

**BEFORE THE COUNCIL OF SAN BENITO COUNTY GOVERNMENTS**

**AN ORDINANCE OF THE COUNCIL OF SAN )      ORDINANCE NO. 2018-01**  
**BENITO COUNTY GOVERNMENTS, THE “ROADS, )**  
**TRANSPORTATION SAFETY AND INVESTMENT )**  
**PLAN TRANSACTIONS AND USE TAX )**  
**ORDINANCE”, IMPOSING A RETAIL )**  
**TRANSACTIONS AND USE TAX TO BE )**  
**ADMINISTERED BY THE CALIFORNIA )**  
**DEPARTMENT OF TAX AND FEE )**  
**ADMINISTRATION, AND ADOPTING A )**  
**TRANSPORTATION EXPENDITURE PLAN, THE )**  
**“SAN BENITO COUNTY TRANSPORTATION )**  
**SAFETY AND INVESTMENT PLAN” )**

**PREAMBLE**

San Benito County is home to about 60,000 residents, who rely on its transportation system to get to work, school, home, and so much more, every day. There are significant transportation needs throughout the county, from local streets and roads, to major highways. Roads throughout San Benito County are crumbling under the weight of decades of underinvestment, and average daily traffic on Highway 25 has doubled since the mid 1990’s.

The Council of San Benito County Governments has committed to listening to the community and addressing these transportation needs. The Council of Governments has heard a need for local roadway improvements and maintenance, improvements to Highway 25, as well as a desire for a healthier, more walkable and bike-friendly community with access to transit for those who need it most. Community members also emphasized the importance of transportation to support the economic vitality of the region.

The 2040 San Benito County Regional Transportation Plan has identified a need of more than \$1.8B in projects across multiple modes of transportation and areas throughout the county. These transportation needs are a shared responsibility of federal, state, regional, and local funding sources including commercial, industrial and residential developers to ensure that new developments pay their fair share of the transportation costs. Even with this, there is an additional funding need to address the most critical issues — including improving and maintaining local roads and widening Highway 25 to increase safety and relieve traffic. The corresponding transportation expenditure plan (Exhibit B - San Benito County Transportation Safety and Investment Plan) seeks to address those needs and invests the approximately \$485 million anticipated to accrue in local, transportation-only sales tax revenues generated by a 1% sales tax for transportation, to be used for these critical projects.

This ordinance contains the required statutes from the State of California allowing for the collection and administration of a retail transactions and use (sales) tax. The separate, corresponding Transportation Safety and Investment Plan (Exhibit B) contains specific information about road and transportation projects and how the monies will be allocated for their construction, subject to annual audits, evaluation, and oversight by an independent citizens’ oversight committee.

The Council of San Benito County Governments hereby ordains as follows:

**SECTION 1. TITLE.**

This ordinance shall be known as the Council of San Benito County Governments "Roads, Transportation Safety and Investment Plan Transactions and Use Tax Ordinance". This ordinance shall be applicable in the incorporated and unincorporated territory of San Benito County, a political subdivision of the State of California, which is referred to herein as "County".

**SECTION 2. SUMMARY.**

This Ordinance provides for:

- A. the adoption of a transportation expenditure plan, referred to hereinafter as the "San Benito County Transportation Safety and Investment Plan" or "Transportation Safety and Investment Plan", which is attached to this ordinance and hereby incorporated by reference as Exhibit B, as if fully set forth herein, to:
  - 1. *repair potholes;*
  - 2. *improve and maintain local roads;*
  - 3. *widen Highway 25 to relieve traffic congestion and improve safety;*
  - 4. *improve pedestrian and bicycle safety;*
  - 5. *provide mobility, bus, and paratransit services for seniors, people with disabilities, and youth; and*
  - 6. *qualify for state and federal matching funds;*
- B. the imposition of a retail transactions and use tax of one percent (1%) over a period of thirty (30) years;
- C. the authority to issue bonds secured by such taxes;
- D. the authority to receive short-term or long-term loans secured by such taxes;
- E. the authority of the Council of San Benito County Governments to administer tax proceeds; and
- F. the establishment of a citizens' oversight committee, with the requirement to conduct annual independent audits.

Since Measure \_\_\_\_ is for a specific use and not a general tax, a 2/3 majority vote of the electors voting on the measure is required for passage.

Measure \_\_ is not similar to a gas tax that is shared throughout the State of California. It is a local retail transactions and use (sales) tax whereby all revenues plus interest generated shall be distributed as required by the Transportation Safety and Investment Plan (Exhibit B), only for road, transportation and transit projects, only in San Benito County.

### **SECTION 3. ADMINISTRATION OF PLAN.**

The Council of San Benito County Governments, as the Authority previously created and designated pursuant to Division 19 (commencing with Section 180000) of the California Public Utilities Code, authorized to impose a retail transactions and use tax ordinance, subject to voter approval, in accordance with Chapter 5 (commencing with Section 180200) of Division 19 of the California Public Utilities Code, and with Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code, shall hereby impose the Roads, Transportation Safety and Investment Plan Transactions and Use Tax and enter into an agreement with the Department of Tax and Fee Administration to collect the funds, shall allocate revenues derived therefrom and shall administer the Transportation Safety and Investment Plan, attached hereto as Exhibit B, consistently with the authority cited herein.

### **SECTION 4. ADMINISTRATIVE COSTS.**

The costs to the Authority to administer the Ordinance and Transportation Safety and Investment Plan (Exhibit B) shall be reserved by the Authority before revenue is distributed. Annual administrative costs of the Authority, excluding the California Department of Tax and Fee Administration administrative costs, shall not exceed one percent (1%) of the Measure \_\_\_ revenue generated in that year. The Authority shall expend only that amount of the funds generated from this Ordinance for staff support, audits, annual reports and other administrative expenses and contract services that are necessary and reasonable to carry out its responsibilities pursuant to Division 2 of the Revenue and Taxation Code.

### **SECTION 5. DEFINITIONS.**

- A. State means the State of California.
- B. Authority means the Council of San Benito County Governments, a joint powers authority formed under the joint exercise of powers provisions of California Government Code Sections 6500-6522 and the California Code of Civil Procedure section 1240.140, among the County of San Benito, a political subdivision of the State of California, and the Cities of Hollister and San Juan Bautista, municipal corporations located in San Benito County, which previously was created and designated pursuant to Division 19 (commencing with Section 180000) of the California Public Utilities Code and authorized to impose a retail transactions and use tax ordinance, subject to voter approval, in accordance with Chapter 5 (commencing with Section 180200) of Division 19 of the California Public Utilities Code, and with Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code.
- C. Measure \_\_\_ means the proposed ballot measure attached to this ordinance and incorporated herein by reference as Exhibit A.
- D. Measure \_\_\_ Revenue means the revenue generated by the one percent (1%) increase in the retail transactions and use tax imposed and collected pursuant to this ordinance.

- E. Retail 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.
- F. Operative Date means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.
- G. Effective Date means the date which this Ordinance 2018-01 becomes effective upon its adoption.

## **SECTION 6. PURPOSE.**

This 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 implement specific projects and programs in the Transportation Safety and Investment Plan (Exhibit B), as approved by the San Benito County Board of Supervisors, the City Councils of Hollister and San Juan Bautista, and the Authority.
- B. To impose a retail transactions and use tax in accordance with the provisions of Division 19 (commencing with Section 180000) of the California Public Utilities Code, and Section 7285.5 of the Revenue and Taxation Code, which authorizes the Authority to adopt this tax ordinance which shall be operative if a (2/3) majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose..
- C. To impose and collect a retail transactions and use tax and allocate revenues derived from the tax toward transportation safety and investment projects within the unincorporated County of San Benito and within the incorporated cities of Hollister and San Juan Bautista, consistent with the provisions and priorities of the Transportation Safety and Investment Plan (Exhibit B).
- D. 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 Division 19 (commencing with Section 180000) of the California Public Utilities Code, and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code.
- E. 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 California Department of Tax and Fee Administration 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 California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

- F. 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 Division 19 (commencing with Section 180000) of the California Public Utilities Code, and Part 1.6 (commencing with Section 7251) 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.
- G. To provide that the funds generated by this ordinance may be used only for transportation purposes including: the administration of the Transportation Safety and Investment Plan (Exhibit B), as amended; defense or prosecution of legal actions related thereto; the construction, acquisition, maintenance, and operation of streets, roads, highways, including state highways, and public transit systems; and for related transportation purposes, including project management and oversight of the projects to be funded using the Roads, Transportation Safety and Investment Plan Transactions and Use Tax, such as coordination with other responsible agencies, project delivery and negotiation of project agreements, including expenditures for planning, environmental reviews, engineering and design costs, and related right-of-way acquisition, and debt service on bonds or other indebtedness, and expenses and reserves in connection with the issuance of the same.

## **SECTION 7. IDENTIFICATION OF TAX AND STATEMENT OF FACTS ON HOW TAX REVENUE CAN BE SPENT.**

The revenues from the Roads, Transportation Safety and Investment Plan Transactions and Use Tax, as set forth in this Ordinance, can be spent only for specific purposes. The revenues will be spent only to implement specific projects and programs specifically set forth in the Transportation Safety and Investment Plan (Exhibit B), as approved by the San Benito County Board of Supervisors, the City Councils of Hollister and San Juan Bautista, and the Authority, and summarized here as follows:

- A. **Widen Highway 25: Relieve Traffic and Improve Safety:** revenues shall fund an Environmental study, design and construction of the Highway 25 4-Lane Expressway Project, building a new 4-lane highway between Hollister and Santa Clara County. Local funds will be used to match with State (Local Partnership Program and State Transportation Improvement Program) and Federal funds as well as local Traffic Impact Mitigation Fees. The Council of Governments and its local jurisdictions will work closely with the California Department of Transportation and the California Transportation Commission to maximize the State contributions to project development and funding the project. In addition, local developers will be required to pay their “fair share” for project impacts of new housing and retail development on the highway, which is identified as 40% of the total cost.
- B. **Local Street and Road Repair, Maintenance and Rehabilitation, and Improvements: Improve Safety & Traffic Flow:** Funding will be provided to each local jurisdiction (City of Hollister, City of San Juan Bautista, and San Benito County) based on a formula of 47.5 percent (47.5%) to San Benito County, 47.5 percent (47.5%) to the City of Hollister, and 5 percent (5%) to the City of San Juan

Bautista. Funds will be distributed annually by Council of Governments and local jurisdictions will implement based on their adopted Pavement Management Plans. Local funds will be used to match with state gas tax funds already provided to the local jurisdictions.

**C. Other Categories:** Funding will be provided for the following:

1. Mobility, bus, and paratransit services for seniors, people with disabilities, and youth as described in the Regional Transportation Plan for the community.
2. Projects that Enhance Pedestrian and Bicycle Safety, including implementation of Safe Routes to School projects and projects identified in the Countywide Bicycle, Pedestrian Master Plan, and Regional Transportation Plan.
3. Projects that enhance safety and improve traffic flow on local roadways, including operational improvements, traffic calming, and “complete streets” measures.
4. Administration (capped at one percent (1%))
5. Future Planning & Contingency

This section shall constitute a legally binding and enforceable limitation on how the revenue from the Roads, Transportation Safety and Investment Plan Transactions and Use Tax imposed by this Ordinance can be spent.

**SECTION 8. ELECTION.**

The Authority requests the San Benito County Board of Supervisors to call an election for voter approval of the attached measure (Exhibit A), which election shall be held on November 6, 2018, and consolidated with other elections to be held on that same date. The election shall be called and conducted in the same manner as provided by law for the conduct of elections by a County. The sample ballot to be mailed to the voters shall be the full proposition as set forth in this ordinance, and the voter information handbook shall include the Transportation Safety and Investment Plan (Exhibit B). Approval of the attached measure, and imposition of the Roads, Transportation Safety and Investment Plan Transactions and Use Tax, shall require the vote of a two-thirds (2/3) majority of the electors voting on the attached measure at the election described in this section.

**SECTION 9. ANNUAL REPORT.**

The executive director of Authority shall annually cause to be prepared a report setting forth (a) the amount of funds collected and expended pursuant to this Ordinance and (b) the status of any projects authorized to be funded in the Investment Plan adopted by Authority.

**SECTION 10. CITIZENS' OVERSIGHT COMMITTEE: THE MEASURE \_\_\_\_  
TRANSPORTATION SAFETY AND INVESTMENT PLAN  
OVERSIGHT COMMITTEE.**

Prior to expenditure of any funds collected, the Board of Directors of the Authority shall establish and convene a citizens' oversight committee to be designated the Measure \_\_\_\_ Transportation Safety and Investment Plan Oversight Committee ("Expenditure Plan Oversight Committee") to provide oversight.

Members of the Expenditure Plan Oversight Committee shall be appointed by the Authority's Board of Directors and shall be residents who are neither elected officials of any government, nor employees from any agency or organization that either oversees or benefits from the proceeds of the Roads, Transportation Safety and Investment Plan Transactions and Use Tax.

The Expenditure Plan Oversight Committee shall include, at a minimum, representatives who are residents of the City of Hollister, the City of San Juan Bautista, and the unincorporated areas of San Benito County. The Expenditure Plan Oversight Committee will fairly represent the geographical, social, cultural and economic diversity of the County to ensure maximum benefit for road and transportation users. The Expenditure Plan Oversight Committee will gather information and input from outside sources and the Authority staff when necessary.

The Expenditure Plan Oversight Committee shall meet at least once but no more than four times per year.

The Expenditure Plan Oversight Committee members will serve staggered two year terms and can be reappointed.

The Expenditure Plan Oversight Committee shall be responsible for the following:

- A. Independent Audits: The Expenditure Plan Oversight Committee shall have full access to the Authority's independent auditor and review the annual audits, have the authority to request and review the specific financial information, and provide input on the audit to assure the funds are being expended in accordance with the Transportation Safety and Investment Plan (Exhibit B);
- B. Plan Changes: The Expenditure Plan Oversight Committee shall review and make recommendations on any proposed changes to the Transportation Safety and Investment Plan (Exhibit B), prior to Authority consideration, subject to 2/3 vote of the voting Transportation Oversight Committee members;
- C. Project Delivery and Priorities: The Expenditure Plan Oversight Committee shall review and comment on the project delivery schedules and make recommendations to the Authority on any proposals for changing project delivery priorities; and

D. Annual and Final Reports: The Expenditure Plan Oversight Committee shall prepare annual reports regarding the administration of the program, to be presented to the Authority's Board of Directors and posted to the Authority's website.

## **SECTION 11. AMENDMENTS TO THE TRANSPORTATION SAFETY AND INVESTMENT PLAN.**

The Authority may annually review and propose amendments to the Transportation Safety and Investment Plan (Exhibit B) to provide for the use of additional Federal, State and local funds, to account for unexpected revenues, or to take into consideration unforeseen circumstances. Amendments to the list of projects in the Transportation Safety and Investment Plan (Exhibit B) will be considered only for projects that are included in the adopted 2040 San Benito County Regional Transportation Plan at the time the amendment is proposed and/or by the priorities established in this Transportation Safety and Investment Plan (Exhibit B).

The Transportation Safety and Investment Plan (Exhibit B) may be amended, only if required, by the following process Section 180207 of the Public Utilities Code: (1) the Authority shall recite findings of necessity to initiate amendments; (2) the Authority shall provide notice and a copy of the proposed amendments to the County Board of Supervisors and the City Councils of the Cities of Hollister and San Juan Bautista; and (3) the proposed amendments shall become effective 45 days after notice is given.

## **SECTION 12. PAVEMENT MANAGEMENT PROGRAM REQUIREMENTS.**

Each City Council and the County Board of Supervisors shall adopt a pavement management program. The cities and county shall submit regular reports on the conditions of their streets and roads, to ensure timely repairs and to keep the public informed. If deemed necessary by the Authority, a pavement management program adopted by the Authority is eligible to be funded out of this program prior to distribution of funds to the cities or county. The cities and county shall rely on their pavement management programs to identify priority projects for construction during the time the Roads, Transportation Safety and Investment Plan Transactions and Use Tax is in effect.

## **SECTION 13. IMPACT FEE REQUIREMENTS.**

Each city and the county shall maintain participation in the Regional Traffic Impact Mitigation Fee program and shall impose the adopted fees on new development as applicable, to ensure new development pays for its impacts on the regional transportation system.

## **SECTION 14. TAX SHARING AGREEMENTS.**

Each city and the county shall enter into tax sharing agreements with the Authority that will include enforcement procedures, designed to reassure the public that tax revenues are spent in accordance with the ballot language.



## **SECTION 15. ESTABLISHMENT OF BONDING AUTHORITY.**

The Authority is authorized to issue bonds to finance capital outlay expenditures as may be provided for in the Transportation Safety and Investment Plan (Exhibit B), payable from the proceeds of the Roads, Transportation Safety and Investment Plan Transactions and Use Tax. The Authority may issue limited tax bonds, from time to time, to finance any program or project in the Transportation Safety and Investment Plan (Exhibit B). The maximum bonded indebtedness, including issuance costs, interest, reserve requirements, and insurance, shall not exceed the total amount of the proceeds anticipated to be collected by imposition of this Roads, Transportation Safety and Investment Plan Transactions and Use Tax. All costs associated with the issuance of such bonds shall be accounted for within the program category in which the bond proceeds are used. The bonds shall be payable solely from, and shall be secured by a pledge of the proceeds of the Roads, Transportation Safety and Investment Plan Transactions and Use Tax, and may be issued at any time before expiration of the tax. The Authority, in allocating the revenues from the Ordinance, shall meet all debt service requirements and other bond related costs prior to allocating funds for other projects or purposes.

## **SECTION 16. MAINTENANCE OF EFFORT.**

The Authority, by the enactment of this ordinance, intends the additional funds provided to local government agencies by Measure \_\_\_ to supplement other existing funds, revenues and other resources being used for street and highway purposes, including but not limited to federal and state funding, the collection of traffic impact mitigation fees, other local impact fees, and dedications of property. The government agencies shall maintain their existing commitment of local transportation-related funds for transportation purposes pursuant to this ordinance, and the Authority shall enforce this Section by appropriate actions.

## **SECTION 17. CREATION OF SPECIAL FUND.**

All Measure \_\_\_ Revenue, plus interest, will be deposited in a special fund for Measure \_\_\_ projects. The fund authorized under Measure \_\_\_ will be administered by the Authority pursuant to this ordinance and to the provisions of Division 19 (commencing with Section 180000) of the California Public Utilities Code, and Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code. Any interest generated by Measure \_\_\_ Revenue will be treated as Measure \_\_\_ Revenue for the purpose of using the interest for Measure \_\_\_ projects.

## **SECTION 18. CONTRACT WITH STATE.**

Prior to the Operative Date, Authority shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this Roads, Transportation Safety and Investment Plan Transactions and Use Tax Ordinance; provided, that if the Authority shall not have contracted with the California Department of Tax and Fee Administration 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 19. TRANSACTIONS 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 County of San Benito at the rate of one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this ordinance.

## **SECTION 20. 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 California Department of Tax and Fee Administration.

## **SECTION 21. USE TAX RATE.**

An excise tax is hereby imposed on the storage, use or other consumption in the County of San Benito 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 territory at the rate of one percent (1%) 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 22. ADOPTION OF PROVISIONS OF STATE LAW.**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Division 19 (commencing with Section 180000) of the California Public Utilities Code, and Part 1.6 (commencing with Section 7251) 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 23.        LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.**

In adopting the provisions of Part 1 (commencing with Section 6001) 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 the 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 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 California Department of Tax and Fee Administration, 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 Roads, Transportation Safety and Investment Plan Transactions and Use Tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this Roads, Transportation Safety and Investment Plan Transactions and Use Tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, or;
    - b. Impose this Roads, Transportation Safety and Investment Plan Transactions and Use Tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
  4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

## **SECTION 24.    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 25. 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 County which is shipped to a point outside the County, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the County shall be satisfied:
    - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-County address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
    - b. With respect to commercial vehicles, by registration to a place of business out-of-County and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
  - 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.
  - 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this ordinance.
  - 5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

- C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption of tangible personal property in the County of San Benito:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
  2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
  3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this ordinance.
  4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this ordinance.
  5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
  6. Except as provided in subparagraph (7), a retailer engaged in business in the County of San Benito shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County or participates within the County in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.
  7. "A retailer engaged in business in the County of San Benito" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the County.

- D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a County imposing, or retailer liable for a transactions tax pursuant to Division 19 (commencing with Section 180000) of the California Public Utilities Code, and Part 1.6 (commencing with Section 7251) 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 26. AMENDMENTS TO THE ORDINANCE.**

All amendments subsequent to the effective date of this ordinance to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 (commencing with Section 7251) and Part 1.7 (commencing with Section 7280) of Division 2 of the Revenue and Taxation Code, and all amendments to Parts 1.6 and Part 1.7, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance. Other amendments to this ordinance shall require a two-thirds (2/3) vote of the total membership of the Authority, plus the subsequent approval of a two-thirds (2/3) majority 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 27. 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 Division 19 (commencing with Section 180000) of the California Public Utilities Code, and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

#### **SECTION 28. SEVERABILITY.**

If any provision, section, subsection, sentence, clause or phrase of this ordinance or the application thereof to any person or circumstance is held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remainder of the ordinance and the application of such provision, section, subsection, sentence, clause or phrase to other persons or circumstances shall not be affected thereby. The Board of Directors of the Council of San Benito County Governments hereby declares that it would have enacted this ordinance and each provision, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more provisions, sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

**SECTION 29. EFFECTIVE DATE.**

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

**SECTION 30. TERMINATION DATE.**

The authority to levy the tax imposed by this ordinance shall expire thirty (30) years from the Operative Date of this Ordinance.

**SECTION 31. CAPTIONS.**

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

**SECTION 32. PUBLICATION.**

Before expiration of fifteen (15) days after passage of this ordinance, the Clerk of the Council of San Benito County Governments shall cause a summary of this ordinance to be published once, with the names of the members of the Council voting for and against the ordinance, in a newspaper of general circulation within the County of San Benito.

The foregoing Ordinance was introduced at a regular meeting of the Council of San Benito County Governments held on the 21<sup>st</sup> day of June, 2018, and was passed and adopted by the Council of San Benito County Governments at a regular meeting of said Council held on the 19th day of July, 2018, by the following vote:

AYES:Chair De La Cruz, Boch, Botelho, and Gillio  
NOES:0  
ABSTAIN: 0  
ABSENT: Velazquez

**ATTEST:**  
Mary Gilbert, Executive Director

By: Mary Gilbert  
Date: July 19, 2018

By: Jaime De La Cruz, Chair

**APPROVED AS TO LEGAL FORM:**  
San Benito County Counsel's Office

By: Shirley L. Murphy  
Shirley L. Murphy, Deputy County Counsel  
Date: June 21, 2018

## Exhibit A

### Measure \_\_

A ballot measure authorizing the Authority to impose a retail transactions and use tax for implementing a transportation safety and investment plan shall be known as Measure \_\_. Measure \_\_ shall read as follows:

Shall the voters authorize a San Benito County Roads and Transportation Safety and Investment Plan to: repair potholes and maintain roads; widen Highway 25 to relieve traffic congestion and make it safer; improve pedestrian, bicycle, and transit options; and, qualify for state and federal matching funds by enacting a one cent sales tax, raising approximately \$16,000,000 annually over 30 years, with annual audits, independent oversight, all funds spent locally, and a detailed expenditure plan?



**COG Ordinance 2018-01**  
**Exhibit B**  
**Expenditure Plan**  
**San Benito County Transportation Safety and Investment Plan**

**Community Engagement**

*The San Benito COG staff and Board of Directors involves the community in planning.*

The Board of Directors has had ongoing public meetings leading up to approval of this transportation expenditure plan, referred to as the “San Benito County Transportation Safety and Investment Plan”, on June 7, 2018 in which they engaged in many study sessions to continue researching San Benito County’s transportation needs, continued a larger conversation with the community by receiving community input, and prioritized the needs for this plan.

Public engagement for the 2040 San Benito County Regional Transportation Plan was conducted to identify projects with the recognized transportation needs of the public. The investments proposed are reflective of the Council of Governments’ policy goals as well as the suggestions expressed by interested community groups, policy makers, partner agencies, stakeholders and the public. The Council of Governments conducted ongoing public outreach between 2017 and 2018. Interested parties expressed support for local roadway maintenance and improvements to Highway 25, as well as a desire for a healthier, more walkable and bike-friendly community. Community members also emphasized the importance of transportation to support the economic vitality of the region.

This Transportation Safety and Investment Plan has been built with the help of community input gathered during the ongoing transportation needs conversation happening around the County of San Benito. This process has included three community engagement meetings, as well as multiple smaller conversations with opinion leaders and key stakeholders around the County.

The basis for the projects identified in this Transportation Safety and Investment Plan is the 2040 San Benito Regional Transportation Plan, input from residents and a countywide survey of voters conducted in March 2018.

**Transportation Needs, Projects, and Funding**

The 2040 San Benito County Regional Transportation Plan identifies the greatest financial need (90%) for local roads and the regional highway system. The San Benito County region’s network of roads is crumbling under the weight of decades of underinvestment due to funding deficiencies. In 2016, the California Statewide Needs Assessment Project surveyed California’s 58 counties and 482 cities on the condition of local streets and roads infrastructure. The survey concluded that San Benito County ranked one of seven counties in the State of California to have an average pavement condition of 46 (“poor”), which is significantly worse than the statewide average.

Funding inadequacies continue to be a challenge facing the San Benito County highway system. Highway 25 is a primary commuter route between Hollister to points north. When traffic volumes exceed the capacity of a two-lane roadway, 100 percent of time is spent following other vehicles and average travel speeds are less than 30 mph. Commercial trucks travel through the area on Highway 25 and are also subject to delays due to the congestion. The lack of adequate funding is the biggest challenge facing the San Benito County region in its delivery of transportation projects and programs.

Transportation projects in the San Benito County region are funded through a variety of federal, state, regional, and local funding sources. Based on projected revenue sources, \$1.1 billion is reasonably anticipated to be available to finance \$1.8 billion in transportation projects between the years 2018 and 2040. There is a \$709 million deficit in transportation funding needed to meet the entire needs of the San Benito County region over the next 22 years. A 1¢ sales tax for transportation would generate approximately \$485 million dollars over a 30-year period and qualify the local jurisdictions in San Benito County to compete for federal and state matching funds. Agencies in San Benito County

are working to reduce congestion, lower greenhouse gas emissions and enhance the overall quality of life by improving safety, access and mobility for all residents.

## Goals and Objectives

### **I. Improve and Maintain the Quality of Life in San Benito County by Supplementing Existing Transportation Funds with a New Local Funding Source**

- a. Generate new, locally-controlled funding for high-priority transportation projects only in San Benito County.
- b. Enhance the ability of the Council of San Benito County Governments ("Council of Governments"), the County of San Benito, the City of Hollister and the City of San Juan Bautista to secure additional state and federal funding for transportation projects in San Benito County by leveraging matching local funds.
- c. Combine existing local fund sources to enhance the Council of Governments' and County's ability to deliver high-priority transportation projects in San Benito County.

### **II. Provide for Equity in the Distribution of Revenues**

- a. Provide funds to the Unincorporated County, City of Hollister, and City of San Juan Bautista based on an equitable formula distribution of funds.
- b. Adopt Improvement Plan proposals from the local jurisdictions which address the unique needs of each of these areas of the County.
- c. Provide for a reasonable balance of funds based on identified needs between highways, road maintenance, local street and road improvements, transit services (for youth, seniors, students, and people with disabilities) and pedestrian and bicycle safety improvements.

### **III. Provide for Local Control of the Revenues and Transportation Safety and Investment Plan Program Through the Council of Governments' Administration**

- a. Provide for cost-effective, local administration of the program through the Council of San Benito County Governments, which previously administered local Measure A funding.
- b. Delegate appropriate administrative responsibility to cities, the County, and other local agencies for local programs.
- c. Limit administrative costs to a maximum percentage annually, not to exceed one-percent (1%).







### **IV. Provide for Taxpayer Safeguards and Oversight**

- a. Conduct annual independent financial audits.
- b. Establish a Citizen's Oversight Committee responsible for meeting not less than once annually to review expenditures and projects.

### **V. Become a Self-Help County**

- a. Local sales tax dollars represent a reliable and stable funding source for critical transportation programs and projects, despite volatile state and federal funding. These are local funds ONLY for San Benito County. Self-Help counties qualify and become competitive for state and federal matching funds to leverage taxpayer dollars even further.

This Transportation Safety and Investment Plan was prepared by the Council of San Benito County Governments for the proposed one-percent (1%) local retail transactions and use tax for transportation to be collected for the next 30 years if approved by the voters on November 6, 2018. This is proposed by the Council of Governments as a means to fill the funding shortfall of over \$700 million to implement needed highway, local street and road maintenance, local road improvements and safety measures, transit improvements for youth, seniors, students, and people with disabilities, and pedestrian and bicycle safety improvements.

	Priority	How to Address the Need	Improve Safety	Reduce Traffic Congestion & Improve Traffic Flow	Estimated Project Investment
<b>Widen Highway 25 to reduce traffic congestion</b>	Tier I	Provide funding for environmental, design and construction of the Highway 25 4-Lane Expressway Project. Local funds will be used to match with state and federal funds as well as Traffic Impact Mitigation Fees.			<b>\$242M*</b>
<b>Maintain local roads, repair potholes, and improve traffic flow</b>	Tier II	Funding will be provided to each local jurisdiction (City of Hollister, City of San Juan Bautista, and San Benito County) based on a population-based formula. 47.5 percent to San Benito County, 47.5 percent to the City of Hollister, and 5 percent to the City of San Juan Bautista. Funds will be distributed annually by COG and local jurisdictions will implement cost-effective improvements based on their Pavement Management Plans, General Plan Circulation Elements, and the Regional Transportation Plan. Local funds will be used to match with state gas tax funds already provided to the local jurisdictions.			<b>\$216M</b>
<b>Other Categories</b>	Tier III	<ul style="list-style-type: none"> <li>• Pedestrian and Bicycle Safety</li> <li>• Mobility, bus and paratransit services for seniors, people with disabilities, and youth</li> <li>• Other Projects</li> <li>• Administration (capped at 1%)</li> <li>• Future planning &amp; Contingency</li> </ul>			<b>\$27M</b>

\* Highway 25 improvements funding to be based on maximum use of matching state and federal Funds and Traffic Impact Mitigation Fees to reduce the burden of local funds and maximize our investment, with remaining funds to Tier II and Tier III.

**Total Approximate Investment: \$485M**

*The Council of Governments shall prioritize investment plan projects in the following way:*

**1. Widen Highway 25: Relieve Traffic and Improve Safety**

The Council of Governments shall fund an environmental study, design and construction of the Highway 25 4-Lane Expressway Project, building a new 4-lane highway between Hollister and Santa Clara County. Local funds will be used to match with state (Local Partnership Program and State Transportation Improvement Program) and federal funds as well as local Traffic Impact Mitigation Fees. The Council of Governments and its local jurisdictions will work closely with the California Department of Transportation and the California Transportation Commission to maximize the State contributions to project development and funding the project. In addition, local developers will be required to pay their “fair share” for project impacts of new housing and retail development on the highway, which is identified as 40% of the total cost.

**2. Local Street and Road Repair, Maintenance and Rehabilitation, and Improvements: Improve Safety & Traffic Flow**

Funding will be provided to each local jurisdiction (City of Hollister, City of San Juan Bautista, and San Benito County) based on a formula. Funds will be distributed annually by Council of Governments and local jurisdictions will implement based on their Pavement Management Plans. Local funds will be used to match with state gas tax funds already provided to the local jurisdictions.

Funds will be distributed in order to ensure county-wide equity, including, but not limited to:

**San Benito County**

**Local neighborhood street and road maintenance by priority from San Benito County pavement index study and capital improvement projects, re-evaluated on an annual basis, including but not limited to:**

- Anzar Road Repair from Searle Road to Gannon Road
- Buena Vista Road
- Carr Avenue Bridge Replacement
- Carr Avenue Heavy Rehab
- Cienega Road at Bird Creek Bridge Replacement
- Cienega Road Heavy Rehab and Seal Cracks
- Cole Road Heavy Rehab/Repair from Ricardo Ct. to Anzar Road
- F Street - Tres Pinos Heavy Rehab and Seal Cracks
- Fairview & Fallon Road Intersection Realignment and/or Signalization
- Fairview Road Heavy Rehab and Seal Cracks
- Frazier Lake Road
- Nash Road
- San Benito Street Heavy Rehab from Southside Road to Union Road
- San Felipe Road Heavy Rehab
- San Juan Canyon Road Heavy Rehab from Salinas Road to end of PCC
- San Juan Highway from Anzar Road to Hwy 101
- Shore Road Heavy Rehab and Seal Cracks from Hwy 25 to San Felipe Road
- Southside Road Heavy Rehab
- Union Road Heavy Rehab and Seal Cracks

## **City of Hollister**

**Local neighborhood street and road maintenance by priority from San Benito County pavement index study and capital improvement projects, re-evaluated on an annual basis, including but not limited to:**

- Complete streets project for Nash/Tres Pinos/Sunnyslope Roads and McCray Street
- Gateway Drive and San Felipe Road Intersection
- Memorial Drive Extension: Meridian St. to Santa Ana Road
- Memorial Drive North Extension: Santa Ana Road to Flynn Road/Shelton Intersection

### **High-Priority Pavement Rehabilitation Projects**

- Buena Vista Road
- College Street from Second Street to South Street Heavy Maintenance
- East Street from Santa Ana Road to Seventh Street Heavy Maintenance
- Hawkins Street from San Benito Street to Prospect Street Heavy Maintenance
- Haydon Street from San Benito Street to Prune Street Heavy Maintenance
- Powell Street from South Street to Fourth Street Heavy Maintenance
- San Felipe Road from North of Hwy 25 to County Boundary Medium/Heavy Maintenance
- Lana Way from Fallon Road to Shelton Drive Heavy Maintenance
- Shelton Drive from Fallon Road to Lana Way Heavy Maintenance
- Airport Drive from Skyline Drive to San Felipe Road Heavy Maintenance
- Aerostar Way from Airport Limits to Flynn Road Heavy Maintenance
- Airport Drive from West End to Flynn Road Heavy Maintenance
- Locust Avenue from Buena Vista Road to Fourth Street Heavy Maintenance
- Monterey Street from Haydon Street to Third Street Heavy Maintenance
- West Street from Third Street to Nash Road Heavy Maintenance
- Chappell Road from Maple Road to Meridian Road Heavy Maintenance
- Fremont Way from East Street to Locust Avenue Heavy Maintenance
- South Street from McCray Street to Powell Street Heavy Maintenance
- Nash Road from Westside Street to East of Cushman Street Heavy Maintenance
- Powell Street from Nash Road to A Street Heavy Maintenance
- Line Street from Nash Road to South Street Heavy Maintenance
- Monterey Street from Nash Road to B Street Heavy Maintenance
- Monterey Street from B Street to Haydon Street Heavy Maintenance
- West Street from Third Street to Nash Road Heavy Maintenance
- Hawkins Street from San Benito Street to West Street Heavy Maintenance
- B Street from West Street to Line Street Heavy Maintenance
- Central Avenue from Miller Street to Felice Street Medium/Heavy Maintenance
- Hawkins Street from San Benito Street to Prospect Avenue
- Nash Road from Westside Street to East of Cushman Street
- Tres Pinos Road from East of Cushman Street to Hwy 25
- Prospect Avenue from South Street to Park Street
- Memorial Drive from Hillcrest Street to Verdun Street
- Hillcrest Road from McCray Street to Industrial Avenue
- McCray Street from Santa Ana Road to Hillcrest Road
- San Benito Street from Nash Road to 280 FT. County Boundary
- Olive Street from San Benito Street to Sherwood Street

- Sally Street from Nash Road to Tracks
- Victoria Street from Haydon Street to Olive Street
- Haydon Street from Sherwood Street to West Street
- Ladd Lane from Talbot Street to Tres Pinos Road
- Verdun Avenue from Versailles Drive to Memorial Drive
- Valley View Road from Crescent Street to Crestview Street
- Sunnyslope Road from Airline Hwy 25 to Memorial Drive
- Sunset Drive from Clearview Street to Memorial Drive
- Hilltop Street from Cerra Vista Street to Sunset Drive
- Highland Drive from Hilltop Street to Vallejo Street
- Gabilan Drive from Clearview Street to Highland Drive
- El Toro Drive from Sunnyslope Road to Meridian Street
- Calistoga Drive from Vallejo Street to Union Road

## **City of San Juan Bautista**

**Local neighborhood street and road maintenance by priority from San Benito County pavement index study and capital improvement projects, re-evaluated on an annual basis, including but not limited to:**

- Complete Third Street
- Replace and widen San Juan-Hollister Road and add bike lanes
- Replace South Fifth Street
- Replace Mission Street
- Replace East Church Street
- Restore and restripe for diagonal parking on Muckulemi Street
- Speed control on Fourth Street
- Crosswalk and safe pedestrian travel traversing east side of Hwy 156 traffic light
- Bike lanes through the city
- Downtown crosswalk restoration and beautification
- Local street and roadway maintenance and life span protection (pothole repair, road conditioning, chip sealing, crack mitigation, asphalt shoulders) 2019-2040

### **3. Other Categories**

- Projects that enhance pedestrian and bicycle safety, including implementation of Safe Routes to School projects and projects identified in the Countywide Bicycle, Pedestrian Master Plan, and Regional Transportation Plan in Hollister, San Juan Bautista, and San Benito County.
- Mobility, Bus, and Paratransit Services for seniors, people with disabilities, and youth as described in the Regional Transportation Plan for the community.
- Projects that Enhance Pedestrian and Bicycle Safety, including implementation of Safe Routes to School projects and projects identified in the Countywide Bicycle, Pedestrian Master Plan, and Regional Transportation Plan.
- Projects that enhance safety and improve traffic flow on local roadways, including operational improvements, traffic calming, and “complete streets” measures.
- Administration (capped at one percent (1%))
- Future Planning & Contingency

## Administrative Provisions and Taxpayer Safeguards

### 1. Funds will be administered by the Council of Governments

The revenue raised for the purposes described in this Plan will be administered by the Council of Governments and an account shall be created to hold all funds collected. The Council of Governments is a Joint Powers Authority, formed in 1973 under the joint exercise of powers provisions of California Government Code Sections 6500-6522, among the County of San Benito and Cities of Hollister and San Juan Bautista, for the purpose of forming consensus on regional issues facing the residents of San Benito County.

In order to ensure accountability, transparency and public oversight of all funds collected and allocated, and to comply with state law, all of the following shall apply:

- a. The Council of Governments will commission an independent annual audit of its revenue and expenditures and will also prepare a publicly available annual report on past and upcoming activities and publish an annual financial statement.
- b. Prior to expenditure of any funds collected, the Council of Governments Board shall convene an independent citizens' committee, to be designated The Measure \_\_ Transportation Safety and Investment Plan Oversight Committee, to provide oversight.
- c. Members of the Measure \_\_ Transportation Safety and Investment Plan Oversight Committee shall be appointed by the Council of Governments Board of Directors and shall be residents who are neither elected officials of any government, nor employees from any agency or organization that either oversees or benefits from the proceeds of the sales tax. The Committee shall include, at a minimum, representatives from the City of Hollister, the City of San Juan Bautista, and the unincorporated areas of San Benito County.
- d. The Measure \_\_ Transportation Safety and Investment Plan Oversight Committee shall meet at least once but no more than four times per year.
- e. The Measure \_\_ Transportation Safety and Investment Plan Oversight Committee members will serve staggered two-year terms and can be reappointed.
- f. All actions, including decisions about selecting projects for funding, will be made by the Council of Governments Board in public meetings, subject to the Brown Act and closed session requirements, with proper advanced notice and with meeting materials available in advance to the public.

#### **The responsibilities of this Committee include:**

- Advising the Council of Governments Board.
- Making recommendations regarding annual expenditure priorities.
- Reviewing Plan expenditures on an annual basis to ensure they conform to the Plan.
- Reviewing the annual audit and report prepared by an independent auditor, describing how funds were spent.
- Produce a publicly available Annual Report of Oversight Activities.

## **2. Additional Allocation Criteria and Community Benefits**

The Council of Governments shall ensure that the revenue generated is spent in the most efficient and effective manner possible, consistent with serving the public interest and in accordance with existing law and this Plan.

- a. The Council of Governments shall give priority to projects within its jurisdiction that meet multiple objectives of the Council of Governments Transportation Safety and Investment Plan document and including one or more of the following objectives:
  - Provide for geographic distribution of projects.
  - Increase impact by leveraging state and federal funding resources as well as public/private partnerships.
  - Benefit the economy and sustainability of the region by investing in infrastructure and local quality of life.
- b. The Council of Governments Governing Board shall conduct one or more public meetings annually to gain public input on selection of project grants to expend revenues generated.
- c. The Council of Governments may accumulate revenue over multiple years so that sufficient funding is available for larger and long-term projects. All interest income shall be used for the purposes identified in this Plan. The Council of Governments can bond against these funds as the laws allow.
- d. Costs of performing or contracting for project-related work shall be paid from the revenues allocated to the appropriate purpose and project.
- e. An annual independent audit shall be conducted to assure that the revenues expended by the Council of Governments under this section are necessary and reasonable in carrying out its responsibilities under this Transportation Safety and Investment Plan / Roads, Transportation Safety and Investment Plan Transactions and Use Tax Ordinance.
- f. Sales tax proceeds are intended to augment annual support for the Council of Governments and do not substitute for individual city or County maintenance obligations. Monies from this program may not go to a city's or the County's "General Fund."
- g. Revenues provided from the sales tax shall not be used to replace private developer or foundation funding which has been or will be committed for any project.
- h. Examples of similar projects eligible for funding may be found at [www.sanbenitocog.org](http://www.sanbenitocog.org).

## **3. CEQA Compliance**

The approval of this Transportation Safety and Investment Plan does not commit the Council of Governments to funding or approving any specific project or activity listed herein. Prior to approving or authorizing funding for any specific project or activity identified in this Transportation Safety and Investment Plan, the Council of Governments shall comply with all applicable provisions of the California Environmental Quality Act (CEQA).

## **4. Amendments**

The Council of Governments may annually review and propose amendments to this Transportation Safety and Investment Plan to provide for the use of additional Federal, State and local funds, to account for unexpected revenues, or to take into consideration unforeseen circumstances. Amendments to the list of projects in the Transportation Safety and Investment Plan will only be considered for projects that are included in the established Regional Transportation



Plan at the time the amendment is proposed and/or by the priorities established in this Transportation Safety and Investment Plan.

The Transportation Safety and Investment Plan may only be amended, if required, by the following process set forth in Section 180207 of the Public Utilities Code: (1) Initiation of amendments by the Council of Governments reciting findings of necessity; (2) Provision of notice and a copy of the amendments provided to the Board of Supervisors and the City Councils of the Cities of Hollister and San Juan Bautista; (3) The proposed amendments shall become effective 45 days after notice is given.