

**SAN BENITO COUNTY TRAFFIC SAFETY
IMPROVEMENTS FOR STATE HIGHWAY ROUTE 25
AND THE REPAIR OF EXISTING LOCAL ROADS
SAN BENITO COUNTY MEASURE J
(Full Text of Ordinance No. 1998-2)**

**LOCAL ROADS AND HIGHWAYS
IMPROVEMENT ORDINANCE OF 1998** } Ordinance No. 1998-2

The Council of San Benito County Governments acting as the local transportation authority pursuant to Public Utilities Code section 180050 (hereafter "the Authority") ordains as follows:

- SECTION 1.0 TITLE.**
- SECTION 2.0 PURPOSE.**
- SECTION 3.0 FINDINGS.**
- SECTION 4.0 DEFINITIONS.**
 - 4.1 "Administrative costs"
 - 4.2 "Authority"
 - 4.3 "Board of Supervisors"
 - 4.4 "County"
 - 4.5 "Measure revenue"
 - 4.6 "Project"
 - 4.7 "State"
 - 4.8 "Transactions and Use Tax"
- SECTION 5.0 IMPOSITION OF THE TRANSACTIONS AND USE TAX; THE BALLOT MEASURE.**
 - 5.1 Effect Of The Passage Of The Ballot Measure.
 - 5.2 Administration
 - 5.3 Wording Of The Ballot Measure.
 - 5.4 Projects.
 - 5.5 Termination Of Tax Increase.
- SECTION 6.0 STATE HIGHWAY ROUTE IMPROVEMENTS.**
 - 6.1 The State Highway Route Improvements.
 - 6.2 Contingent Use Of The Authority's Share For The State Highway Route Projects.
 - 6.3 State Solely Funding the State Highway Route 25 Projects.
- SECTION 7.0 LOCAL ROAD PROJECTS.**
 - 7.1 Local Road Projects And Improvements.
- SECTION 8.0 DISTRIBUTION OF MEASURE A REVENUE.**
 - 8.1 Distribution Of Revenue To Specific Projects.
 - 8.2 Estimated Timing Of MEASURE Projects.
 - 8.3 Minor Alterations In The Timing Of MEASURE J Projects.
- SECTION 9.0 AVAILABILITY OF OTHER FUNDS FOR MEASURE PROJECTS.**
- SECTION 10.0 OPERATIVE DATE.**
- SECTION 11.0 CONTRACT WITH STATE.**
- SECTION 12.0 TRANSACTIONS AND USE TAX RATE.**
- SECTION 13.0 PLACE OF SALE.**
- SECTION 14.0 USE TAX RATE.**
- SECTION 15.0 ADOPTION OF PROVISIONS OF STATE LAW.**
- SECTION 16.0 LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF TRANSACTION AND USE TAXES.**
- SECTION 17.0 PERMIT NOT REQUIRED.**
- SECTION 18.0 EXEMPTIONS AND EXCLUSIONS.**
- SECTION 19.0 AMENDMENTS.**
- SECTION 20.0 ENJOINING COLLECTION FORBIDDEN.**
- SECTION 21.0 MISCELLANEOUS PROVISIONS.**
 - 21.1 Creation Of Special Fund.
 - 21.2 Interest Generated.
 - 21.3 Administrative Costs.
 - 21.4 Applicability Of Enabling Legislation.
 - 21.5 Appropriations Limit.
 - 21.6 No Sale Of Bonds.
 - 21.7 Amendments To This Ordinance.
- SECTION 22.0 SEVERABILITY.**
- SECTION 23.0 EFFECTIVE DATE.**
- SECTION 24.0 PUBLICATION.**
- SECTION 25.0 CAPTIONS.**

SECTION 1.0 TITLE.

This ordinance shall be known as the "Local Roads and Highways Improvements Ordinance of 1998."

SECTION 2.0 PURPOSE.

This ordinance is adopted for the following purposes, and the Authority directs that the provisions of this ordinance be interpreted in order to accomplish these purposes:

- 2.1 To provide funding for the State Highway Route improvements consisting of widening of State Highway Route 25 to four (4) lanes from San Felipe Road to the Santa Clara County line; and
- 2.2 To provide funding for the local transportation projects of overlay and reconstruction of existing county roads and city streets; and
- 2.3 To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code (commencing with Section 7251 and Section 7252.16) which authorizes the Authority to adopt this tax ordinance which shall become operative if two-thirds (2/3) of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose; and
- 2.4 To adopt a retail transactions 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 not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code; and
- 2.5 To adopt a retail sales and use tax ordinance which imposes a tax 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 3.0 FINDINGS.

The Authority finds as follows:

In San Benito County, highway and road improvements have been, and remain an immediate, high-priority need to solve the county's serious traffic congestion and transportation safety problems. These problems threaten the economic viability of the county and the safety of state and county citizens who travel its roads. The problems also adversely impact the quality of life in San Benito County.

In order to be able to deal with its traffic problems in an expeditious manner, San Benito County has needed to develop and implement local funding programs to supplement current federal, state and local monies, which monies are not adequate to resolve the county's transportation problems.

In 1988, Public Utilities Code section 180000 et seq. and Rev. and Tax Code sections 7251.1; 7252.16; 7273.2 were adopted. These statutes granted counties such as San Benito County the legal authority to increase the local sales and use tax (commonly referred to as a "sales tax") upon approval of the voters. San Benito County immediately exercised its authority to put before the county's electors a ballot measure to increase the local sales tax in order to raise additional revenue for transportation purposes. The measure was known as Measure A. Over eighty percent (80%) of the voters considering Measure A approved of the ordinance imposing a one-half of one percent (1/2%) increase in the sales tax for a period of ten years in order to fund and construct certain improvements to local roads and on state highways.

The contribution of Measure A revenue to the state highway improvements was limited to a specific amount. The remainder of the revenue generated by Measure A was to fund the local road projects. The state was to be the lead agency for the improvements to the state highway improvements and the Measure A Authority was to construct the local roads.

A local measure such as Measure A could not obligate the state to construct the specified state highway improvements. The measure therefore specified additional local road projects on which the measure revenue might be spent in the event that the state failed to construct the state highway improvements. Consequently, it was expected that the Measure A revenue would be insufficient to complete all of the local projects specified in the Measure A ordinance.



However, during the ten years when Measure A was imposed, the Authority commenced and completed many of the local roads specified in Measure A. The Measure A Authority also has provided the local funding for various State Highway Route 156 projects, including the Hollister by-pass as well as improvements to State Highway Route 156 in San Juan Bautista, which projects were in fact constructed. Measure A has served as a catalyst stimulating intergovernmental cooperation in securing the construction of many of the roads identified in Measure A.

With the expiration of Measure A approaching, it is necessary to seek approval of a successor measure to continue to fund the construction of an additional state highway route project, the widening of Highway 25. There is an additional need to commence and complete local transportation projects consisting of overlaying and reconstructing existing roads in order to continue to improve the transportation system in San Benito County. The state and local transportation projects will insure the safety and efficiency of persons traveling the roads in San Benito County and will improve the continued economic viability of the community.

The Council of San Benito County Governments desires that the local contribution to the state highway project be limited to a maximum amount similar to the restrictions of Measure A. If the state decides not to fund the remainder of the cost of the State Highway Route 25 improvement identified in this ordinance, the revenue generated by this ordinance shall be reallocated to the local transportation projects of overlaying and reconstructing existing roads.

The Council of San Benito County Governments acting as the local transportation authority will be responsible for administering the subsequent transactions and use tax increase should it be approved by the county's electors.

- 4.1. "Administrative costs" mean only the Authority's costs of administering this ordinance and the cost charged by the State Board of Equalization to administer the transactions and use tax.
- 4.2. "Authority" means the Council of San Benito County Governments.
- 4.3. "Board of Supervisors" means the San Benito County Board of Supervisors.
- 4.4. "County" means the County of San Benito, and shall include the incorporated areas of the county and the areas in the unincorporated portions of the county.
- 4.5. "Measure revenue" means the revenue generated by the one-half of one percent (1/2%) transactions and use tax imposed pursuant to this ordinance, whether such revenue is generated in the City of Hollister, the City of San Juan Bautista or the unincorporated areas of the County of San Benito.
- 4.6. "Project" includes the construction and improvement of state highways as well as the overlaying or reconstructing of existing local streets and roads.
- 4.7. "State" means the State of California.
- 4.8. "Transactions and Use Tax" is to be identified as specified in Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code.

SECTION 5.0 IMPOSITION OF THE TRANSACTIONS AND USE TAX; THE BALLOT MEASURE.

- 5.1 **Effect Of The Passage Of The Ballot Measure.** This ordinance shall be placed before the electors by way of a ballot measure. This ordinance shall not become operative unless approved by two-thirds of the electors in the County voting on the ballot measure. The passage of the ballot measure shall cause the imposition and collection of one-half of one percent (1/2%) of the transactions and use tax in the County for a period of ten (10) years. Over the specified period of ten (10) years, the ordinance will raise an estimated twenty million dollars (\$20,000,000.00) in revenue. The revenue generated by this ordinance will provide funding for the transportation improvements specified in this ordinance.
- 5.2 **Administration.** The Board of Supervisors previously designated the Council of San Benito County Governments to serve as the governmental entity which administered the revenue generated by Measure A. The Council of San Benito County Governments acting as the Authority enacts this ordinance which shall succeed the Local Roads and Highways Improvement Ordinance of 1988. The Authority shall act in accordance with Section 180000 et seq. of the Public Utilities and with this ordinance.
- 5.3 **Wording Of The Ballot Measure.** A ballot measure authorizing the Authority to impose a retail transactions and use tax for State Highway Route traffic safety improvements and for local road im-

provements in San Benito County shall be known as MEASURE J. MEASURE J shall read as follows:

Measure J

SAN BENITO COUNTY TRAFFIC SAFETY IMPROVEMENTS FOR STATE HIGHWAY ROUTE 25 AND THE REPAIR OF EXISTING LOCAL ROADS

Shall the Council of San Benito County Governments impose a one-half of one percent (1/2%) transactions and use tax for a period of ten (10) years in order to fund a portion of a state highway project on State Highway Route 25 (widening Route 25 to four (4) lanes) and to repair existing local roads; establish the state-mandated annual spending limit of \$20,000,000; and eliminate the transactions and use tax after ten (10) years?

- 5.4 **Projects.** Measure revenue will be used to fund, commence and/or complete the following projects:
 - (a) The State Highway Route traffic safety improvements listed in section 6.1 herein; and
 - (b) The overlay or reconstruction of existing local roads as enumerated in section 7.1 herein.
- 5.5 **Termination Of Tax Increase.** This ordinance will terminate on March 31, 2009, or ten years after the operative date, whichever is later.

SECTION 6.0 STATE HIGHWAY ROUTE IMPROVEMENTS.

- 6.1 **The State Highway Route Improvements.** The Authority shall allocate only ten million dollars (\$10,000,000.00), exclusive of administrative costs, as the Authority's share for the following project:

Widening of State Highway Route 25 to four lanes from the intersection of San Felipe Road to the Santa Clara County line - \$10,000,000.00

The specific amount listed above shall be the maximum amount of measure revenue that may be expended for the State Highway Route 25 improvements. The State of California shall entirely fund the State Highway Route 25 transportation improvements (widening to four lanes), with the exception of the Authority's local contribution specified in this subsection, in the amount (\$10,000,000.00). The State's funding may include federal or other monies as available.

- 6.2 **Contingent Use Of The Authority's Share For The State Highway Route Projects.** If the State Highway Route 25 project specified in Section 6.1 is not included in the State Transportation Improvement Program (STIP) by 2004, or if the California Transportation Commission (CTC) does not commit to the State Highway Route 25 widening project specified herein, or if the State Highway 25 widening route project is removed from the 2004 STIP, without being constructed, or if the State Highway Route 25 widening project is delayed beyond the period of the 2004 STIP, or if the CTC chooses not to provide the balance of funding for the State Highway Route 25 widening project specified herein, then the Authority shall distribute measure revenue originally designated for such state highway project to the local transportation projects listed in Section 7.1 herein.
- 6.3 **State Solely Funding the State Highway Route 25 Projects.** If the state constructs the State Highway Route 25 projects specified in Section 6.1 without need of the ten million dollar (\$10,000,000.00) local share, then the Authority shall distribute measure revenue originally designated for such state highway project to the local transportation projects listed in Section 7.1 herein.

SECTION 7.0 LOCAL ROAD PROJECTS.

- 7.1 **Local Road Improvement Projects.** In addition to the Authority's share for the State Highway Route 25 project, the Authority shall allocate the remainder of measure revenue to certain local transportation projects. These projects are limited to the commencement and completion of the following local road projects as specified in section 8.0:
 - (a) Overlay or reconstruction projects on existing city streets in the City of San Juan Bautista as determined by the San Juan Bautista City Council.
 - (b) Overlay or reconstruction projects on existing city streets in the City of Hollister as determined by the Hollister City Council.



- (c) Overlay or reconstruction projects on existing county roads in the unincorporated area of the County of San Benito as determined by the County of San Benito Board of Supervisors.

SECTION 8.0 DISTRIBUTION OF MEASURE J REVENUE.

8.1. Distribution Of Revenue To Specific Projects. All revenues derived from this ordinance shall be administered by the Authority. The measure revenue shall be allocated as follows:

- (a) Administrative costs;
- (b) Ten million dollars as a local contribution to the widening of State Highway Route 25 from San Felipe Road to the Santa Clara County line;
- (c) The balance of the measure revenue shall be distributed as follows:
- (1) 10% to the City of San Juan Bautista for overlay or reconstruction of existing city streets in San Juan Bautista;
 - (2) 45% to the City of Hollister for overlay or reconstruction of existing city streets in Hollister; and
 - (3) 45% to the County of San Benito for overlay or reconstruction of existing county roads in the unincorporated area of the County of San Benito.

8.2 Estimated Timing Of MEASURE Projects.

(a) **First Two Years:**

- (1) The election costs, the State Board of Equalization administrative costs and local administrative costs first shall be deducted from the measure revenue during the first year before the Authority allocates, distributes or expends measure revenue on the projects specified in this ordinance.
- (2) The remainder of measure revenue generated shall be used for the overlay or reconstruction of existing local roads, as specified in section 7.1(a).

(b) **During Subsequent Years:**

- (1) Annually, the State Board of Equalization and local administrative costs shall first be deducted from the measure revenue before the Authority allocates, distributes or expends measure revenue on the projects specified herein.
- (2) Fifty percent (50%) of the measure revenue, after administrative costs are deducted shall be allocated to the State Highway Route 25 improvement project until the maximum \$10,000,000 local contribution is accumulated.
- (3) Fifty percent (50%) of the measure revenue, after administrative costs are deducted shall be allocated to the existing local roads overlay and reconstruction projects. After the State Highway Route 25 improvements projects is completely funded, one-hundred percent (100%) of measure revenue after deducting administrative costs, shall be allocated to the existing local roads overlay and reconstruction projects.

8.3 Minor Alterations In The Timing Of MEASURE J Projects. The Authority may make minor alterations in the timing of the measure projects as follows. If the state highway route project is scheduled in phases, the measure revenue may be distributed by the Authority to the state in phases. If the California Transportation Commission (CTC) requires the Authority's share to be provided at a date earlier than anticipated, the Authority shall have the power to delay distribution of measure revenue for the local transportation projects in order to cause the timely commencement of State Highway Route project, notwithstanding section 8.1 or 8.2.

SECTION 9.0 AVAILABILITY OF OTHER FUNDS FOR MEASURE PROJECTS.

It is intended that other funds and resources are available to supplement measure revenue so that the projects detailed in section 6.0 *et seq.* and 7.0 *et seq.* may be completed. Funds and resources may come from federal, state and local sources.

SECTION 10.0 OPERATIVE DATE.

"Operative Date": means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance by a 2/3 vote of the voters voting on the measure in the election called for that purpose.

SECTION 11.0 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. If the Authority shall not have contracted with the State Board

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 12.0 TRANSACTIONS AND 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 San Benito County at the rate of one-half of one percent (1/2%) of the sales price of the property on and after the operative date of this ordinance.

SECTION 13.0 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 14.0 USE TAX RATE.

An excise tax is hereby imposed on the storage, use or other consumption in the incorporated and unincorporated areas of San Benito County 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 incorporated and unincorporated areas of San Benito County at the rate of one-half of one percent (1/2%) 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 15.0 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 16.0 LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF TRANSACTIONS AND 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 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. Except as provided in section 18.5 of this ordinance, 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.

SECTION 17.0 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 18.0 EXEMPTIONS AND EXCLUSIONS.

18.1 There shall be excluded from the measure of the transactions and use tax the amount of any sales 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.

18.2 There are exempted from the computation of the amount of transactions tax the gross receipts from:

(a) 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.

(b) Sales of property to be used outside the county which is shipped to a point outside the county, pursuant to the contract of sales, 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:

(1) 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-county 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.

(2) 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.

(c) 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.

(d) 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.

(e) For the purposes of subsections (c) and (d), 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.

18.3 There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this county of tangible personal property:

(a) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax.

(b) 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.

(c) 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.

(d) 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.

(e) For the purposes of subsections (c) and (d), 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.

18.4 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.

18.5 "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 Chapter 2 of 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.

SECTION 19.0 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 transactions 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 20.0 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 21.0 MISCELLANEOUS PROVISIONS.

21.1 **Creation Of Special Fund.** All measure revenue will be deposited in a special fund to be available to fund or to construct the transportation improvements specified in this ordinance. The fund authorized under this ordinance will be administered by the Authority pursuant to this ordinance and to the enabling legislation, Public Utilities Code section 180000 *et seq.*

21.2 **Interest Generated.** Any interest generated by measure revenue shall be treated as measure revenue for the purpose of restricting the use of such funds to the limitations expressed in this ordinance.

21.3 **Administrative Costs.** The costs to administer this ordinance shall be paid solely from the measure revenue, and interest earned thereon. Estimated administrative costs shall be reserved by the Authority before measure revenue is distributed in accordance with Section 8.0 *et seq.* of this ordinance. Annual administrative costs of the Authority, excluding the State Board of Equalization administrative costs, shall not exceed one percent (1%) of the measure revenue raised in that year.

21.4 **Applicability Of Enabling Legislation.** Section 180000 *et seq.* of the Public Utilities Code and Sections 7251.1 7252.16 7273.2 of the Revenue and Taxation Code also specify certain requirements to which the Authority must adhere in imposing and administering any transactions and use tax approved by the electors. This ordinance reaffirms and adopts these requirements.

21.5 **Appropriations Limit.** A State mandated spending limit (the Gann appropriations limit) is hereby established at twenty million dollars (\$20,000,000.00) per year.



21.6 **No Sale Of Bonds.** The enabling legislation, Section 180250 *et seq.* allows a local transportation authority to seek the authority as part of a ballot proposition to sell bonds to finance capital outlay expenditures. This ordinance does not provide for the issuance and sale of bonds which are expressly prohibited as a financing device.

21.7 **Amendments To This Ordinance.** Any changes in this ordinance shall require a two-thirds (2/3) vote of the total membership of the Authority, plus the subsequent approval of two-thirds of the electors voting on such change submitted for a vote at a special election called for that purpose by the Board of Supervisors at the request of the Authority before the amendments become effective.

SECTION 22.0 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 23.0 EFFECTIVE DATE.

This ordinance relates to the levying and collecting of the transactions and use taxes and shall take effect immediately upon adoption.

SECTION 24.0 PUBLICATION.

This ordinance shall take effect thirty (30) days after the passage of this ordinance. Prior to the expiration of fifteen (15) days from the final passage hereof, the Clerk of the Council of San Benito County Governments shall cause this ordinance to be published in a Newspaper of General Circulation in the County of San Benito.

SECTION 25.0 CAPTIONS.

The titles and headings to the articles and sections thereunder are not part of this ordinance and shall have no effect upon the construction or interpretation of any part hereof.

PASSED AND ADOPTED by the Council of San Benito County Governments acting as the local transportation authority pursuant to Public Utilities Code Section 180050, on the 16th day of July, 1998, by the following vote:

AYES: DIRECTORS:
NOES: DIRECTORS:
ABSENT: DIRECTORS:
ABSTAIN: DIRECTORS:

COUNCIL OF SAN BENITO COUNTY GOVERNMENTS ACTING AS THE LOCAL TRANSPORTATION AUTHORITY UNDER PUBLIC UTILITIES CODE SECTION 180050

By/ Rita Bowling

ATTEST:

APPROVED AS TO LEGAL FORM:
Steven R. Sanders, County Counsel

By/ Max H. Bridges,
Executive Director

By/ Karen R. Forcum,
Deputy County Counsel

**SAN BENITO COUNTY TRANSPORTATION
EXPENDITURE PLAN FOR
MEASURE J**

I. TITLE.

This expenditure plan shall be known as the San Benito County Transportation Expenditure Plan for MEASURE J.

II. MEASURE J-TRANSACTIONS AND USE TAX REVENUE.

MEASURE J is a ballot measure to be considered by the voters of San Benito County. The measure is designed to succeed Measure A, the transportation sales tax measure adopted by the voters in 1988. MEASURE J, if approved by a two-thirds majority of the voters, will establish an additional transactions and use tax in San Benito County of one-half (1/2) of one percent (1%) for a period of ten (10) years. The one-half (1/2) percent transactions and use tax will cause the transactions and use tax rate to remain the same as the rate during the time MEASURE A was operative. Over a period of ten (10) years, the MEASURE J transportation transactions and use tax will raise an estimated twenty million dollars (\$20,000,000.00) in revenue. The revenue generated (MEASURE J revenue) will provide funding for additional transportation improvements, those improvements specified in MEASURE J.

III. AUTHORITY.

The San Benito County Council of Governments has been designated by the Board of Supervisors of the County of San Benito to serve as the local transportation authority which administers transportation transactions and use tax measures such as MEASURE J. The San Benito County Council of Governments shall be referred to as the "AUTHORITY" herein.

IV. PURPOSE.

The purpose of this expenditure plan is to specify the expenditure of the revenues expected to be derived from the proposed transactions and use tax measure, to identify the projects specified in MEASURE J, to specify the amount of measure revenue to be allocated to these projects, and to identify other federal, state and local funds expected to be available for the transportation improvements authorized by MEASURE J.

V. PROJECTS IN MEASURE J.

A. **State Highway Route 25 Projects.** The Authority will allocate only ten million dollars (\$10,000,000.00) of the MEASURE J revenue to State Highway Route 25 improvements. The State of California shall contribute the balance of the costs associated with the State Highway Route 25 transportation improvements. The State Highway Route 25 projects are limited to:

Widening of State Highway Route 25 to four lanes from the intersection of San Felipe Road to the Santa Clara County line.

B. **Local Road Projects and Improvements.** The AUTHORITY will allocate the remainder of revenue generated by MEASURE J to certain local road projects. These projects are limited to:

1. Overlay or reconstruction projects on existing city streets in the City of San Juan Bautista as determined by the San Juan Bautista City Council.
2. Overlay or reconstruction projects on existing city streets in the City of Hollister as determined by the Hollister City Council.
3. Overlay or reconstruction projects on existing county roads in the unincorporated area of the County of San Benito as determined by the County of San Benito Board of Supervisors.

VI. DISTRIBUTION OF MEASURE J REVENUE

A. **Distribution of Revenue to Specific Projects.** All revenues derived from MEASURE J shall be administered by the AUTHORITY. MEASURE J revenue shall be allocated as follows:

1. Administrative costs;
2. Ten million dollars as a local contribution to the widening of State Highway Route 25 from San Felipe Road to the Santa Clara County line;
3. The balance of the measure revenue shall be distributed as follows:
 - a. 10% to the City of San Juan Bautista for overlay or reconstruction of existing city streets in San Juan Bautista;



- b. 45% to the City of Hollister for overlay or reconstruction of existing city streets in Hollister; and
- c. 45% to the County of San Benito for overlay or reconstruction of existing county roads in the unincorporated area of the County of San Benito.

B. Estimated Timing of Distribution of MEASURE J Projects.

1. First Two Years:

- a. The election costs, the State Board of Equalization administrative costs and local administrative costs first shall be deducted from the MEASURE J revenue during the first year before the Authority allocates, distributes or expends measure revenue on the MEASURE J projects.
- b. After administrative costs, the remainder of MEASURE J revenue generated shall be used for the overlay or reconstruction of existing local roads, as specified in sections V.B and VI.A.3.

2. During Subsequent Years:

- a. Annually, the State Board of Equalization and local administrative costs shall first be deducted from the MEASURE J revenue before the Authority allocates, distributes or expends MEASURE J revenue on the projects specified herein.
- b. Fifty percent (50%) of MEASURE J revenue, after administrative costs are deducted shall be allocated to the State Highway Route 25 improvements project until the maximum \$10,000,000 local contribution is accumulated.
- c. Fifty percent (50%) of MEASURE J revenue, after administrative costs are deducted shall be allocated to the existing local roads overlay and reconstruction projects as specified in sections V.B and VI.A.3. After the State Highway Route 25 improvements project is completely funded, one-hundred percent (100%) of MEASURE J revenue after deducting administrative costs, shall be allocated to the existing local roads overlay and reconstruction projects as specified in sections V.B and VI.A.3.

VII. OTHER FEDERAL, STATE AND LOCAL FUNDS.

It is intended that other funds and resources be available to supplement measure revenue so that the projects detailed in section V may be completed. Funds and resources may come from federal, state and local sources. The State of California will entirely fund the specific State Highway Route 25 transportation improvements specified in Section V.A, with the exception of the AUTHORITY'S share of ten million dollars (\$10,000,000.00). The State's funding may include federal and other monies, as available.

VIII. MISCELLANEOUS.

- A. Measure J Fund. All MEASURE J revenue, plus interest, will be deposited in a special fund for MEASURE J transportation improvements. The fund and the projects authorized under MEASURE J will be administered by the AUTHORITY.
- B. Redirecting Local Contribution For State Highway Route 25 Widening Project. If the State Highway Route 25 project specified in Section V.A is not included in the State Transportation Improvement Program (STIP) by 2004, or if the California Transportation Commission (CTC) does not commit to the State Highway Route 25 widening project specified herein, or if the State Highway Route 25 widening route project is removed from the 2004 STIP, without being constructed, or if the State Highway Route 25 widening project is delayed beyond the period of the 2004 STIP, or if the CTC chooses not to provide the balance of funding for the State Highway Route 25 widening project specified herein, then the Authority shall distribute measure revenue originally designated for such state highway project to the local transportation projects listed in Section V.B herein.

If the state constructs the State Highway Route 25 projects specified in Section V.A without need of the ten million dollar (\$10,000,000.00) local share, then the Authority shall distribute measure revenue originally designated for such state highway project to the local transportation projects listed in Section V.B herein.

C. Alterations In Timing. The Authority may make minor alterations in the timing of the measure projects. If the state highway route project is scheduled in phases, the measure revenue may be distributed by the Authority to the state in phases. If the California Transportation Commission (CTC) requires the Authority's share to be provided at a date earlier than anticipated, the Authority shall have the power to delay distribution of MEASURE J revenue for the local transportation projects in order to cause the timely commencement of the State Highway Route 25 widening project.

D. Administrative Costs. The costs to administer this ordinance shall be paid solely from the measure revenue, and interest earned thereon. Estimated administrative costs shall be reserved by the Authority before measure revenue is distributed in accordance with Section VI. Annual administrative costs of the Authority, excluding the State Board of Equalization administrative costs, shall not exceed one percent (1%) of the measure revenue raised in that year.

E. Appropriations Limit. A state mandated spending limit (the Gann appropriations limit) shall be established at twenty million dollars (\$20,000,000.00) per year.

F. No Sale Of Bonds. The enabling legislation, Section 180250 *et seq.* of the Public Utilities Code allows a local transportation authority to seek the authority as part of a ballot proposition to sell bonds to finance capital outlay expenditures. The Measure J ordinance does not provide for the issuance and sale of bonds which are expressly prohibited as a financing device.

Approved by the Council of San Benito County Governments acting as the Local Transportation Authority (Measure A Authority) Under Public Utilities Code section 180000 *et seq.* on July 16, 1998.

s/ Rita Bowling, Chair



**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE J**

MEASURE J, if approved by two-thirds of the voters, will increase the transactions and use tax (commonly known as a "sales tax") in San Benito County by one-half of one percent (1/2%). The increase in sales tax will be used to fund certain specified transportation improvements. Measure J succeeds Measure A, a similar ballot measure which established in 1988 a one-half of one percent (1/2%) sales tax increase for transportation improvements. Measure J will go into effect shortly after the Measure A sales tax increase ends.

Like Measure A, Measure J will be administered by the San Benito County Council of Governments acting as the local transportation authority pursuant to state law. Under Measure J, the increase in sales tax is limited to a ten (10) year period. At the end of this ten (10) year period, the sales tax will be reduced by one-half of one percent (1/2%).

The particular transportation improvements under MEASURE J are specified in an ordinance which will become effective only upon the passage of MEASURE J. The ordinance cannot be changed unless two-thirds of the membership of the San Benito County Council of Governments approve of an amendment to the ordinance. Before any amendment becomes effective, the amendment must be approved by two-thirds of the voters voting at a special election to consider the change.

Over the ten (10) year life of Measure J, approximately twenty million dollars (\$20,000,000) will be generated by the proposed sales tax measure. Ten million dollars (\$10,000,000) of the revenue generated shall be allocated to the widening of State Highway Route 25 to four lanes from the intersection of San Felipe Road to the Santa Clara county line. The remainder of the revenue generated by Measure J shall finance overlay projects in the cities of Hollister and San Juan Bautista as well as in the unincorporated areas of the county.

The revenue for the local road overlay projects shall be allocated as follows: Forty-five percent (45%) to the City of Hollister, forty-five percent (45%) to the County of San Benito, and ten percent (10%) to the City of San Juan Bautista. The governing bodies of these jurisdictions will determine which roads shall be repaired and shall be the lead agencies for the overlay projects in their respective jurisdictions.

The State of California shall serve as the lead agency for the State Highway Route 25 widening project. Consequently, it will be up to the state to determine if the State Highway Route 25 project will be accomplished. If the state fails to widen State Highway Route 25, or if the State fails to pay for all of the costs of the State Highway Route 25 widening project in excess of the local share generated by Measure J, the share of Measure J revenue dedicated to the State Highway Route 25 widening project shall instead be used to fund additional local road overlay projects in the three jurisdictions in the same proportion as specified before.

The State Board of Equalization and the local transportation authority will separately administer certain aspects of the program created by MEASURE J. Administrative costs shall be paid solely from the revenues generated from this measure. Annual administrative costs of local transportation authority are limited to no more than one percent (1%) of the revenues raised annually.

A vote in favor of Measure J is a vote supporting the sales tax increase for the transportation improvements specified in the measure. A vote against Measure J is a vote opposing the sales tax increase for the transportation improvements specified in the measure.

s/ Steven R. Sanders
San Benito County Counsel

**NO ARGUMENT IN FAVOR OF THIS MEASURE
WAS SUBMITTED**

ARGUMENT AGAINST MEASURE J

The proponents would like you to believe that it is an extension of Measure A there are many distinct differences & was placed on the ballot by a group of well meaning citizens and was unopposed. The state at that time also claimed to be broke. This was said to be a one time tax. It has been placed on the ballot by politicians and bureaucrats. Measure A balance in excess of 8 million dollars. 50% of the money raised from Measure J will go to widening the Bolsa, but it ends at the county line, only to revert back to a two lanes. The other 50% is to the City of Hollister, San Benito County, and City of San Juan. At the discretion of the governing bodies of each. The county alone receive in excess of 1 million dollars in gasoline tax per year, which is supposedly used for roadway improvements and betterment's. In addition to that, in 1998, they received \$2,150,000 in license plate fees. The million dollars of gasoline tax winds up paying expenses in the public works department, not actual road application. We have a city and county building impact fee in the amount of \$7,520 each residence built. Just the county alone received \$885,779 last year and the balance on that account at present is \$1,614,859. The state, you will recall, had a 4.4 billion surplus. A four lane Bolsa road is only going to bring more people in here, leaving will be a problem because it will go from four lanes to two lanes at the county line. The other 50% is a blank check is for the County and 2 Cities.

NO on J

s/ Richard E. Lusink

