XIII (B) of the California Constitution requires the establishment of an annual appropriations limit for governmental entities. The maximum annual appropriations limit for the Authority is hereby established as \$40 million. The appropriations limit shall be subject to adjustment as provided by law. All expenditures of the retail transactions and use tax revenues imposed by Section 4 are subject to the appropriations limit of the Authority.

**SECTION 26. 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 27. 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.
- C. *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. To the extent the summarized provisions of the expenditures contemplated by this Ordinance cannot be reconciled with the Expenditure Plan set forth in Attachment 1, the provisions of Attachment 1 shall prevail.
- 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-grade, curb, gutter, sidewalks, curb ramps, surface and subsurface drainage, replacement traffic control devices, replacement roadway lighting, striping, pavement marking, intelligent transportation systems, and signage.
- G. *Maintenance* means repair, reconstruction or 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.
- 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 that has independent utility. 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-grade 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. *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 28. 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.

The foregoing Ordinance was introduced and read at a regular meeting of the Napa Valley Transportation Authority, held on \_\_\_\_\_, 20\_\_ and passed at a regular meeting of the Napa Valley Transportation Authority held on \_\_\_\_\_, 20\_\_ by the following vote:

\_\_\_\_\_  
KEITH CALDWELL, NVTA Chairman

Ayes: \_\_\_\_\_

\_\_\_\_\_

Noes: \_\_\_\_\_

\_\_\_\_\_

Absent: \_\_\_\_\_

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Karalyn E. Sanderlin, NVTA Board Secretary

APPROVED:

\_\_\_\_\_  
Janice D. Killion, NVTA Legal Counsel

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

**NAPA COUNTWIDE ROAD MAINTENANCE ACT EXPENDITURE PLAN**

The net revenues received by the Authority from the proposed transactions and use tax shall be used to fund the projects described below after paying for the costs of this election, the costs of the Independent Taxpayer Oversight Committee, and administering the program. Only one percent (1%) of the net revenues may be expended on the costs of administration. The revenues received by the Authority will be less than the gross revenues actually collected because the fees the State Board of Equalization charges to collect the sales tax will be deducted before the revenues are transferred to the Authority. All funding and revenues are expressed in 2011 dollars over the twenty-five year life of the program.

The revenue allocated to each Agency under this Expenditure Plan may be used for any direct costs of design, materials testing, all project required environmental reviews, construction management, inspection, and construction of the projects.

**Local Streets and Roads Maintenance Program**

Description:

Of the annual revenues available, ninety-nine percent (99%) shall be allocated to the Local Streets and Roads Maintenance Program. Under the Ordinance, the funds for the Local Streets and Roads Maintenance Program must be used for maintenance, reconstruction or rehabilitation of local streets, roads, and infrastructure within the public right-of-way as defined.

The estimated funding for the Local Streets and Maintenance Program is (millions of dollars):

Project	Percentage Distribution	Transaction and Use Tax
American Canyon	7.7%	\$21.945
Calistoga	2.7%	\$7.695
City of Napa	40.35%	\$114.997
Napa County	39.65%	\$113.003
St. Helena	5.9%	\$16.815
Yountville	2.7%	\$7.695
<b>Total</b>	<b>99%</b>	<b>282.15</b>

**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 two-thirds vote of the members of the Authority; the two-thirds 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 referred to in the Local Streets and Roads Maintenance Program may only be approved with the subsequent consent of the electorate.