

STAFF REPORT

SUBJECT: Measure D Renewal

MEETING DATE: June 15, 2006

AGENDA ITEM: 12

RECOMMENDATION:

- A. Adopt Santa Barbara County Local Transportation Authority Ordinance No. 4: Measure D Renewal Ordinance (requires 9 affirmative votes)
- B. Adopt a resolution requesting that the Santa Barbara County Board of Supervisors call an election for voter approval of the Measure D Renewal Ordinance and place the measure on the November 7, 2006 ballot.

STAFF CONTACT: Jim Kemp, Steve VanDenburgh, Kevin Ready

SUMMARY:

In April, the board adopted an expenditure plan for renewal of Measure D which is being presented for approval to each city council and the board of supervisors. To implement the expenditure plan, SBCAG must adopt an ordinance which would enact an extension of Measure D for 30 years and increase the existing ½ cent sales tax by ¼ cent. A draft ordinance was presented to the board in May for review and comment and is being presented for adoption by the board in June. Approval of the ordinance by 2/3 of the voters is required to extend Measure D.

Staff is also recommending that the board adopt a resolution requesting that the Board of Supervisors place the Measure D Renewal Ordinance on the November 2006 ballot. The resolution also contains the language for the summary statement that would appear on the ballot.

DISCUSSION:

In April, the SBCAG board adopted by unanimous vote (with one abstention) an expenditure plan for renewal of Measure D. The plan would provide nearly \$1.6 billion for local and regional transportation needs by extending Measure D for 30 years and increasing the existing ½ cent sales tax rate by ¼ cent. The new tax rate would take effect upon expiration of the existing Measure D in 2010. The renewal would be placed on the ballot for the November 2006 general election and must be approved by 2/3 of the voters.

Before the Measure can be placed on the ballot, the expenditure plan must be approved by the Board of Supervisors and by a majority of the cities representing a majority of the incorporated

Member Agencies

Buellton ■ Carpinteria ■ Goleta ■ Guadalupe ■ Lompoc ■ Santa Barbara ■ Santa Maria ■ Solvang ■ Santa Barbara County

area population within the county. As directed by the board, staff has requested that each city council and the Board of Supervisors consider approval of the plan.

Thus far, the plan has been approved by the County Board of Supervisors and the cities of Lompoc, Santa Maria, Guadalupe, Buellton, Santa Barbara and Goleta. In each case the votes in support of the plan were unanimous (one member of the Guadalupe City Council and one member of the Goleta City Council abstained from voting). The plan will be presented to the Carpinteria and Solvang City Councils at their meetings on June 12th.

The plan has received the necessary approvals from local agencies to allow the Measure D renewal to be placed on the ballot. It has been approved by the Board of Supervisors and by 6 of the 8 cities in the county representing approximately 93% of the incorporated area population.

Measure D Renewal Ordinance No. 4

Under state law, SBCAG in its capacity as the Santa Barbara County Local Transportation Authority may continue, subject to voter approval, an existing local transportation sales tax through the adoption of an ordinance. The ordinance must specify at a minimum the nature of the tax (ie., a retail transactions and use tax), the tax rate, the period during which the tax will be imposed and the purposes for which the revenues will be used.

County Counsel prepared a draft ordinance for Measure D renewal which was presented for review and comment by the board at its May 18 meeting. This Ordinance No. 4 replaces relevant portions of previous ordinances adopted by SBCAG including Ordinance No. 1, approved in 1989 which enacted the original Measure D sales tax and Ordinance No. 2. The renewal ordinance specifies that the new tax rate of $\frac{3}{4}$ percent will replace the existing Measure D tax rate of $\frac{1}{2}$ percent upon expiration of Measure D on March 31, 2010. The board, however, has the option to issue bonds against future revenues from the renewal prior to the expiration of the existing Measure D, if it is advantageous to early delivery of local or regional projects.

The draft ordinance has been reviewed by County Counsel, SBCAG staff, SBCAG's bond counsel (Kutak Rock), financial advisor (Municipal Capital Management), staff of the state Board of Equalization and Tramutola. In addition, the ordinance was presented for review by the board in May as well as members of the public and local agency staff. At the May meeting, the Chair requested that board members submit any comments or questions on the ordinance directly to county counsel and SBCAG staff. No comments have been received. Minor technical changes have been made to the ordinance in response to comments from one member of the public. Staff is recommending that the board adopt Ordinance No. 4 which requires approval by two-thirds of the SBCAG governing board (9 affirmative votes).

Staff is also recommending that the board adopt the attached resolution requesting that the County Board of Supervisors call an election for Measure D renewal and that the measure be placed on the November 7, 2006 general election ballot. The resolution contains the recommended language to be used in the ballot summary statement which is limited to 75 words. The recommended ballot language has been reviewed by county counsel, SBCAG staff, County Elections staff and Tramutola.

COMMITTEE REVIEW: None

ATTACHMENTS:

- Ordinance No 4
- Resolution Requesting Measure D renewal election.

**AN ORDINANCE OF THE SANTA BARBARA COUNTY LOCAL TRANSPORTATION
AUTHORITY EXTENDING FOR 30 YEARS AND INCREASING BY ONE-QUARTER
CENT THE EXISTING ONE-HALF CENT SALES TAX AND ESTABLISHING A
PROGRAM FOR TRANSPORTATION IMPROVEMENTS AND EXPENDITURES**

ORDINANCE NO. 4

PREAMBLE

To benefit the residents and economy of Santa Barbara County, the Santa Barbara County Local Transportation Authority shall implement the Measure D Renewal Expenditure Plan which is based on the following principles:

1. A balanced transportation network of highways, local streets, rail and bus transit, vanpools, rideshare, bicycle and pedestrian facilities are necessary to preserve the quality of life and a healthy viable economy for Santa Barbara County residents.
2. Streets should be designed and operated to enable safe access for all users. Pedestrians, bicyclists, motorists and transit riders of all ages and abilities must be able to safely move along and across a complete street.
3. Maintaining and improving air quality is an important goal for Santa Barbara County. Alternatives to the single occupant automobile are important contributors to improved air quality.
4. It is estimated that there is a shortfall of over \$3.0 billion to fund current and future transportation needs in the county including:
 - Street repair, safety and improvements on local streets and roads;
 - Congestion relief and safety projects to accommodate crowded streets and highways;
 - Capital and operating assistance for bus and passenger rail service;
 - Local match requirements for state and federal funding.
5. State and federal monies are insufficient to meet Santa Barbara County's transportation needs. A local retail transactions and use tax renewal for transportation improvements is the funding method best suited for combining with these other revenue sources to meet Santa Barbara County's needs.

Revenue to fund the expenditure plan will come from the extension of Measure D, a one-half percent (1/2 %) local sales tax for transportation approved by county voters in 1989, originally set to expire in March 2010, but which by this ordinance would be extended for an additional 30 years and increased by one-quarter percent (1/4 %). The Measure D Renewal is expected to generate \$1.575 billion for needed transportation

projects and programs and leverage an estimated \$544 million in federal and state gas taxes, developer fees and contributions from neighboring counties.

This sales tax is statutorily dedicated for the planning, design, right of way acquisition, construction, operation and maintenance of transportation projects and programs that benefit the residents and economy of Santa Barbara County and cannot be used for other governmental purposes or programs. There are specific safeguards in this Ordinance to ensure that funding from the three-quarters of one percent transactions and use tax is used in accordance with the specified voter-approved transportation projects and programs. These safeguards include:

- The revenue raised by this sales tax can only be used for specific projects and programs included in the Expenditure Plan.
- A Citizens' Oversight Committee is created to ensure that the Local Transportation Authority expends revenues raised by the transaction and use tax in a fiscally sound and responsible manner in accordance with the provisions of the Expenditure Plan and the Ordinance as approved by the voters.
- Continuation of Santa Barbara County's sales tax is for transportation programs only and is not intended to replace traditional revenues generated through locally-adopted development fees and assessment districts and requires a maintenance of effort by both local agencies and the State of California to insure that these sales tax revenues are used to supplement, rather than replace, existing transportation funding.
- The Santa Barbara County Local Transportation Authority will continue to seek maximum funding for transportation improvements through State and federal programs. The Authority will not provide transactions and use tax revenue to any city or to the County unless all transportation revenues currently used by that jurisdiction continue to be used for transportation purposes.
- No more than one percent of the available funds will be expended on salaries and benefits for administration of the program.
- A mandatory Expenditure Plan review is required every ten years to reflect current and changing priorities and needs in the County, as defined by the duly elected local government representatives on the Authority Board.
- Each year, the Santa Barbara County Local Transportation Authority will conduct an independent fiscal audit of the expenditure of all funds raised through this ordinance.

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The Santa Barbara County Local Transportation Authority does hereby ordain as follows:

Section 1. Title. This ordinance shall be known as the Santa Barbara County Local Transportation Authority Transactions and Use Tax Ordinance, which may also be known as the Measure D Renewal Ordinance. The Santa Barbara County Local Transportation Authority hereinafter shall be called "Authority." This sales tax ordinance shall be applicable in the incorporated and unincorporated territory of the County of Santa Barbara, which shall be referred to herein as "District."

Section 2. Existing Ordinance and Expenditure Plan. Upon approval by the voters of the County of Santa Barbara of this Ordinance No. 4, the pre-existing Transaction and Use Tax (hereinafter "Existing Tax") provisions, Ordinance No.1 and Ordinance No.2 of the Authority, shall be amended and replaced by the provisions of this ordinance to the extent called for herein, specifically:

- A. The Existing Tax provisions, including the tax rate, Expenditure Plan, procedures for adoption approval and amendment of the existing Expenditure Plan and other operative provisions of Ordinance No.1 and No.2 shall remain in effect until March 31, 2010. The Existing Tax and any obligations or bonded indebtedness arising thereunder shall be deemed to continue and shall be in full force and effect until March 31, 2010, as amended herein. Revenues from sales tax levied but not yet collected on March 31, 2010 shall continue to be due and payable until collected.
- B. The new provisions adopted herein shall become effective April 1, 2010 and shall on that date replace the Existing Tax provisions and the prior ordinances.
- C. To the extent that the Authority may desire prior to April 1, 2010 to issue bonds secured by future revenues from the new sales tax provisions adopted herein, the provisions of this ordinance shall be operative at said earlier date for application to said revenues and bonds, allocation of any local or regional funds derived from said bonds and operation of the Expenditure Plan adopted hereunder.

Section 3. Imposition of Transactions and Use Tax. In addition to any other taxes authorized by law, including the Existing Tax, there is hereby imposed in the District, in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code and Division 19 (commencing with Section 180000) of the California Public Utilities Code, a transactions and use tax at the rate of three-quarters of one percent (3/4%) for a period not to exceed thirty years from April 1, 2010, in addition to any existing or future authorized state or local transactions and use tax.

Section 4. Purpose. This sales tax ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 180050 et.seq. of the Public Utilities Code which authorizes the Authority to adopt this sales tax ordinance which shall be operative if a two-thirds majority of the electors voting on the measure vote to approve the imposition of the sales tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 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. Transactions Tax Rate. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the District at the rate of three-quarters of one percent (3/4%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said District on and after the operative date of this ordinance. The Existing Tax at the rate of one half of one percent shall continue to be imposed under provisions of the pre-existing ordinance until March 31, 2010. The rate of three-quarters of one percent (3/4%) shall become operative on April 1, 2010.

Section 7. 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 8. Use Tax Rate. An excise tax is hereby imposed on the storage, use or other consumption in the District of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said District at the rate of three-quarters of one percent (3/4%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. The Existing Tax at the rate of one half of one percent shall continue to be imposed under provisions of the pre-existing ordinance until March 31, 2010. The rate of three-quarters of one percent (3/4%) shall become operative on April 1, 2010.

Section 9. Adoption of Provisions of State Law. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 10. 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 Authority shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this 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 "District" 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 11. 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 sales tax ordinance.

Section 12. Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any 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 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 District which is shipped to a point outside the District, 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 District 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-District

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-District 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 sales tax 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 District 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 sales tax 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 District 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 District or participates within the District 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 district or through any representative, agent, canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer.

7. "A retailer engaged in business in the District" 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 District.

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 13. Expenditure Plan, Purposes. The revenues received by the Authority from this Measure D Renewal Ordinance, after deduction of required Board of Equalization costs for performing the functions specified in Section 180204(b) of the California Public Utilities Code, shall be used to (1) improve transportation facilities and services, countywide, as set forth in the adopted Expenditure Plan, which is attached as Exhibit A hereto and incorporated and adopted as a part of this ordinance by reference, (2) for expenses for compliance with the California Environmental Quality Act including adopted mitigation measures, and (3) for the administration of the Authority, consistent with the limitations of Section 180109(b). Any expenditure pursuant to said Expenditure Plan shall be in a manner consistent with the Regional Transportation Plan and the Regional Transportation Improvement Program, applicable portions of the State Transportation Improvement Program and adopted congestion management plans. After allocations appropriate for administrative expenses, the revenues shall, with the exception of the conditions set forth herein, be allocated as follows:

- A. Fifty percent (50%) to a Local Program as allocated herein, for projects selected by city councils and the Board of Supervisors in accordance with the Expenditure Plan.
- B. Fifty percent (50%) to a Regional Program as allocated herein, for projects of regional importance including those which add capacity to roadways, improve safety, provide major operational improvements or improve transit and passenger rail services within and between cities and other counties in accordance with the Expenditure Plan.
- C. In the event bonds are issued pursuant to Section 29 hereof, such revenues or any part thereof may be allocated by the Authority to pay and secure such bonds, provided that the resolution or indenture providing for issuance of such bonds requires that proceeds of such bonds be expended in accordance with the foregoing percentage allocations. In such case, all revenues allocated to such bonds shall be deemed expended in the years in and for the purposes for which proceeds of such bonds are to be expended.

Section 14. Compliance with California Environmental Quality Act (CEQA). Insomuch as the purpose of this sales tax ordinance is to establish a government funding mechanism for the financing of future transportation improvement programs and projects and the purpose of the Expenditure Plan is to be a transportation improvement planning document to provide long range planning for the Regional Transportation Improvement Program, applicable portions of the State Transportation Improvement Program and congestion management plans to be adopted in the future, the inclusion of any particular project in the Expenditure Plan shall not be deemed to be a “commitment” to that specific project as that term is used in CEQA Guideline 15378(b)(4). Individual projects developed pursuant to the Regional Transportation Improvement Program, applicable portions of the State Transportation Improvement Program, adopted congestion management plans and shown in the Expenditure Plan are subject to CEQA review and analysis at the time of funding commitment and actual project approval, as required by CEQA Guideline 15276. Likewise, the adoption or approval of a local program of projects or amendments to the Expenditure Plan shall not be deemed to be a project under CEQA, but each project adopted or listed thereunder shall be subject to CEQA review and analysis at the time of funding commitment and actual project approval.

Section 15. Allocation of Local Program Revenues. Local Program revenues specified in Section 13(A) shall be allocated and expended in accordance with this section.

- A. Local program revenues shall be allocated annually according to the following formula. This formula is further described and explained in the Category Description of the Local Program in the Expenditure Plan along with other applicable rules for usage and allocation of local program revenues.

1. All cities and the County will share 80.1% of local program revenues allocated by their proportionate share of the population of the county after each jurisdiction has received a \$50,000 annual base allocation.
2. North County jurisdictions will share 13.2% of local program revenues, which shall be sub-allocated to the incorporated cities and the County by the share of population in the North County.
3. South County jurisdictions will share 6.7% of local program revenues, which shall be sub-allocated to the incorporated cities and the County by the share of population in the South County

The Authority will annually update the population estimates used in the allocation based on the most recent information available from the California Department of Finance.

B. Local jurisdictions shall spend the funds they receive on eligible transportation projects and programs at their discretion. Each jurisdiction will be required to annually adopt a program of projects, pursuant to Section 17, identifying how their estimated share of local program allocations will be expended over a five year period on projects in three categories: Maintaining Existing Infrastructure, Alternative Transportation and Congestion Relief as described herein.

1. **Maintaining Existing Infrastructure.** This includes the maintenance, repair and rehabilitation of local roads, bridges, seismic bridge safety improvements, roadway drainage facilities, and the operation of urban forestry-street tree programs.
2. **Alternative Transportation.** This includes maintenance, repair, construction and improvement of bicycle and pedestrian facilities, Safe Routes to School improvements, traffic calming, reduced transit fares for seniors and the disabled, and bus and rail transit services that provide alternatives to the automobile, and education and incentive programs designed to reduce single occupant auto trips.
3. **Congestion Relief.** This includes traffic signal coordination, intersection improvements and channelization, road, bridge and highway safety and operational improvements, new local roads, extensions of existing roads, and increased roadway capacity.

C. Each city and the County will be required to expend a minimum percentage of its local allocation on Alternative Transportation projects. By the end of the 30th year of the program, jurisdictions shall have spent a minimum percentage of their funds on Alternative Transportation according to the percentages prescribed in Table 4 of the Expenditure Plan.

D. Every 10 years, the Authority, in consultation with the local jurisdictions, shall evaluate the categorical percentage for each jurisdiction to determine if the prescribed percentages are serving the transportation needs of the jurisdiction.

After a noticed public hearing, the Authority may amend the Expenditure Plan to change the categorical percentages pursuant to Section 19.

- E. For purposes of this Section “North County jurisdictions” shall include the cities of Guadalupe, Santa Maria, Lompoc, Buellton, Solvang, the unincorporated areas of the County north of the Santa Ynez Mountains and any subsequently incorporated cities in that northerly unincorporated area. For purposes of this Section “South County jurisdictions” shall include the cities of Santa Barbara, Carpinteria, Goleta, the unincorporated areas of the County south of the Santa Ynez Mountains and any subsequently incorporated cities in that southerly unincorporated area.
- F. For the purpose of this section, any new incorporations or annexations which take place during the course of any fiscal year (July 1 to June 30) shall be incorporated into the formula beginning with the subsequent fiscal year. Any data required for calculations referred to above shall be such data as are approved for the incorporation/annexation by the Local Agency Formation Commission (LAFCO).

Section 16. Allocation of Regional Program Revenues. The revenues available for the Regional Program specified in Section 13(B) shall be allocated annually and expended pursuant to the Expenditure Plan, attached as Exhibit A.

- A. No revenues as provided for in this section shall be allocated for any State highway projects if the Authority adopts a finding that the Santa Barbara County region is not receiving, at a minimum, its fair share of highway funds from the State. The determination of fair share shall consider all relevant factors including the degree to which the Santa Barbara County region is receiving the statutory county minimum funding for all budgeted, expended, and programmed State and federal highway funds. The policies and project approval actions of the California Transportation Commission and California Department of Transportation shall be subject to review, as well, to determine whether the Santa Barbara County region is receiving full consideration in the allocation of any, additional uncommitted State and federal highway funding. A finding that the region is not receiving its fair share of highway funding shall document that the State of California has reduced State highway fund allocations to the Santa Barbara County region as a result of the addition of local revenues as provided herein. A finding, if required, may be made at any time at the Authority’s discretion and shall be the subject of consideration by the Authority during the preparation of the biennially adopted Regional Transportation Improvement Program.
- B. If, prior to the start of any fiscal year, the Authority makes a finding that the region is not in receipt of a fair share of State and federal funding the Authority may amend the expenditure plan to reallocate revenues pursuant to Section 19 for other regional projects.
- C. If the Authority finances the construction of highway facilities by the issuance of bonds or any similar financing device, the Authority shall first allocate the funds

necessary to meet all debt service requirements prior to making any redistribution of funds as provided in Section 17 (B), above.

- D. The Authority may, in conformity with the adopted Expenditure Plan, engage, contract with, employ and compensate any public or private agency, party, contractor or professional, in accordance with the Public Contract Code and/or any of the provisions for public employment of professional services for public agencies, for the planning, finance, approval, design, construction, acquisition of right of way, maintenance, operation, control and repair of any road, highway, rail or other transportation facility.
- E. The Authority shall not be responsible for the maintenance or operation of any State highway facilities following construction contract completion.
- F. All State highway improvements to be funded with revenue as provided in this Ordinance, including project development and overall project management responsibilities, shall be the subject of cooperative agreements with Caltrans.

Section 17. Project Programming.

- A. Local Program of Projects.** Each local jurisdiction shall annually adopt a five-year program of projects and submit it to the Authority for approval pursuant to this Section.
 - 1. The program of projects shall include information about each of the projects to be funded with revenues made available under Section 13(A) with sufficient detail including project location, scope, schedule, cost and funding sources to ensure that the program can be easily understood by members of the public. Projects involving work at various locations that are substantially similar or work that is minor in scope may be grouped together in the program as a single project. The program of projects shall also include a detailed description of local jurisdiction expenditures of local program funds from the previous fiscal year. The purpose of requiring previous fiscal year expenditures to be documented in the program of projects submitted to the Authority is to allow the Authority to determine if the local agency is meeting its prescribed expenditure percentages on alternative modes and to allow the Authority to prepare a comprehensive report to the Citizens Oversight Committee and the public on the expenditure of Measure D Renewal Ordinance funds.
 - 2. A public hearing shall be conducted by the local jurisdiction regarding the proposed program of projects before adopting and submitting the project list to the Authority for approval. After a noticed public hearing, the Authority shall adopt the program of projects submitted by each local jurisdiction provided that it is consistent with this ordinance and the attached expenditure plan, and prior to releasing to the local jurisdiction its share of local program funding for the first fiscal year in the program of projects. Expenditures may be made on projects using local program

funds only if they are included in the Authority's most recently adopted program of projects.

3. A local jurisdiction may request that the Authority amend its program of projects. Amendments may be made by the Authority by a majority vote if the amendment does not require an Expenditure Plan amendment. Amendments to the program of projects that require an Expenditure Plan amendment shall be approved pursuant to Section 19.
4. All projects to be funded with revenues made available under this Ordinance must be consistent with the Regional Transportation Plan and any applicable congestion management plans.

B. Regional Program of Projects. The Authority shall annually adopt a five-year program of regional projects to be funded with revenues made available under this Section 13 of this Ordinance.

1. The regional program of projects shall incorporate local projects approved by local agencies and the Authority pursuant to Section 17 and shall include regional projects approved by the authority in accordance with the Expenditure Plan.
2. A public hearing shall be held by the Authority prior to approval of the regional program of projects. Expenditures may be made on regional projects with the revenues made available under this section if they are included in the most recently adopted regional program of projects.
3. The Authority may amend the regional program of projects by a majority vote if the amendment does not require an Expenditure Plan amendment. Amendments to the regional program of projects that require an Expenditure Plan amendment shall be approved according to Section 19.

Section 18. Public Participation and Information. All meetings of the Authority board shall be open to the public to the maximum extent possible pursuant to the Ralph M. Brown Act, Government Code Section 54950 et seq. The planning and administration of the Expenditure Plan and operations of the Authority will be conducted in a transparent manner to encourage public participation. The Authority will ensure that there is accountability to the public in carrying out the purposes of this Ordinance. A report on the funding of projects and programs, local agency usage of required alternative transportation expenditure percentages, delivery of projects, financial status and projected schedule for future projects shall be made to the Authority in a public hearing at least annually. All such reports and records of the Authority shall be made available to the public and shall be on file in the Authority offices.

Section 19. Expenditure Plan Amendments and Updates. The Authority may propose amendments to the Expenditure Plan to provide for the use of additional federal, state and local funds, to account for unexpected revenues, to add or delete a project or program from the plan, to maintain consistency with the Regional Transportation Plan, or to take into consideration unforeseen circumstances. Amendments to the Expenditure Plan must be passed by a two thirds majority of the

Authority. The Authority shall notify the Board of Supervisors and the city council of each city in the county of the proposed amendment(s) and provide each entity with a copy of the proposed amendment(s). Pursuant to Public Utilities Code 180207, proposed amendment(s) shall become effective 45 days after notice is given, unless a local jurisdiction appeals an expenditure plan amendment by a majority vote of its elected policy body. The amendment shall not be implemented unless an override of the appeal is passed by a four-fifths majority of the Authority. The Authority shall hold a public hearing on the appealed proposed amendment(s) prior to voting on an override.

The Expenditure Plan shall be updated by the Authority every ten years that the sales tax is in effect to reflect current and changing priorities and needs in the County, as defined by the duly elected local government representatives on the Authority Board. Any changes to the Plan must be adopted according to the amendment process described above, in accordance with current law in effect at the time of the update.

Section 20. Citizens Oversight Committee. The Authority shall appoint a Citizens Oversight Committee to help ensure accountability to voters regarding the expenditure of sales tax funds and to assist the Authority in ensuring that all provisions, requirements and voter mandates specified in this sales tax ordinance are fully and properly carried out. The Citizens Oversight Committee will serve in an advisory capacity to the Authority staff and board and will be comprised of an appropriate balance of transportation users representing the geographic, social, cultural, and economic interests in the county.

Section 21. Audit Provisions. No less than annually, the Authority shall conduct and approve an independent fiscal audit of the expenditure of all Sales Tax funds raised by this sales tax ordinance. The audit, which shall be made available to the public and the Citizens Oversight Committee, shall report on evidence that the expenditure of funds is in accordance with the Expenditure Plan as adopted by the voters in approving the sales tax measure on November 7, 2006. In addition, the audit shall determine that Maintenance of Effort requirements as set forth in Section 23 are being met. The audit shall also insure that no more than one percent (1%) of total Sales Tax expenditures is used for administrative staff salaries and benefits in implementing this Plan as per Section 26 herein.

Section 22. Cooperative Fund Agreements. To maximize the effective use of funds, revenues may be transferred or exchanged between or among jurisdictions under the following provisions:

- A. Jurisdictions receiving funds may, by annual or multi-year agreement, exchange funds provided that the percentage of funds allocated as provided in Section 15 is maintained over the duration of the period of time the tax is imposed. Agreements to exchange funds, including fund repayment provisions, must be approved by the Authority and shall be consistent with any and all rules adopted or approved by the Authority relating to such exchanges.
- B. The Authority may exchange revenues for State or federal funds allocated or granted to any public agency within or outside the area or jurisdiction of the

Authority to maximize effectiveness in the use of the revenues. Such federal or State funds shall be distributed in the same manner as the revenues from the sales tax imposed in Section 3.

Section 23. Maintenance of Effort. It is the intent of the Legislature and the Authority, that revenues provided from this sales tax be used to supplement existing local revenues being used for the purposes set forth in Section 15 hereof. Each local agency receiving revenues pursuant to Section 15 shall annually maintain an expenditure of local discretionary funds for street and road purposes which is no less than that reported in the State Controller's Annual Report of Financial Transactions for Streets and Roads for the Fiscal Year 2006-2007. If any local agency had extraordinary local discretionary fund expenditures for fiscal year 2006-2007, it may, subject to the approval of the Authority, use as a base for determining the required minimum level of local discretionary funds, the average amount of such funds reported to the State Controller for the three year period of fiscal year 2004-2005 through 2006-2007. The Authority shall not allocate any revenues pursuant to Section 15 of this sales tax ordinance to any eligible local agency in any fiscal year until that local agency has certified to the Authority that it will include in its budget for that fiscal year an amount of local discretionary funding for streets and roads purposes at least equal to the minimum Maintenance of Effort required by this Section. An annual, independent audit shall be conducted to verify that the Maintenance of Effort requirements were met. Any local agency which does not meet its Maintenance of Effort requirements in any given fiscal year, shall have its funding under Section 15 reduced in a following year by the amount by which the expenditure of the agency for such purposes was less than its required level. Any local streets and roads revenues not allocated pursuant to these Maintenance of Effort requirements shall be redistributed to the remaining jurisdictions according to their share of the total County population, excluding the agency who has failed to meet its requirements, and excluding its share of population.

Section 24. Strategic Plan. The Authority will prepare a Strategic Plan, which it will update at least every five years. The Strategic Plan will be the master document for delivery of the Expenditure Plan projects and programs and can be amended at any time. The Strategic Plan may be amended by a majority vote of the Authority Board, however, amendment of the Strategic Plan shall not serve to amend provisions of the Expenditure Plan. To the extent that any amendment of the Strategic Plan would serve to modify, cancel, reallocate funds or otherwise change a provision of the Expenditure Plan, it shall require a two-thirds vote of the Authority Board to implement. The purposes of the Strategic Plan are as follows:

1. Defines the scope, cost, and schedule of each project
2. Identifies accomplishments and critical issues
3. Lists a set of amendments to these projects
4. Details the revenue projections and possible financing tools needed to deliver the Expenditure Plan

5. Gathers into one document the policies and procedures adopted to implement the Regional Program.

Section 25. Private Sector Funding. Revenues provided from this sales tax shall not be used to replace private developer funding which has been or will be committed for any project.

Section 26. Administrative Expenses. Revenues may be expended by the Authority for salaries, benefits, overhead, technical, auditing and legal services and for those services including contractual services, necessary to administer and implement the Expenditure Plan and allocations under this sales tax ordinance. However, in no case shall the Authority expend more than one percent (1%) of the funds generated by the sales tax for salaries and benefits of its staff, as provided in California Public Utilities Code Section 180109(b). Costs of performing or contracting for project-related work shall be paid from the revenues allocated to the appropriate purpose, as set forth herein. An annual independent audit shall be conducted to assure that the revenues expended by the Authority under this section for administration were reasonable, and necessary to carry out Authority responsibilities.

Section 27. Establishment of Separate Accounts – Interest. Each jurisdiction receiving funds pursuant to Section 15 shall deposit said funds in a separate Transportation Improvement Account. Interest earned on funds allocated pursuant to this sales tax ordinance shall be expended only for the purposes for which the funds were allocated.

Section 28. Annual Appropriations Limit. Article XIII(B) of the California Constitution requires the establishment of an annual appropriations limit for certain governmental entities. The previously established maximum appropriations limit shall continue to be in effect until Fiscal Year 2009/2010. The maximum annual appropriations limit for the Authority shall be \$125,000,000.00, effective for Fiscal Year 2009/2010. Should the Authority choose to seek bond financing using the proceeds of this sales tax measure prior to Fiscal Year 2009/2010, the annual appropriation limit of \$125,000,000.00 shall be effective for the year in which such bonding is initiated. The appropriations limit shall be subject to adjustment as provided by law. All expenditures of the transactions and use tax revenues imposed in Section 3 (other than expenditures with respect to debt service on any limited tax bonds issued pursuant to Section 29 hereof), are subject to the appropriations limit of the Authority.

Section 29. Bonding Authority. Upon voter approval of this sales tax ordinance, the Authority shall have the authority to issue limited tax bonds payable from the proceeds of the sales tax to accelerate the construction of needed transportation improvements and provide other funds needed to accomplish the projects and programs specified in the Expenditure Plan and the Local Programs of projects. The Authority, in allocating the annual revenues from the sales tax, shall meet all debt service requirements prior to allocating funds for other projects. "Limited tax bonds" means indebtedness and securities of any kind or class, including, but not limited to bonds, notes, revenue

anticipation notes, commercial paper and certificates of participation. The authority to issue bonds hereunder shall include the authority to issue bonds on behalf of the Authority or any or all of its member agencies for either regional or local agency tax revenues. Revenues from the Existing Tax shall be available for bond debt service related to proceeds spent on qualifying projects or programs to the extent necessary prior to April 1, 2010.

Section 30. Amendments.

- A. All statutory amendments subsequent to the effective date of this sales tax 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 sales tax ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this sales tax Ordinance.
- B. With the exception of Sections 3, 6, 8, 28 and 34, which require a vote of the electors of the County of Santa Barbara to amend, this sales tax ordinance may be amended, expanded, codified or reduced in scope by the Santa Barbara County Local Transportation Authority, by any process appropriate to the amendment of general law county ordinances, passed by roll call vote entered in the Minutes, with two-thirds of the members of the Authority concurring at any regular or special meeting called for the purpose.
- C. Amendments to the Expenditure Plan shall be adopted pursuant to Section 19 above.

Section 31. 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 32. Severability. If any section, part, clause or phrase or provision of this sales tax ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of the sales tax ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. Should any provision of this sales tax Ordinance for any reason be held invalid or unenforceable by a court of competent jurisdiction, that holding shall not affect the validity or enforceability of the remaining provisions, or the Existing Tax, and the Authority declares that it would have passed each part of this Ordinance irrespective of the validity of any other part.

Section 33. Effective Date. This sales tax ordinance relates to the levying and collecting of transactions and use taxes within the District and shall take effect as provided in Section 2 upon approval of the Appropriations Limit provided in Section 28

I, James Kemp, the Secretary of the Santa Barbara County Local Transportation Authority do hereby certify that the foregoing is a true copy of an Ordinance adopted by the Santa Barbara County Local Transportation Authority on June 15, 2006 by the vote stated above, which said ordinance is on file in the office of the Santa Barbara County Local Transportation Authority.

Dated:

Approved as to Form:
Stephen Shane Stark
Santa Barbara County Counsel

By _____
Kevin E. Ready, Sr., Senior Deputy

Exhibit A to
Santa Barbara County Local Transportation Authority
Ordinance no. 4

EXPENDITURE PLAN

The following are applicable portions of the Expenditure Plan submitted for approval by the Santa Barbara County Board of Supervisors and the City Councils of the Cities of Santa Barbara County in accordance with Section 180206 of the California Public Utilities Code. The Executive Summary, the synopsis of Ordinance provisions for Administrative and Taxpayer Accountability safeguards and certain other explanatory or redundant material contained in the Expenditure Plan document submitted for said approval are included in this Ordinance Exhibit for illustrative purposes only. The operative portions of this Expenditure Plan which constitute the Expenditure Plan contemplated by Section 180206 and which may be amended from time to time pursuant to Section 20 of the Ordinance are the Local Program and Regional Program Sections following the heading Category Descriptions, including table 4.

RESOLUTION OF THE SANTA BARBARA COUNTY
ASSOCIATION OF GOVERNMENTS, ACTING AS THE
SANTA BARBARA COUNTY LOCAL TRANSPORTATION AUTHORITY

A RESOLUTION REQUESTING THE SANTA
BARBARA COUNTY BOARD OF SUPERVISORS
CALL AN ELECTION FOR PURPOSES OF
VOTER APPROVAL OF A RENEWAL OF
MEASURE D TRANSPORTATION SALES TAX

RESOLUTION NO. 06-21

WHEREAS, the Measure D Transportation Sales Tax, passed in 1989 by the voters of Santa Barbara County has proved invaluable in providing local funding for critically needed transportation project; and

WHEREAS, the Measure D Transportation Sales Tax and the important programs that it funds, if not renewed and extended, will end on March 31, 2010, and

WHEREAS, the Santa Barbara County Association of Governments, acting as the Santa Barbara County Local Transportation Authority (SBCLTA) has determined that it is in the best interests of the residents of Santa Barbara County that the voters consider extending the Measure for an additional thirty years and increase the tax rate by one-quarter cent; and

WHEREAS, the SBCLTA has adopted the Measure D Renewal Transportation Expenditure Plan pursuant to California Public Utilities Code Section 180206 (a); and

WHEREAS, California Public Utilities Code Section 180201 and 180203 calls for a special election for adoption of an ordinance approving an extension of this Measure by popular vote of the electorate ; and

WHEREAS, the SBCLTA has adopted Ordinance No.4 calling for a vote of the Santa Barbara County electorate; and

NOW, THEREFORE, BE IT RESOLVED that the SBCAG Board of Directors, acting as the SBCLTA hereby resolves:

The Board of Supervisors of Santa Barbara County is requested to call an election by the voters of the County on November 7, 2006 for purposes of adopting the SBCLTA Ordinance No.4, and

A. That the election be conducted as called for in Public Utilities Code Section 180203 and other applicable provisions of law, and

B. That the ballot language submitted for voter approval be substantially as follows:

To fund a traffic congestion relief and safety improvement expenditure plan, with citizen oversight and all funds spent on local projects, including

- Widening US 101 south of Milpas
- Expanding bus service including fare reduction for seniors and disabled persons
- Maintaining and repairing roads
- Establishing pilot commuter rail service
- Implementing a safe routes to school program,

Shall Santa Barbara County voters approve an ordinance extending for 30 years and increasing by one-quarter cent the existing one-half cent sales tax?

PASSED AND ADOPTED this 15th day of June 2006 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Jim Kemp
Executive Director
Santa Barbara County
Association of Governments

Joe Centeno
Chair
Santa Barbara County
Association of Governments

APPROVED AS TO FORM:

Kevin E. Ready, Sr.
Deputy County Counsel