

**SAN BENITO COUNTY EXPENDITURE PLAN FOR THE
SAN BENITO COUNTY FREE LIBRARY
SALES AND USE TAX BALLOT MEASURE**

I. TITLE. This expenditure plan shall be known as the "San Benito County Free Library Expenditure Plan for the Sales and Use Tax Ballot Measure."

II. SALES AND USE TAX REVENUE. The ballot measure, if approved by a two-thirds of the voters, will increase the sales and use tax in San Benito County by one-eighth of one percent (0.125%) for a period of ten (10) years. The one-eighth of one percent (0.125%) increase in sales tax over the specified period of ten (10) years will raise an estimated seven million dollars (\$7,000,000.00) in revenue to be used to supplement county library services as specified herein. The revenue shall be used only to supplement existing library expenditures for the library and shall not be used to supplant existing expenditures.

III. PURPOSE. The purpose of this expenditure plan is to specify the expenditure of the revenues expected to be derived from the proposed sales and use tax increase. The revenue generated will provide funding for the construction, acquisition, programs, and operations of the San Benito County Free Library. The specific projects for which the revenue from the sales and use tax may be expended include:

- (a) Increasing open library hours;
- (b) Increasing the funding to the book and materials budgets;
- (c) Providing outreach to local schools;
- (d) Expanding library programs for children and adults, including a literacy program;
- (e) Expanding bookmobile services to convalescent homes and other locations;
- (f) Replacing the bookmobile;
- (g) Funding future construction of a new library facility and/or renovation of the existing facility;
- (h) Funding for capital equipment; and
- (i) Increasing the funding for the library services of San Juan Bautista.

IV. DISTRIBUTION OF MEASURE REVENUE.

A. Excluding administrative costs, the amount of revenue produced by the sales and use tax generated within the City of San Juan Bautista shall be used for the construction, acquisition, programs, and operations of library services in the City of San Juan Bautista.

B. Excluding administrative costs, the balance of the revenue produced by the sales and use tax shall be used for the construction, acquisition, programs, and operations of library services in the unincorporated area of the County of San Benito and the City of Hollister. This amount shall be further restricted as follows. Sixty percent (60%) of the revenue generated shall be restricted to capital expenditures and acquisitions. Capital expenditures and acquisitions shall include only:

- (1) Construction of a new library facility.
- (2) Renovation of existing library facilities.
- (3) Repairs and replacement of the Bookmobile.
- (4) Acquisition of books and materials.
- (5) Other capital or fixed assets.

**SAN BENITO COUNTY
LIBRARY TAX MEASURE I
(Full Text of Ordinance No. 701)**

The Board of Supervisors of the County of San Benito hereby ordains:

SECTION 1. TITLE. This ordinance shall be known as the "San Benito County Library Sales and Use Tax Ordinance." The County of San Benito hereinafter shall be called "County." This ordinance shall be applicable in the incorporated and unincorporated territory of the County of San Benito, which territory shall be referred to herein as "District."

SECTION 2. PURPOSE. This ordinance is adopted for the following purposes, and the board directs that the provisions of this ordinance be interpreted in order to accomplish those purposes:

(a) To impose a one-eighth of one percent (0.125%) sales and use tax according to the provisions of Part 1.6 (commencing with section 7251) of Division 2 of the Revenue and Taxation Code, and as specifically authorized by section 7286.59 of Part 1.7 of the Revenue and Taxation Code;

(b) To provide revenue for the construction, acquisition, programs, and operation of the San Benito County Free Library, consistent with Revenue and Taxation Code section 7286.59.

(c) To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are consistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

(d) To adopt a sales and use tax ordinance which 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 while minimizing the cost of collecting the sales and use taxes and at the same time minimizing the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

SECTION 3. OPERATIVE DATE. "Operative date" means the first day of the calendar quarter commencing after two-thirds of the electors voting in an election considering a ballot measure authorizing the approval of this ordinance approves of the measure, but in no event commencing not less than 120 days after this ordinance is approved by the voters.

SECTION 4. BALLOT MEASURE: APPROPRIATION LIMIT. The San Benito County Board of Supervisors may authorize a ballot measure, by resolution, for consideration of the electors at a special election in 1998. The approval of the measure shall amend the County's appropriation limit as established pursuant to Article XIII B of the Constitution of the State of California by an amount equal to the revenue generated by this ordinance.

SECTION 5. ALLOCATION OF REVENUE. After payment of any administrative costs such as the State Board of Equalization and county administrative costs, the net revenue generated by the sales and use tax imposed by this ordinance shall be allocated as follows:

(1) An amount equal to the amount of tax generated in the City of San Juan Bautista divided by the total tax revenue multiplied by the total net tax revenue shall be allocated to construction, acquisition, programs, and operations in the City of San Juan Bautista.

(2) An amount equal to the amount of tax generated in the City of Hollister and the unincorporated area of the county divided by the total tax revenue multiplied by the total net tax revenue shall be allocated to construction, acquisition, programs, and operations in the City of Hollister and the unincorporated area of the county. This amount shall be further restricted as follows. Sixty percent (60%) of the revenue generated shall be restricted to capital expenditures and acquisitions. Capital expenditures and acquisitions shall include only:

- (a) Construction of a new library facility;
- (b) Renovation of existing library facilities;
- (c) Repairs and replacement of the Bookmobile;
- (d) Acquisition of books and materials; and
- (e) Other capital or fixed assets.

The library services and expenditures specified above may include, without limitation, cooperative ventures (i.e., joint powers



agreements) with other public libraries in the county such as the San Juan Bautista Library.

SECTION 6. EXPENDITURE PLAN. The board of supervisors shall adopt an expenditure plan as required by section 7286.59 of the Revenue and Taxation Code which plan shall incorporate the following list of potential projects as supplemental library expenditures to be funded by the revenue generated by this ordinance:

- (a) Increasing open library hours;
- (b) Provide additional funding for the book and materials budgets;
- (c) Providing outreach to local schools;
- (d) Expanding library programs for children and adults, including a literacy program;
- (e) Expanding bookmobile services to convalescent homes and other locations;
- (f) Replacing the bookmobile;
- (g) Funding future construction of a new library facility and/or renovation of the existing facility;
- (h) Funding capital equipment; and
- (i) Increasing the funding for the library services of San Juan Bautista.

SECTION 7. REVENUE SUPPLEMENTAL. The revenue generated by this ordinance shall be used only to supplement the expenditures authorized by the annual budget of the San Benito County Free Library for the fiscal year in which the ballot measure is approved. This amount of expenditures authorized by the annual budget of the San Benito County Free Library shall be referred to as the "annual base funding." The revenue generated by this ordinance in any given year shall not be used to supplant the annual base funding for the San Benito County Free Library. Notwithstanding the above, in the event of a fiscal crisis, the board of supervisors shall have the discretion to reduce or entirely eliminate the annual base funding. In the event the board of supervisors exercises its discretion to reduce or eliminate the annual base funding during a particular fiscal year pursuant to this section, the sales and use tax created by this ordinance shall be suspended for the time period most closely approximating the fiscal year in which the board of supervisors reduces or eliminates the annual base funding. The board of supervisors shall notify the State Board of Equalization immediately upon the adoption of a county budget that does not provide for the annual base funding of the San Benito County Free Library. The suspension of the sales and use tax imposed by this ordinance because of the exercise of the discretion of the board of supervisors to reduce or eliminate the annual base funding shall not cause the sales and use tax to be imposed and collected any longer than authorized in this ordinance.

SECTION 8. CONTRACT WITH STATE. Prior to the operative date, the County 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. If the County 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, consistent with section 3.

SECTION 9. SALES TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the district at the rate of one-eighth of one percent (0.125%) 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.

SECTION 10. 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 11. 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 the district at the rate of one-eighth of one percent (0.125%) 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.

SECTION 12. ADOPTION OF PROVISIONS OF STATE LAW.

Except as otherwise provided in this ordinance and except insofar as they are 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 13. 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, wherever the State of California is named or referred to as the taxing agency, the name of this County shall be substituted therefor. The substitution, however, shall not be made when 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. The substitution shall not be made when the result of that substitution would require action to be taken by or against the County 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. The substitution shall not be made 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 provide an exemption from this tax with respect to certain 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 to 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 provisions of the code. The substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code. 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. 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.

SECTION 14. 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 15. EXEMPTIONS AND EXCLUSIONS.

(a) There shall be excluded from the measure of the sales and use tax the amount of any sales tax imposed by the State of California or by any city, 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 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 sales, by delivery to such point by the retailer of 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:

(i) 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 Chapter 2 of Division 3.5 (commencing with Section 9850) 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 principal place of residence.

(ii) 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 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 subsections (3) and (4), the sale of 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 is 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.

(2) 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 subsections (3) and (4), 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 of 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.

(d) Any person subject to use tax under this ordinance may credit against that tax any transaction 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 16. AMENDMENTS. 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 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance. No such amendment, however, shall operate so as to affect the rate of tax imposed by this ordinance.

SECTION 17. 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 County, or against any officer of the State or the County, 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 18. TERMINATION DATE. The imposition and collection of the sales and use tax created by this ordinance shall terminate exactly ten (10) years from the operative date of this ordinance.

SECTION 19. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 20. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the County sales and use taxes and shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Benito, State of California, at the meeting of said board held on the 10th day of February, 1998, by the following vote:

AYES: SUPERVISORS: PLACE, CRUZ, SCAGLIOTTI, RODRIGUES,
BOWLING

NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None

IMPARTIAL ANALYSIS BY COUNTY COUNSEL MEASURE I

The San Benito County Library Sales and Use Tax ordinance proposes a one-eighth of one percent (0.125%) sales and use tax in San Benito County. It is submitted to the voters of San Benito County as Measure I. A "YES" vote is a vote in favor of imposing a sales and use tax to fund the San Benito County Free Library. A "NO" vote is a vote against imposing such a sales and use tax.

The ordinance specifies that the revenue generated by the sales and use tax shall be spent only for the construction, acquisition, programs and operation of the San Benito County Free Library. The revenue cannot be used for any other purpose. Therefore, the ordinance would create a special tax. Consequently, the tax will become operative only if the tax is approved by two-thirds (2/3) of the voters voting on this measure.

The revenue generated by the sales and use tax will be divided into two (2) categories; revenue generated in San Juan Bautista, and revenue generated in Hollister and the unincorporated areas of the County. After the legally imposed administrative costs, the revenue generated in the jurisdiction of San Juan Bautista shall be allocated to library programs in the City of San Juan Bautista. The remainder of the revenue shall not be restricted to San Juan Bautista use.

The ordinance requires that sixty percent (60%) of the revenue generated outside of San Juan Bautista must be used for capital expenditures. The term "capital expenditures" includes only the construction of a new library facility, the renovation of existing library facilities, repairs and replacement of the Bookmobile, the acquisition of books and materials, and the acquisition of other capital or fixed assets. The revenue generated by this measure may be used in cooperative ventures with other public libraries in the county such as the San Juan Bautista Library. The revenue generated by this measure is supplemental to current funding for the San Benito County Free Library. The sales and use tax revenue may not supplant existing funding.

This ordinance has a sunset clause. The library sales and use tax will end (10) years after it first becomes operative.

s/ Steven R. Sanders
San Benito County Counsel



ARGUMENT IN FAVOR OF MEASURE I

The community supporters of the San Benito County Free Library need your YES vote for Measure I a 1/8 of one percent sales tax measure to fund library services and future construction of a new library facility.

The Facts Are:

- The 1995-96 Grand Jury Report states the Library is grossly underfunded and that this should be remedied.
- The Library is badly overcrowded! Seating and shelving space are major problems. There is no adequate library parking for public use.
- The bookmobile purchased in 1983 is in need of replacement.
- The children's book collection is grossly inadequate to meet the demand placed upon it by the growing student population.
- Open hours need to be increased to better serve our community.
- Programs for children and adults need expanding, including the literacy program.
- Library equipment is old and in need of replacement.
- Funds are also needed for support of the San Juan Bautista Public Library.

Passage of Measure I will:

- Provide that 60% of the additional revenue will fund future construction of a new library facility and/or renovation of the existing facility and capital equipment.
- Replace the Bookmobile and expand bookmobile services to convalescent homes and other locations.
- Increase open library hours.
- Expand library programs for children and adults, including the literacy program.
- Increase funding for books and multi-media materials.
- Allocate funds for support of the San Juan Bautista Public Library.

The cost is reasonable:

Measure I is a valuable community investment at a reasonable cost. It provides for a 1/8 of one percent (0.125%) sales tax increase over a 10 year period and requires a two thirds majority vote. That's only one cent for every eight dollars spent to give the children and adults of San Benito County a decent library they deserve!

s/ John A. Howard
s/ LeRoy A. Hachinski
s/ Anne Winn
s/ Linda Gayle King
s/ Rosa Maria Escalante

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE I

Don't be fooled by the facts as they are presented. If we want to refer to a grand jury report, I'd suggest that they check 1991 grand jury report which can be obtained from the county clerk's office. It generally criticizes the overall management and operation of the library. The 60% for future construction should be funded by impact fees, not the present people paying for a new library for people who will come to Hollister and San Benito Co. in the future. On the question of funding for books, we have requested how many books are actually donated. If you check out late issues many have been donated to the library. The cost measure makes it prohibitive for any business in San Benito County, as they will have another 1/8 of a percent, running for ten years and the first year's receipts alone will be 280% times the present funding level. The funding for the library currently from the county of San Benito is \$245,000 a year. It is estimated they will receive an additional \$450,000 just during the first year so that they would be receiving approximately \$695,000 a year. That figure is far in excess of what it should be for a community of this size. The measure has been before the voters previously and has been turned down. In a responsible government people should again defeat this matter. It is true that we need a library but not one that is \$695,000 the first year alone.

This is an off year election so it is extremely important that every voter vote.

s/ Richard E. Lusink
No on I Committee

ARGUMENT AGAINST MEASURE I

The voters of San Benito County need to fully understand the ramifications of the library issue which is on the ballot. Similar requests have appeared prior to this and have not prevailed. The current level of funding for the San Benito Library is \$245,000.00 paid by the County of San Benito out of the general operating budget. The way the law reads this new measure which is on the ballot now and you will be voting on it is for increased money over the present funding level. The County cannot remove the basic funding level so based on the County's Administrative Officer it is anticipated that the first year alone will raise an additional \$450,000.00 which means the first year budget for library would be \$695,000.00. That is approximately a 280% increase from what now is being funded. People should also understand that 60% of the new funds raised will go for building a new library because of the expanding size of the community. That means that the present taxpayers and voters will be paying for future growth in the County which historically should be paid by impact fees for new people arriving. Also keep in mind that this tax is for a ten year period so that the estimate of a \$695,000.00 budget the first year will increase substantially over the ten year period if the general economy continues on an upward spiral. We urge responsible people to vote no on this proposition.

s/ Richard E. Lusink

REBUTTAL TO ARGUMENT AGAINST MEASURE I

Our opponent would have you believe the Library would be vastly overfunded by Measure I. He would have you believe these dollars are an extravagant use of funds. The facts:

1. The F.Y. 1995-96 Grand Jury Report demonstrates a critical need for funding our Library in relation to other rural Northern California Libraries. The report shows San Benito County at the bottom of the list. It indicates an average annual per capita library budget of \$12.35 compared to \$5.80 for our county.

2. Measure I is a means to apply funds over and above the county's current funding of our library (\$245,000). Measure I expressly earmarks 60% of these funds for capital expenditures and acquisitions. They are not to be used for salaries, personnel benefits or normal operating funds.

3. The funds to be used in the operation of the Library are far less than what our opponent would have you believe. Sales tax revenue produced within the city of San Juan Bautista will go to its library.

4. Our library has suffered since F.Y. 1991-92 and was closed for a brief period of time. It's present budget is nearly \$100,000 less than it was in F.Y. 1991-92 (\$344,000). Measure I was a tax initiative that helped support the library and it is no longer in effect. Our library is in one of the fastest growing counties in California. Your support for Measure I is critical for its passage. Vote Yes on Measure I!

s/ John A. Howard
s/ LeRoy A. Hachinski
s/ Anne Winn
s/ Linda Gayle King
s/ Rosa Maria Escalante

