

ORDINANCE NO. 2006-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON, CALIFORNIA, ADDING CHAPTER 2.02 TO TITLE 2 OF THE CITY OF AMERICAN CANYON MUNICIPAL CODE PROVIDING FOR THE DIRECT ELECTION OF THE MAYOR OF THE CITY OF AMERICAN CANYON AND RELATED MATTERS FURTHER IMPLEMENTING MEASURE A

WHEREAS, on June 6, 2006, the resident voters of the City of American Canyon ("City") passed Measure A ("Measure A") providing for the direct election of the City Mayor, replacing the former City Council ("Council") appointed office of the Mayor; and,

WHEREAS, Measure A provides for a two (2) year mayoral term; and,

WHEREAS, the Council on June 27, 2006 adopted Resolution No. 2006-107 providing that the general municipal election for the Mayor shall be held the same time as the election for positions on the Council as set forth in section 2.56.010 of Chapter 2.56 of Title 2 of the City Municipal Code; and,

WHEREAS, the Council desires to further implement by ordinance the provisions of Measure A in the following manner.

NOW, THEREFORE, BE IT ORDAINED:

Section 1: Chapter 2.02 is hereby added to Title 2 of the City Municipal Code to provide as follows:

2.02.010 The Mayor. The Mayor shall be elected from the City at large on the consolidated City general municipal election, held on even numbered years, consistent with section 2.56.020 of Chapter 2.56 of the City Municipal Code. The Mayor shall receive compensation as provided in Section 2.04.060 of Chapter 2.04 of the City Municipal Code for Council Members plus any additional compensation as provided by Council Ordinance or by a majority vote of the electors voting on the proposition at a municipal election pursuant to Government Code section 36516.1.

2.02.020 Qualifications.

A. To be qualified for the Office of Mayor, a person must be a citizen of the United States, a registered voter of the City at the time nomination

papers are issued to the candidate as provided in Elections Code section 10227.

B. An existing Council Member may be a candidate for the Office of Mayor, provided that if the Council Member holds a term of office which expires in an even numbered year concurrent with the election of the Mayor then that Council Member may not also seek re-election as a Council Member.

C. If a Council Member holds a term of office which expires in an even numbered year after any even numbered year in which the Office of Mayor is to be filled by election, is elected Mayor, then the resulting Council Member vacancy may be filled by the Council appointing the individual running for Council Member offices subject to election receiving the most votes but not elected or by calling for a special election.

2.02.030 Term of Office, the Mayor. The Mayor shall be elected to a term of two years. The candidate receiving the highest number of votes cast for all candidates for the office at the election shall be declared elected. The Mayor shall continue in office until no later than the fourth Tuesday after the date of the general municipal election, and until their successors are elected and qualified.

2.02.040 Vacancy: Filling of. In the case of a vacancy in the Office of the Mayor for any reason, the Council shall fill the vacancy by appointment of the Vice Mayor, unless declined by the Vice Mayor then the Council shall fill the vacancy by appointment of a Council Member. If the Council fails to fill the vacancy within 30 days, it shall call an election to fill the vacancy to be held on the next established election date to be held not less than 114 days thereafter. A person appointed or elected to fill a vacancy shall hold office for the unexpired term of the former incumbent.

2.02.050 Vacancy: What Constitutes. The Office of Mayor shall be declared vacant by the Council when the person elected appointed thereto fails to meet the qualifications for Office of the Mayor within ten days after his/her term is to begin, dies, resigns, ceases to be a resident of the City or absents himself/herself continuously from the City for a period of more than thirty days without permission from the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of his/her office, forfeits his/her office under any provision of the City Municipal Code, or is removed from office by judicial procedure.

2.02.060 Functions, Powers and Duties. The Mayor shall be the chief elective officer of the City, responsible for providing leadership

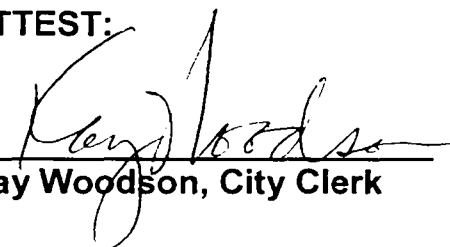
and taking issues to the people and marshalling public interest in and support for municipal activity. The Mayor shall have those powers, duties, and responsibilities as set forth in Government Code sections 40602, 40603 and 40604, Municipal Code section 2.04.030 and as designated by the Council from time to time by Motion or Resolution.

Section 2: The foregoing Ordinance was introduced and read, at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 17th day of August, 2006, and was passed and adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 2nd day of November, 2006 by the following vote:

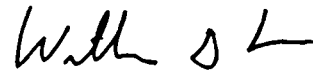
AYES:	Shaver, Garcia, Anderson, Bennett, Coffey
NOES:	None
ABSTAIN:	None
ABSENT:	None



Cecil Shaver, Mayor

ATTEST:


Kay Woodson, City Clerk

APPROVED AS TO FORM:


William D. Ross, City Attorney

ORDINANCE NO. 1 (NCFPWIA)

AN ORDINANCE OF THE NAPA COUNTY FLOOD PROTECTION AND WATERSHED IMPROVEMENT AUTHORITY, IMPOSING A 1/2% NAPA COUNTY FLOOD PROTECTION TRANSACTIONS (SALES) AND USE TAX PURSUANT TO THE PROVISIONS OF REVENUE AND TAXATION CODE SECTION 7285.5, ESTABLISHING A NAPA FLOOD PROTECTION AND WATERSHED IMPROVEMENT EXPENDITURE PLAN, ESTABLISHING A FINANCIAL OVERSIGHT COMMITTEE AND TECHNICAL ADVISORY PANEL, REQUIRING ANY FUNDS GENERATED AS A RESULT OF THE IMPOSITION OF THE NAPA COUNTY FLOOD PROTECTION TRANSACTIONS (SALES) AND USE TAX TO BE SPENT ON THE PROJECTS IDENTIFIED IN THE EXPENDITURE PLAN, AUTHORIZING THE ISSUANCE OF BONDS OR OTHER OBLIGATIONS TO FINANCE THE PROJECTS IDENTIFIED IN THE EXPENDITURE PLAN PAYABLE FROM THE REVENUES GENERATED BY THE TRANSACTIONS (SALES) AND USE TAX AND ESTABLISHING AN APPROPRIATIONS LIMIT.

The Napa County Flood Protection and Watershed Improvement Authority (hereafter "Authority") does ordain as follows:

SECTION 1. Title

This Ordinance shall be known as the "Napa County Flood Protection Sales Tax Ordinance" (the "Ordinance") which establishes and implements a transactions and use tax (hereafter "Flood Protection Sales Tax") and establishes a Napa County Flood Protection and Watershed Improvement Expenditure Plan (hereafter "Plan") describing the specific projects for which the revenues received as a result of the imposition of the tax may be expended, all pursuant to Revenue and Taxation Code Section 7285.5. The transactions and use tax provisions of this Ordinance shall be applicable in the incorporated and unincorporated territory of the County of Napa. The County of Napa shall hereinafter be referred to as "District".

SECTION 2. Findings

The Authority finds that:

A. Since 1862, more than 27 major floods have plagued the Napa Valley, resulting in a significant loss of life and damage to property. Among the most damaging was the flood of 1986 which caused more than \$140 million in damage and led to the evacuation of 7,000 residents. The 1995 flood damaged an estimated 227 businesses and residences at a cost of over \$100 million.

B. In addition to these major and extremely serious floods, damage from the more common annual flooding—like the recent floods of January 1997—cost an annual average of \$6 million in repairs and cleanup.

C. A Plan has been developed and is designed to protect the residents and businesses of Napa County from all floods up to and including a 100-year storm event.

D. The Plan is an integrated approach which applies to all the Napa County watersheds.

E. The Plan was developed by a unique and broad-based coalition of Napa County residents, including local community water experts, engineers, architects, environmentalists, business owners, government officials and other leaders.

F. The Plan relies on natural processes to protect Napa County residents and their properties, takes into account the Napa River's overall watershed, and envisions wetlands, open space, bypass channels, set-back levees, river widening by establishing flood plain terracing, elevation and relocation of homes and bridge replacements as its main weapons against flooding.

G. None of the projects in the Plan are intended or designed to encourage population growth in Napa County. All of the projects are for flood protection, preserving ground water integrity, reducing sediment in the Napa River system, and for maintaining the reliability of the water supply for the existing Napa County population as of the effective date of this Ordinance.

H. The majority of the Plan will be paid for by federal money as well as state and existing local resources.

I. The ultimate goal of the Plan is to provide flood protection, save lives, protect property, restore the Napa River, Napa Creek, and other tributaries, maintain Napa County's economic vitality, and enhance riparian environments.

J. The allocation of the Flood Protection Sales Tax revenues that will be generated as a result of the passage of this 1/2% transactions and use tax by the Authority and the subsequent approval by the People with a 2/3rds vote, shall be based on the amount of Flood Protection Sales Tax revenue generated by the various geographic areas within the County, subject to Section 20 of this Ordinance.

SECTION 3. Purpose and Intent

The Authority declares that, in passing this Ordinance, it is its intent to fund a Plan which will:

A. Minimize the County's vulnerability to major floods that have plagued Napa County, resulting in a significant loss of life and substantial damage to property;

B. Manage flood waters throughout Napa County, thereby providing benefits to Napa, Calistoga, St. Helena, Yountville, American Canyon, Angwin/Deer Park, and the unincorporated County areas;

C. Provide flood protection from all floods up to and including the 100-year storm event while avoiding environmentally damaging channelization and excessive dredging, and utilizing environmentally beneficial methods such as wetlands and open space, as well as bypass channels, set-back levees and floodwalls, river widening by establishing flood plain terracing, elevation and/or relocation of homes, floodproofing of businesses, and bridge replacements;

D. Minimize flood damage, save lives, protect property, safeguard the environment, maintain the economic viability of Napa County and avoid to the greatest extent possible the need for flood insurance;

E. Provide for water reliability and wastewater treatment, using accepted watershed management practices, to maintain water quality in the Napa River;

F. Ensure ongoing community input in the finalization of all projects necessary for flood protection and water supply reliability for the existing Napa County population as of the effective date of this Ordinance; and

G. Ensure ongoing involvement of all municipalities of Napa County in the implementation of the Plan by execution of a Joint Powers Agreement (JPA) between the Authority, Napa County, the Flood Control and Water Conservation District, and the incorporated Cities and Towns of Napa County. This agreement shall contain specific allocations and methods of distribution of the Flood Protection Sales Tax revenues based on the tax revenues generated by each of the incorporated and unincorporated areas in Napa County subject to section 20 of this Ordinance.

SECTION 4. Use of Flood Protection Sales Tax Revenues

A. The revenues generated by the Flood Protection Sales Tax shall be used to fund the projects included in the Plan. The revenues shall also be utilized to fund reasonable costs incurred in the administration of the Napa County Financial Oversight Committee and the Technical Advisory Panel which are established by this Ordinance.

B. The Napa County Auditor-Controller shall deposit all revenues received from the Flood Protection Sales Tax and all earnings thereon into the general fund of the Authority and the proceeds shall be used only for the projects identified in Sections 7 and 8 of this Ordinance, the administration costs identified in subparagraph (A) of this section, and the payment of bonds or other obligations issued to finance such projects and related financing costs.

SECTION 5. Equitable Distribution of the Flood Protection Sales Tax Revenues to County-Wide Projects

The distribution of the Flood Protection Sales Tax revenues to fund the projects described in this Ordinance, over the life of the tax, shall occur in a manner which is proportional to the Flood Protection Sales Tax revenues generated by each of the incorporated and unincorporated areas in Napa County. The portion of the distributions representing the share of the revenues allocated to the unincorporated area may be used to assist in paying for the flood protection projects involving incorporated areas that are described in this Ordinance.

Specific allocations and methods of distribution based on the amount of Flood Protection Sales Tax revenues generated by each of the incorporated and unincorporated areas in Napa County shall be specified in a Joint Powers Agreement which shall be developed following the enactment of the Flood Protection Sales Tax.

SECTION 6. Napa County Flood Protection and Watershed Improvement Expenditure Plan

The Plan involves the following two interrelated components which are described in greater detail in Sections 7 and 8 of this Ordinance:

A. The Napa River and Napa Creek Project for the City of Napa which will provide the City of Napa with flood protection from all floods up to and including a 100 year storm event; and

B. Countywide flood protection and watershed improvement projects for the communities of Calistoga, Yountville, St. Helena, Angwin/Deer Park, American Canyon, and the unincorporated areas

of Napa County.

SECTION 7. Approved Projects: City of Napa: Napa River and Napa Creek Flood Protection Project

The following component of the Plan involves the City of Napa:

The Napa River and Napa Creek Project as detailed and designed by the Community Coalition for Napa Flood Management and the Army Corps of Engineers. This project, approximately 50% of which is expected to be paid for by the Army Corps of Engineers, is designed to protect the City of Napa against all floods up to and including a 100-year storm event such as the floods of February, 1986 and January 1997. This environmentally restorative project includes the following components:

- A. A dry bypass channel with a weir will be constructed to divert flood waters around the Oxbow (the extreme bend in the Napa River near First Street);
- B. A tidal and floodplain terrace will be created;
- C. Wetlands will be created on the east and west banks of the Napa River;
- D. Toxics throughout the project area, including the Oil Company Road area, will be cleaned up and excavated to improve flood water conveyance and improve the water quality of the Napa River;
- E. New bridges will be constructed so they do not act as obstructions during flooding;
- F. Maintenance roads/recreation trails will be extended from Kennedy Park through downtown Napa to Trancas Street;
- G. Set-back levees and floodwalls will be constructed;
- H. Properties will be purchased and/or relocated if necessary to implement the Plan; and
- I. Capital improvement maintenance of the project.

SECTION 8. Approved Projects: County-Wide Flood Protection and Watershed Improvement Projects Not Involving the City of Napa

The component of the Plan that involves the rest of the County must include the following projects which are designed to protect against flooding, improve water quality, preserve the integrity of ground water resources and/or stabilize water supply reliability for the existing Napa County population as of the effective date of this Ordinance. None of these projects are intended or designed to expand water capacity for growth and new development.

All of these projects shall be planned in accordance with the "Living River Guidelines" contained in the Community Coalition's Flood Management Plan and the Napa River Watershed Owners Manual of the Napa County Resource Conservation District.

The Technical Advisory Panel, which is established by Section 9(B) of this Ordinance, will be available to assist each municipality in project planning, upon request by the municipality or jurisdiction.

- A. Community of Angwin/Deer Park
 1. Stabilization and enhancement of existing water reservoirs which shall be for the purpose of flood protection and water reliability;
and

2. Stabilize water quality.
- B. City of American Canyon
1. Implement the adopted Flood Control and Storm Drain Master Plan to protect existing development; and
 2. Restore wetlands by replacing the existing wastewater treatment facility.
- C. City of Calistoga
1. Stabilization and enhancement of Kimball Reservoir which shall be for the purpose of flood protection and water supply reliability; and
 2. Flood protection and drainage improvements in the Grant Street area and other critical areas to protect residents and businesses from flooding.
- D. City of St. Helena
1. Flood management measures for the Napa River, Sulpher Creek, York Creek, and other tributaries to prevent flooding; and
 2. Construct urban stormwater run-off facilities at Fulton, McCorkle, Mills and other areas; and
 3. Stabilization and enhancement of Bell Canyon Reservoir, or other existing reservoirs, which shall be for the purpose of flood protection and water supply reliability.
- E. Unincorporated Areas of Napa County:
1. County unincorporated area flood damage reduction projects including elevating/relocating structures, including bridges, in the floodway and floodplain; and
 2. Agricultural watershed and stormwater runoff management improvements planned jointly by the agricultural industry, the County, the Napa County Resource Conservation District and the Department of Fish and Game, including projects which will:
 - Reduce the amount of storm runoff and sediment in the Napa River System from agricultural lands; and
 - Increase flood storage of the River system by the setback of active land uses from river and tributary banks.
- F. Town of Yountville
1. Flood protection for the Town's mobilehome parks and surrounding areas; and
 2. Hopper Creek and Beard Ditch improvements and restoration for flood protection.

In the event any project described in this Section is not economically or environmentally feasible, the legislative body having jurisdiction over the lands involved shall recommend to the Napa County Flood Control and Water Conservation District a replacement project. Only replacement projects that meet the criteria set forth in the first two paragraphs of this Section shall qualify and may be approved provided, however, that facilities for, or purchase of, North Bay Aqueduct or other water imported from outside Napa County shall not qualify as replacement projects. The Napa County Flood Control and Water Conservation District shall consider recommending approval of a replacement project to the Authority

only after obtaining the recommendation of the Financial Oversight Committee and the Technical Review Committee. Approval by the Authority shall be in the form of an amendment to this Ordinance. Changes meeting the above criteria, to the extent permitted by law, shall not need a vote of the People ratifying the amendment.

SECTION 9. Napa County Financial Oversight Committee and the Technical Advisory Panel

A. Financial Oversight Committee.

1. Establishment. A Napa County Financial Oversight Committee is hereby established and shall remain in existence for as long as the Flood Protection Sales Tax is in effect. The Financial Oversight Committee's purpose and charge is to inform the public regarding the expenditure of the Flood Protection Sales Tax proceeds that will be generated as a result of the approval of this Ordinance by the Authority and the electorate.

2. Responsibilities.

The Financial Oversight Committee shall be responsible for:

a. Providing the public with information regarding the manner in which the expenditure of the Flood Protection Sales Tax proceeds that will be generated as a result of the approval of this Ordinance by the Authority and the electorate has occurred;

b. Reviewing the expenditure of the Flood Protection Sales Tax proceeds that will be generated as a result of the approval of this Ordinance by the Authority and the electorate, and the proceeds received as a result of the issuance of any bonds or other obligations payable from the Flood Protection Sales Tax proceeds, and causing to be prepared an annual audit regarding the use of these proceeds;

c. Reviewing the financial impact of all projects, planned and approved, utilizing the Flood Protection Sales Tax proceeds that will be generated as a result of the approval of this Ordinance by the Authority and the electorate, and advising the public whether such projects are consistent with the purpose, spirit, intent and language of this Ordinance;

d. Informing the public if there is an expenditure of the Flood Protection Sales Taxes that will be generated as a result of the approval of this Ordinance by the Authority and the electorate which is inconsistent with the purpose and intent of this Ordinance.

e. Meet not less than once each calendar quarter, pursuant to the Ralph M. Brown Open Meeting Act and invite public participation and comment with respect to any expenditure or the implementation of any project envisioned by this Ordinance.

3. Membership.

a. The Financial Oversight Committee shall consist of the following individuals:

i. One representative recommended by each of the five Napa County City/Town Councils, and one representative recommended by the Board of Supervisors of the County of Napa. However, the representatives shall not be officers, agents, employees, or elected officials of any City in Napa County or the County;

ii. Two representatives each of whom must be recommended by the business community;

iii. One representative who must be recommended by the local media;

iv. One representative who must be recommended by the Napa County Taxpayers Association;

v. Two representatives each of whom must be recommended by the environmental community;

vi. One representative who must be recommended by the Friends of the Napa River; and

vii. Two representatives who must be recommended by the agricultural industry; and

viii. A certified public accountant, whose practice includes auditing public agencies, but who is

not currently acting as an independent auditor in the case of any incorporated area within the County of Napa or the County of Napa, who must be recommended by the representatives and appointees identified in subparagraphs (i) through (vii).

b. All representatives shall be appointed by the Board of Supervisors. However, no appointments shall be made by the Board of Supervisors other than from the recommended list of the public agencies or organizations identified in subdivision (A)(3)(a) above.

c. In addition to the sixteen members described above, the Financial Oversight Committee may recommend to the Board of Supervisors that it appoint up to two additional members if in the opinion of the Committee additional representation of individuals and groups located in Napa County is necessary.

d. No member of the Committee shall receive any salary or compensation for serving on the Committee. However, the Committee may, in the case of the Certified Public Accountant, upon the unanimous vote of the other members of the Committee, compensate said individual in an amount not to exceed the rate of compensation commonly charged by Certified Public Accountants in the City of Napa.

e. All members of the Committee, except for the Certified Public Accountant, shall be individuals who live in the incorporated or unincorporated areas of Napa County. The panel shall have resources sufficient to carry out their duties.

B. Technical Advisory Panel

1. Establishment. A Technical Advisory Panel is established and shall remain in existence for as long as the Flood Protection Sales Tax is in effect.

2. Membership. The Napa County Flood Control and Water Conservation District Board of Directors shall appoint the Technical Advisory Panel whose purpose and charge is to provide technical expertise in reviewing the Corps of Engineers proposed project which is located within the City of Napa to ensure consistency with the Community Coalition Project Plan. The Panel shall consist of no more than nine members. Members of the Panel shall have expertise in one or more of the following disciplines: (1) architecture, (2) landscape architecture, (3) civil engineering, (4) hydrology/hydraulics, (5) urban planning or design, (6) water and wastewater engineering (7) geotechnical engineering and/or (8) environmental sciences/natural resource management. All members shall demonstrate a thorough knowledge of and commitment to the "Living River Guidelines" and the "Urban Design Criteria" of the Community Coalition Flood Management Plan and the watershed management guidelines contained in the Napa River Watershed Owner's Manual of the Napa County Resource Conservation District, as well as sound engineering flood protection principles.

3. The Panel may provide technical expertise to review and comment on the planning of other Countywide projects.

4. The Panel is advisory to the Napa County Flood Control and Water Conservation District.

5. The Napa County Flood Control and Water Conservation District Board of Directors shall appoint the Panel to ensure its ongoing input and recommendations regarding the following Army Corps of Engineers documents prior to executing same:

- a. The General Design Memorandum and related Environmental Impact Statement (EIS);
- b. The Project Cooperation Agreement;
- c. All preliminary plans and construction contracts, final plans and specifications related to the City of Napa Corps of Engineers project.

6. All members of the Panel shall be individuals whose domicile is in Napa County.

7. The panel shall have resources sufficient to ensure continuous onsite review of Army Corps of Engineers construction activities.

SECTION 10. Expiration of Tax; Extension of Tax.

A. The transactions and use tax imposed by this Ordinance shall expire June 30, 2018; provided, that if the Authority shall not have contracted with the State Board of Equalization on or before July 1, 1998, and as a result the operative date is the beginning of a calendar quarter subsequent to July 1, 1998, the expiration date shall be extended, for a period of time equal to the delay. Notwithstanding the preceding sentence, this tax may be extended beyond the twenty-year period if the question of extending the tax is placed on the ballot and approved by the legally required percentage of qualified voters voting on the extension.

B. This transactions and use tax may be reduced or rescinded by a majority vote of the Governing Board of the Authority; provided, however that such modification or rescission shall not occur if to do so would violate any law, including but not limited to Article I, §10 of the United States Constitution and Article I, §16 of the California Constitution or if prohibited by any covenant made with the holders of any bonds or obligations payable from this transactions and use tax. The Governing Board of the Authority shall take such action only after receiving a recommendation regarding such rescission or modification from the Financial Oversight Committee and, subsequent to such receipt, conducting a noticed public hearing. Such action shall be subject to California law pertaining to the cancellation of prior contractual obligations and the rules and regulations of the State Board of Equalization.

SECTION 11. 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 impose a one half of one percent retail transactions and use tax in accordance with the provisions of Part 1.6. (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.5 of Part 1.7 of Division 2 which authorizes the Authority to adopt this tax Ordinance which shall be operative only if two-thirds of the electors voting on this Ordinance approve same at an election called for that purpose.

B. 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.

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

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

E. To establish an expenditure limit for the Authority as required by Article XIII B of the California Constitution.

F. To authorize bonds and other obligations to be issued for the purpose of financing objects in the expenditure plan with said bonds or other obligations to be payable from the transaction and use tax proceeds.

SECTION 12. Operative Date; Contract with the State.

The operative date of this Ordinance, at which time collection of the tax imposed by this Ordinance shall commence, is July 1, 1998. Prior to July 1, 1998, the Authority shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this Transactions and Use Tax Ordinance; provided, that if the Authority shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such contract.

SECTION 13 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 District at the rate of one-half of one percent 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. The tax shall be imposed for a period of twenty years.

SECTION 14. 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 the rules and regulations to be prescribed and adopted by the State Board of Equalization.

SECTION 15. Use Tax Rate.

An excise tax is hereby imposed on the storage, use or other consumption in the incorporated and unincorporated area of the District of tangible personal property purchased from any retailer on and after the operative date of this Ordinance for storage, use or other consumption in said territory at the rate of one-half of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. The tax shall be imposed for a period of twenty years.

SECTION 16. 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 I (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 17. Limitations On Adoption of State Law and Collections of Use Taxes.

In adopting this provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this Authority shall be substituted therefor. However, the substitution shall not be made when:

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

2. The result of that substitution would require action to be taken by or against this Authority or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "District" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

SECTION 18. 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 19. Exemptions and Exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county,

or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

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

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the District which is shipped to a point outside the District pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the district shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with section 9840) of the Vehicle Code by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence: and

b. With respect to commercial vehicles, by registration to a place of business out-of-District and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Ordinance.

5. For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this Ordinance, the storage, use or other consumption in this district of tangible personal property:

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

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time

for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Ordinance.

5. For the purposes of subsections (3) and (4) of this section, storage, use, or other assumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the District shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the District, or participates within the District in making the sale of the property, including, but not limited to, soliciting or receiving the order either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary or person in the District under the authority of the retailer.

7. "A retailer engaged in business in the District" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under 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 District.

D. Any person subject to use tax under this Ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for, a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code, with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

SECTION 20. Bonds and Other Obligations.

Upon voter approval of this Ordinance, the Authority shall have the authority to issue bonds or other obligations (including, without limitation, lease or installment sales agreements) to finance any of the projects included in the Plan as it may be amended from time to time (including reserves and other financing costs), which bonds or other obligations shall be payable from the revenues of the Flood Protection Sales Tax. In allocating Flood Protection Sales Tax revenues all debt service requirements and other financing costs of such bonds and other obligations shall be met prior to allocating funds for any other purposes or projects.

SECTION 21. 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 part of this Ordinance, provided, however, that no such amendment shall operate so as to increase the rate of tax imposed by this Ordinance or extend the period of time the tax will remain in effect.

SECTION 22. Enjoining Collection Forbidden.

An 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 23. Napa County Auditor-Controller Audit.

In addition to the audit required pursuant to Section 9(A)(2)(b), the Napa County Auditor-Controller shall annually conduct an audit of how the new transactions and use tax revenues are spent by the County of Napa. The audit shall be published in at least two County newspapers and copies of the audit shall be provided to, and must be available at, every public library located in the County.

SECTION 24. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are severable.

SECTION 25. Effective Date; Approval of the Voters.

This Ordinance shall take effect on March 3, 1998, but only if 2/3rds of the electors voting on the Ordinance at an election held on March 3, 1998, vote to approve this Ordinance.

SECTION 26. Annual Appropriation Limit.

The maximum annual appropriation limit for the Authority is \$20,000,000.00, subject to such adjustments or increases as are provided for by law.

SECTION 27. Implementation Subsequent to Vote.

Upon approval of this Ordinance by 2/3rds of the voters, the Authority may adopt policies and take such actions as may be necessary for the implementation of the one-half of one percent (1/2%) transactions and use tax authorized by this Ordinance. Such actions shall include, but not be limited to, the Authority amending this Ordinance without being required to secure a ratification by the electorate to provide for use of additional federal, state or local funds, to account for unexpected revenues, or to take into consideration unforeseen circumstances, or if such amendments are deemed necessary and recommended by the Authority's general counsel, bond counsel, or legal counsel for the State Board of Equalization; provided, however, that no amendments that will increase the rate of the transactions and use tax rate or extend the term beyond twenty years may be

made without securing the approval of the amendment by the legally required percentage of qualified voters voting on the amendment.

SECTION 28. Publication of Ordinance.

This Ordinance shall be published at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in the County of Napa, together with the names of the Directors voting for and against the same.

The foregoing Ordinance was introduced and read at a special meeting of the Napa County Flood Protection and Watershed Improvement Authority, held on the 28th day of October, 1997 and passed at a special meeting of the Napa County Flood Protection and Watershed Improvement Authority, held on the 4th day of November, 1997, by the following vote:

AYES: DIRECTORS

VARRELMAN, LUCE, FERRIOLE, WINTER and RIPPEY

NOES: DIRECTORS

NONE

ABSTAIN: DIRECTORS

NONE

ABSENT: DIRECTORS

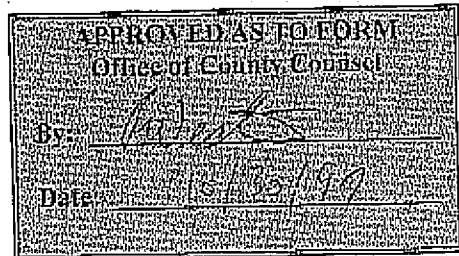
NONE

Mike Rippey
MIKE RIPPEY, Chairman
Board of Directors

ATTEST:

MARY JEAN McLAUGHLIN
Clerk of the Board

Leri Sisson
Deputy



APPROVED NOV 04 1997
BOARD OF SUPERVISORS
COUNTY OF NAPA

MARY JEAN McLAUGHLIN
CLERK OF THE BOARD

BY Michelle Price Deputy

Napa County Agreement No. 4102
NCFPWIA Agreement No. 8
NCFC&WCD Agreement No. 34(fc)
American Canyon Agreement No. _____
City of Napa Agreement No. _____
St. Helena Agreement No. _____
Calistoga Agreement No. _____
Yountville Agreement No. _____

**JOINT POWERS AGREEMENT
REGARDING THE USE AND EQUITABLE DISTRIBUTION
OF FLOOD PROTECTION SALES TAX REVENUES**

THIS JOINT POWERS AGREEMENT (the "Agreement") is made and entered into as of this 1st day of November, 1998, between and among the County of Napa, a political subdivision of the State of California (the "County"), the Napa County Flood Protection and Watershed Improvement Authority, a public authority established pursuant to section 7285.5 of the Revenue and Taxation Code (the "Authority"), the Napa County Flood Control and Water Conservation District, a flood control district organized under the laws of the State of California (the "District") and the Cities of American Canyon, Napa, St. Helena and Calistoga and the Town of Yountville, municipal corporations (the "Municipalities").

The parties hereby agree as follows:

SECTION 1. Purpose

On March 3, 1998, the electorate of the County approved the Authority's Ordinance No. 1 (the "Ordinance") which, among other things, imposed a one-half of one percent transactions and use tax in the County (the "Flood Protection Sales Tax") and established a Flood Protection and Watershed Improvement Expenditure Plan which describes the projects authorized to be funded with the proceeds of the Flood Protection Sales Tax (the "Plan").

In anticipation of the approval of the Ordinance by the electorate, the parties, in early 1998, entered into a Memorandum of Understanding regarding the use and equitable distribution of sales tax revenues generated by the enactment of the Napa County Flood Protection Sales Tax Ordinance (the "MOU").

The MOU contained operating policies and criteria regarding the equitable distribution of Flood Protection Sales Tax revenues by the Authority to the County, the District and the Municipalities, debt financing for projects contained in the Plan, project substitution, fund

accounting, contract relationships and administrative support to the Financial Oversight Committee established by the Ordinance.

The parties now intend to update and replace the MOU with this formal joint powers agreement as contemplated by Sections 3(g) and 5 of the Ordinance.

This Agreement is intended to be a joint powers agreement authorized by section 6500 et seq. of the California Government Code and is entered into for the purpose of implementing the flood protection, watershed improvement and related projects sanctioned by the Ordinance.

SECTION 2. Recitals

- (a) The Ordinance has imposed a Flood Protection Sales Tax in Napa County equal to one-half of one percent with the resultant revenues to be used only for projects contained in the Plan or substitute projects approved in accordance with the provisions contained in the Ordinance relating to substitute projects.
- (b) County-wide, a minimum of \$6 million per year is expected to be generated by the Flood Protection Sales Tax, based upon 1995-96 actual sales tax receipts in the County (see Table 1). Tax revenues for purposes of this Agreement will be calculated on a July 1-June 30 fiscal year basis commencing July 1, 1998 (the "Tax Year").
- (c) The term of the Flood Protection Sales Tax is for a maximum period of 20 years. The Flood Protection Sales Tax revenues are required to be placed in the General Fund of the Authority. The Auditor has indicated her intent to then allocate these revenues to the various subfunds that will be established for the benefit of the County, the District and the Municipalities (hereafter collectively "Tax Fund").
- (d) The County, the District and the Municipalities prior to the March 3, 1998, election conducted study sessions and deliberations regarding the unmet flood protection needs throughout the County and identified critical projects which would greatly reduce and/or eliminate the destructive flood damage which regularly occurs in the County. These projects were then included in the Ordinance which was subsequently approved by the voters on March 3, 1998.
- (e) The County, the District, the Authority and the Municipalities agree the funding structure for the Napa River and Napa Creek Project, as detailed and designed by the Community Coalition for Napa Flood Management and the Army Corps of Engineers (as further described in the Ordinance and hereafter referred to as the "Napa Project"), must be given special consideration because of the standing federal authorization granted to the Napa community in 1965. Despite the existence of this standing federal authorization, during 1996 and again in 1997, the Corps of Engineers and the United States Congress sent a series of messages to the Napa Community that not only project planning and design but also the local funding for the Napa Project must be in place by Spring 1998 in order for Congress to

continue appropriating money for the Napa Project. As a result of these series of messages it became clear that without action by the Napa Community the Napa Project standing federal authorization would be terminated and appropriations no longer approved on an annual basis for the reason that sufficient local funding did not exist to actually carry out the Napa Project.

(f) The County, the District, the Authority and the Municipalities have studied and understand the urgent need to commit sufficient Flood Protection Sales Tax revenues on a countywide basis to enable the local share of costs for the Napa Project to be generated, and that such contribution must be sufficient to enable the Napa Project to be completed within seven (7) years.

(g) The Authority has retained Leifer Capital as its financial advisor. The County, the District, the Authority and the Municipalities have studied the financial analysis provided by Leifer Capital (the "Leifer Report") which provides guidelines for long term debt financing structures that are feasible using Flood Protection Sales Tax revenues. The Leifer Report contains criteria for such financing assuring that the County's General Fund is not placed at risk. A copy of the Leifer Report is on file with the Clerk of the Board of Supervisors of the County of Napa and is incorporated herein by reference as though set out in full.

(h) The County, the District, the Authority and the Municipalities understand that, after completion of the projects contained in the Plan (including any substitute projects approved in accordance with section 8 of the Ordinance) and the establishment and capitalization of the long term capital improvement maintenance fund(s) authorized by the Ordinance, any remaining Flood Protection Sales Tax revenues, and any State Subventions as defined in Section 5(a) that accrue to the Tax Fund that has been established to enable the County, District and Municipalities to better track the distribution of the Flood Protection Sales Tax revenues will be used to retire the related debt early, in order to terminate or reduce the Flood Protection Sales Tax at the earliest possible time.

SECTION 3: Equitable Distribution of Sales Tax Revenues to Finance the Projects Contained in the Ordinance

(a) The Ordinance contains the following provisions which provide for the distribution of Flood Protection Sales Tax revenues:

(1) Section 2 (J): *"The allocation of the Flood Protection Sales Tax revenues that will be generated as a result of the passage of this 1/2% transaction and use tax by the Authority and the subsequent approval by the People with a 2/3rds vote, shall be based on the amount of Flood Protection Sales Tax revenue generated by the various geographic areas within the County, subject to Section 20 of this Ordinance."*

(2) Section 5: *"The distribution of the Flood Protection Sales Tax revenues to fund the projects described in this Ordinance, over the life of the tax, shall occur in a manner*

which is proportional to the Flood Protection Sales Tax revenues generated by each of the incorporated and unincorporated areas in Napa County. The portion of the distributions representing the share of the revenues allocated to the unincorporated area may be used to assist in paying for the flood protection projects involving incorporated areas that are described in this Ordinance."

"Specific allocations and methods of distribution based on the amount of Flood Protection Sales Tax revenues generated by each of the incorporated and unincorporated areas in Napa County shall be specified in a Joint Powers Agreement which shall be developed following the enactment of the Flood Protection Sales Tax."

(b) The sales tax generated during the 1995-96 year shall be used as the base year for Flood Protection Sales Tax allocation purposes (the "Base Tax"). The sales tax generated in the County by jurisdiction during the base year was as follows:

TABLE 1

	<u>Amount</u>	<u>Percentage</u>
(1) City of Napa:	\$3,124,000	52.0%
(2) Napa Vicinity:	\$ 876,000	14.6%
(3) City of American Canyon:	\$ 400,000	6.7%
(4) City of Calistoga:	\$ 198,000	3.3%
(5) City of St. Helena:	\$ 691,000	11.5%
(6) Town of Yountville:	\$ 137,000	2.3%
(7) County Unincorporated (excluding Napa Vicinity):	<u>\$ 574,000</u>	<u>9.6%</u>
Total 1995-96 Actual Receipts	\$6,000,000	100%

(c) The County, the District, the Authority and the Municipalities agree that for the life of the Flood Protection Sales Tax the entire share of the Tax generated within the City of Napa will be allocated to the Napa Project sub-fund account. Additionally, the entire share of the Flood Protection Tax generated in the unincorporated areas surrounding the City of Napa (the Napa Vicinity)¹ will also be allocated to the Napa Project sub-fund account. Therefore, each Tax Year \$4 million or 66.6% of the revenues generated by the Flood Protection Sales Tax in Napa County, whichever is greater, will be appropriated for this purpose. Notwithstanding the previous two sentences, the revenues from the Flood Protection Sales

¹ For purposes of this agreement, the "Napa Vicinity" is intended to include the areas of unincorporated County lands adjacent to the City of Napa including but not limited to the Silverado Country Club and Resort, the Coombsville area, all property included within Airport Industrial Area Specific Plan, Browns Valley, and the Carneros area.

Tax generated in the Napa Vicinity during the period July 1, 2005, until the termination or expiration of the Tax, that have been allocated to the Napa Project sub-fund account shall be reallocated to the County Unincorporated sub-fund account if it is determined by the Auditor of the Authority that payments received from the State pursuant to section 12748 of the California Water Code are in excess of the amount needed to complete the Napa Project, including but not limited to Napa Project financing and Cost Overruns (as defined in Section 6); provided further, however, that the amount of the reallocation shall not exceed the total Flood Protection Sales Tax the Napa Vicinity has contributed to the Napa Project sub-fund account for the period July 1, 2005 through the expiration or early termination of the Flood Protection Sales Tax.

(d) The remaining annual Flood Protection Sales Tax revenues generated throughout the County, in the proportions listed below, will be appropriated into sub-fund accounts maintained for projects in each of the below listed Municipalities and the County (the "County-wide Projects"), but not to exceed the Base Tax amounts set forth below:

TABLE 2

	<u>Base Tax</u>	<u>1st Seven year Sharing %</u>
(1) City of American Canyon: ²	\$ 400,000	6.7%
(2) City of Calistoga:	\$ 198,000	3.3%
(3) City of St. Helena:	\$ 691,000	11.5%
(4) Town of Yountville:	\$ 137,000	2.3%
(5) County Unincorporated (excluding Napa vicinity): ³	<u>\$ 574,000</u>	<u>9.6%</u>
Total 1995-96 actual receipts	<u>\$ 2,000,000</u>	<u>33.4%</u>

(e) Adjustment to County-wide Annual Allocations during Construction of the Napa Project:

² Flood Protection Sales Tax revenues from enactment of the Ordinance within the City of American Canyon city limits are difficult to predict due to State Board of Equalization regulations regarding local transactions and use taxes like the Flood Protection Sales Tax. Approximately 50% of American Canyon's sales tax revenues are from businesses with sales contract exports out of the County which are subject to the State Sales Tax, but will not be subject to the Flood Protection Sales Tax. Therefore, it is agreed that the projected distribution to American Canyon will be set at the historical level for purposes of this Agreement but will be reviewed and adjusted after the first year of actual collections (1998-99) are analyzed. Any adjustment to the American Canyon share will analyze and take into account one-time anomalies in the year used for the adjustment. Actual 1/2 cent 1995-96 State Sales Tax revenues collected in the City of American Canyon were \$400,000. Actual shares for American Canyon may equal 50% or \$200,000 or less. Each jurisdiction shall be debited or credited, as the case may be, in year 2 of the Flood Protection Sales Tax for any over- or underpayment in year 1 based on any adjustments in their percentage allocation required as a result of the American Canyon analysis.

³ The County Unincorporated (excluding Napa Vicinity) allocation will be placed in sub-accounts for the following geographic areas within the County:

Angwin/Deer Park:	\$ 100,000	17.0%
Berryessa Watershed:	\$ 40,000	7.0%
Balance of County:	\$ 434,000	76.0%

The Napa Project requires a front end cash flow from Flood Protection Sales Tax revenues greater than its equitable share during the first seven (7) years of the Flood Protection Sales Tax term. While the equitable share for County-wide Projects should be \$2.0 million per year, or 33% of the total sales tax received during any given tax year, whichever is greater (see Table 2), only \$1 million per year will be committed in the first seven (7) years of the Flood Protection Sales Tax term because of the financing needs of the Napa Project. These adjustments are reflected in Table 3⁴

(f) Except for the percentage adjustments resulting from the City of American Canyon review (see footnote No. 2), the above percentage equitable allocations will be fixed until June 30, 2005. The Authority's Auditor on or about October 1, 2005, will conduct a review of the percentage allocations and issue a report and one or more recommendations (the "Report and Recommendation") regarding adjustments to those allocations for the Tax Year commencing July 1, 2006, in a manner that will ensure that at the time the Flood Protection Sales Tax expires, or is terminated prior to its scheduled expiration, each jurisdiction's allocation will approximate the Flood Protection Sales Tax revenues generated within that jurisdiction due to the existence of said Tax. On or about October 1st of each subsequent year, and for the remaining life of the Flood Protection Sales Tax, the Auditor shall issue additional Reports and Recommendations regarding adjustments of the Flood Protection Sales Tax revenues to take effect the July 1st following the issuance of said Report and Recommendation based upon a review of the cumulative actual Flood Protection Sales Tax receipts collected in each jurisdiction up to that point in time. Each such Report and Recommendation must recommend adjustments ensuring that at the time the Flood Protection Sales Tax expires, or is terminated prior to its scheduled expiration, each jurisdiction's allocation will approximate the additional Flood Protection Sales Tax revenues generated within that jurisdiction due to the existence of said Tax. The aforementioned Reports and Recommendations, which must set forth the revised allocations and the basis for same, shall be submitted to each affected jurisdiction not later than January 15th of each calendar year. Unless an objection is received from the jurisdiction within 30 days of the mailing of the Report and Recommendation by the Auditor, any objections to the proposed allocation shall be deemed waived and the proposed revised allocation shall be implemented on the July 1st next following the issuance of the Report and Recommendation. Objections shall be resolved in the manner set forth in subparagraph (f)(3) of section 9 of this Agreement.

g) Project Maintenance Contribution:

⁴ If the Flood Protection Sales Tax revenues during the term of the Flood Protection Sales Tax exceeds \$6 million annually (hereafter "Growth Tax Revenues"), it shall be allocated as set forth in Section 5 so that when the Flood Protection Sales Tax expires, or is terminated prior to its scheduled expiration, each jurisdiction's allocation will approximate the additional sales tax revenues generated within that jurisdiction due to the existence of the Flood Protection Sales Tax.

(1) Napa Project: The equitable distribution of Flood Protection Sales Tax revenues to County-wide projects will be adjusted to reflect a contribution by the upper Napa River watershed communities and the County unincorporated area (excluding the Napa vicinity) to the long term maintenance cost of the Napa Project which must be periodically cleared of sedimentation which occurs due to erosion in the upper Napa River watershed. No adjustment shall be required during the first seven years of the existence of the Flood Protection Sales Tax. During the remainder of the life of the Flood Protection Sales Tax the adjustment shall total \$1,900,000. This adjustment applies only to the upper Napa River watershed and therefore will not be applied to the City of American Canyon share of the Flood Protection Sales Tax. This adjustment is reflected in Table 3 entitled "The Base Year Allocation of Flood Protection Sales Tax Revenues" and will be reflected in the allocations required by subparagraphs (d), (e) and (f) above. A cost component of the Napa Project shall be the creation of a \$10,000,000 Maintenance Trust Fund which will be dedicated to providing Napa Project maintenance in perpetuity. Neither the upper Napa River communities nor American Canyon shall be required to contribute any portion of its Flood Protection Sales Tax revenues to this fund.

(2) County-wide Projects Maintenance. To the extent that Growth Tax Revenues allow it, maintenance trust funds will be established for County-wide Projects as set forth in Section 5 with contributions on a pro-rata basis among the County, the District and the Municipalities (but not including the City of Napa). Such maintenance trust funds will not exceed the lesser of (1) actual maintenance needs, (2) 10% of the actual project cost for which the trust fund is being established, or (3) 30% of the County-wide projects share of the Growth Tax Revenues over the term of the Tax.

These limits on maintenance funding are intended to maximize the possibility that a portion of the Flood Protection Sales Tax revenues, and particularly the Growth Tax Revenue component of the Flood Protection Sales Tax revenues, will be available for the purpose of reducing the term of the Flood Protection Sales Tax.

(next page is page 8)

(h)

TABLE 3:**BASE YEAR ALLOCATION OF FLOOD PROTECTION SALES TAX REVENUES**

	Total-20 yrs	Annual Revenue Year 1-7	Annual Revenue Year 8-20	Napa Project Yearly Maintenance Debit: Year 8-20 ⁵	Annual Revenue After Maintenance Year 8-20
City of Napa (and Napa vicinity)	\$80,000,000	\$5,000,000	\$3,461,539	\$205,000	\$3,461,539
St. Helena	\$ 13,820,000	\$ 345,500	\$ 877,038	\$ 64,308	\$ 812,730
Yountville	\$ 2,740,000	\$ 68,500	\$ 173,885	\$ 13,154	\$ 160,731
American Canyon	\$ 8,000,000	\$ 200,000	\$ 507,692	0	\$ 507,692
Calistoga	\$ 3,960,000	\$ 99,000	\$ 251,308	\$ 19,000	\$ 232,308
County-Balance	\$ 8,480,000	\$ 217,000	\$ 535,461	\$ 49,692	\$ 485,769
County-Angwin	\$ 2,000,000	\$ 50,000	\$ 126,923	0	\$ 126,923
County-Berryessa	\$ 1,000,000	\$ 20,000	\$ 66,154	0	\$ 66,154
TOTAL	\$120,000,000	\$6,000,000	\$6,000,000	\$351,154	\$5,853,846

SECTION 4: Project Substitution

(a) Section 8 of the Ordinance contains provisions for substitution of Plan projects. It states:

In the event any project described in this Section is not economically or environmentally feasible, the legislative body having jurisdiction over the lands involved shall recommend to the Napa County Flood Control and Water Conservation District a replacement project. Only replacement projects that meet the criteria set forth in the first two paragraphs of this Section shall qualify and may be approved provided, however, that facilities for, or purchase of, North Bay Aqueduct or other water imported from outside Napa County shall not qualify as replacement projects. The Napa County Flood Control and Water Conservation District shall consider recommending approval of a

⁵ Napa City share of maintenance is \$205,000 per year plus the capitalization of a Maintenance Trust Fund of \$10 million, which will pay for project maintenance in perpetuity. These costs are included in the overall financing plan for the Napa Project (see Leifer Report).

replacement project to the Authority only after obtaining the recommendation of the Financial Oversight Committee and the Technical Review Committee. Approval by the Authority shall be in the form of an amendment to this Ordinance. Changes meeting the above criteria, to the extent permitted by law, shall not need a vote of the People ratifying the amendment.

(b) In carrying out and administering this provision, the County, the Municipalities, the Authority and the District agree that the following criteria will guide the approval of replacement projects:

(1) All projects funded by Flood Protection Sales Tax revenues will be permanent public improvements meeting the Government/Streets & Highways Code definitions of capital projects. Operation and maintenance costs for the capital projects will be allowable.

(2) All Municipalities will address their primary flood protection needs as the highest priority, before water supply reliability and wastewater projects are undertaken.

(3) Project substitutions will be allowed only if projects identified in the Plan are determined to be not economically or environmentally feasible or if a CEQA analysis of alternatives determines that a different project is superior in addressing the objectives of flood protection, improved water quality or stabilization of water supply reliability for existing residents.

(4) The Ordinance, in its entirety, will guide the approval of replacement projects. The Ordinance specifies project design criteria, oversight by the Financial Oversight Committee and provides policy and intent statements of the people of the County regarding the Plan projects, including replacement projects. Additional projects, rather than substitute projects, are not authorized by the Ordinance and therefore cannot be permitted.

SECTION 5: Use of Additional Revenues

(a) Additional revenues can be expected to accrue to the Tax Fund due to interest received, growth in Flood Protection Sales Tax revenues which exceed the \$6 million 1995-96 base year level, and funds received from the State of California pursuant to section 12748 of the California Water Code (the "State Subventions") in excess of those needed for Napa Project Cost Overruns (as that term is defined in Section 6). Growth Tax Revenues shall be allocated in the manner set forth in this Section. Interest accruing to each jurisdiction's sub-fund account within the Tax Fund (i.e., the Napa Project Fund, the Calistoga Fund etc.) shall be credited to that sub-fund account for use by that jurisdiction in the implementation of that jurisdiction's qualifying projects. These additional funds, if any, will not be used for additional projects beyond those projects, or duly authorized substitute projects, identified in the Ordinance. The funds will be disbursed in the manner described in subparagraphs (b) and (c) immediately below.

(b) Growth Tax Revenues will be used only for the following purposes:

(1) For the first seven (7) years of the Flood Protection Sales Tax term ending June 30, 2005, Growth Tax Revenues shall be allocated to all jurisdictions based on the Base Tax percentages set forth in subparagraphs (c) and (d) of Section 3 for use by each jurisdiction in the implementation of that jurisdiction's approved projects; provided, however, that all such growth revenues shall be temporarily re-allocated for the purpose of financing the Napa Project.

(2) Growth Tax Revenues received or after July 1, 2005, shall be allocated in the following order of priority on a quarterly basis. Reallocations called for by subparagraphs (B) through (E) shall be on a pro-rata basis.

(A) To satisfy any debt financing payment incurred for the Napa Project not satisfied by the Napa Project's share of tax revenues set forth in Table 3 (see section 3(h)) as that percentage may be adjusted annually following July 1, 2005, pursuant to Section 3(f);

(B) To make up for any shortfalls in previous years to the Napa Project or County-wide Projects due to the drop in Flood Protection Sales Tax revenues below \$6 million as set forth in Section 7(b);

(C) To return to the Countywide Projects Flood Protection Sales Tax revenues that were temporarily reallocated for use on the Napa Project during the period July 1, 1998 through June 30, 2005 pursuant to Sections 3(e) and 5(b)(1);

(D) To return to the Countywide Project sub-fund accounts an amount equal to the interest that would have been earned on the Flood Protection Sales Tax revenues that were diverted for use on the Napa Project as set forth in Section 3(e) and 5(b)(1) had the diversion not occurred;

(E) To all jurisdictions in the amounts set forth in Section 3(g) of this Agreement.

(F) To retire project-related outstanding debt as early as possible so that the Flood Protection Sales Tax will be terminated at the earliest possible time.

(c) Notwithstanding any other provision of this Agreement, State Subventions shall be utilized in the following order of priority:

(A) To satisfy any debt financing payment incurred for the Napa Project not satisfied by the Napa Project's share of tax revenues set forth in Table 3 (see section 3(h)) as that percentage may be adjusted annually following July 1, 2005, pursuant to Section 3(f);

(B) To fund Napa Project Cost overruns in their entirety;

- (C) To return to the County Unincorporated sub-fund account an amount equal to the Flood Protection Sales Tax revenues generated in the Napa Vicinity from July 1, 2005 to the expiration or early termination of the Flood Protection Sales Tax;
- (D) To make up for any shortfalls in previous years to the Napa Project or Countywide Projects due to a drop in Flood Protection Sales Tax revenues below \$6 million as set forth in Section 7(b);
- (E) To return to the Countywide Projects Flood Protection Sales Tax revenues that were temporarily reallocated for use on the Napa Project during the period July 1, 1998 through June 30, 2005 pursuant to Sections 3(e) and 5(b)(1);
- (F) To return to the Countywide Project subfund accounts an amount equal to the interest that would have been earned on the Flood Protection Sales Tax revenues that were diverted for use on the Napa Project as set forth in Section 3(e) and 5(b(1)) had the diversion not occurred;
- (G) To retire project-related outstanding debt as early as possible so that the Flood Protection Sales Tax will be terminated at the earliest possible time.

SECTION 6: Napa Project Cost Overruns

It is the responsibility of the Authority to ensure the Flood Protection Sales Tax revenues are properly expended in the manner contemplated by Sections 3, 5 and 7 of this Agreement and the Ordinance. The Authority intends to satisfy its responsibility by entering into a contract for administrative services with the the District. For purposes of this Agreement, Napa Project cost overruns shall be defined as all expenses creditable to the Napa Project by the Army Corps of Engineers (the "Corps") in excess of the estimates contained in the Final General Design Memorandum certified by the District with respect to the Napa Project and any non-Corps creditable expenses of the Napa Project necessary to ensure the Napa Project's compliance with the project plan of the Community Coalition for Napa Flood Management. Napa Project cost overruns will be funded in the following order of priority:

- (a) State Flood Control Subventions program reimbursements received by the District as a result of the implementation of the Napa Project.
- (b) Growth Tax Revenues available to the District pursuant to Section 5(a) or (d) provided such revenues will not exceed the probable total additional sales tax generated by the City of Napa and the Napa County vicinity.
- (c) City of Napa funding from other than Flood Protection Sales Tax sources.

If the above funding is not sufficient reductions in Napa Project's scope will be required.

SECTION 7: Reductions in Flood Protection Sales Tax Revenues

(a) It is understood that Flood Protection Sales Tax revenues are influenced by cycles in the overall economy, changes in State laws governing what is and is not taxable and other factors of external influence. In the event that Flood Protection Sales Tax revenues drop below the 1995-96 base year levels used for the financial forecasting for this Agreement, funding of the Napa Project shall have first priority and all other projects shall be subordinated on a pro-rata basis to the financing needs of the Napa Project.

(b) The Napa Project will maintain the minimum annual funding base specified in Table 1, if possible, and all other allocations will be proportionately reduced in any year that Flood Protection Sales Tax revenues are below \$6.0 million per year County-wide. Shortfalls that might occur to the Napa Project or other County-wide Projects due to this reduction in revenues shall be recovered in other years when Flood Protection Sales Tax revenues exceed the Base Tax levels in the manner set forth in Section 5(b)(2)(B), with funding for the Napa Project having first priority during the first seven years of the life of the tax; thereafter adjustments shall occur on a proportionate basis

SECTION 8: Debt Financing Policies

(a) The Napa Project will require debt financing not to exceed 20 years for approximately one half of the construction cost, as detailed in the Leifer Report. The County, the Authority, the District and the Municipalities understand and agree that the debt for the Napa Project will require the maintenance of a debt service coverage ratio and other covenants which will affect the ability to borrow for other Plan projects and may at times restrict the ability of other jurisdictions to access their allocated funds.⁶ As required by Section 20⁷ of the

⁶ If bonds or other indebtedness are issued by the Authority, it is likely that the financing documents will require that all of the Flood Protection Sales Tax revenues be transferred by the State Board of Equalization directly to a trustee who will be appointed in connection with the issuance of the bonds or other indebtedness. The financing documents will also require the trustee to transfer to the Auditor of the Authority in a timely manner such revenue as are not needed for the servicing of the bonds or other indebtedness. The financing documents will further require the trustee to provide such reports as the Auditor may require to enable the Auditor to allocate (for accounting purposes only) all of the Flood Protection Sales Tax revenues (including but not limited to those funds retained by the trustee) so that when the Tax expires, or is terminated prior to its scheduled expiration, each jurisdiction will be able to verify through an examination of the Auditor's records that its cumulative allocation approximates the additional Flood Protection Sales Tax revenues generated within that jurisdiction due to the existence of the Tax. Financing documents shall not be approved by the Authority unless they require the trustee to take such action.

⁷ SECTION 20. Bonds and Other Obligations. Upon voter approval of this Ordinance, the Authority shall have the authority to issue bonds or other obligations (including, without limitation, lease or installment sales agreements) to finance any of the projects included in the Plan as it may be amended from time to time (including reserves and other financing costs), which bonds or other obligations shall be payable from the

Ordinance, the rights of all parties hereunder to Flood Protection Sales Tax revenues shall be subordinate to the debt service coverage ratio needs of the above-described Napa Project debt. County-wide projects may be debt financed either through the Authority or by the Municipalities or the County. Any such financing must first be approved in writing by the governing board of the Authority. Any such financing must expressly state that it is subordinate to the Napa Project financing.

(b) The Authority will enter into project specific agreements with the County, the District and the Municipalities as described in Section 9(c). These agreements will detail project and financial terms and conditions consistent with this Agreement and the Ordinance. All such agreements must expressly state that the funding of the projects identified in the agreement(s) shall be subordinate to the Napa Project financing.

(c) Each project specific agreement described in Section 9(c) shall contain guarantees to protect the County General Fund. Such protections will include but not be limited to the following:

(1) Any debt incurred must indicate that the County General Fund is not obligated for its repayment; amounts pledged for the repayment of debt shall be limited to Flood Protection Sales Tax revenues contained in the Flood Tax Fund and any sub-accounts of such Fund.

(2) No County owned assets will be pledged as security for bond holders (unless the County chooses to use such assets as security when financing one of its approved projects). Rather, the projects themselves must provide the necessary security or the Municipalities or the District must identify additional security.

(d) The County, the District and the Municipalities understand and agree that Section 20 of the Ordinance anticipates that the Authority will issue bonds or other obligations (including, without limitation, lease or installment sales agreements) (including reserves and other financing costs), that these bonds or other obligations, if issued, will be payable from the revenues of the Flood Protection Sales Tax on a priority basis, and therefore in allocating Flood Protection Sales Tax revenues all debt service requirements and other financing costs of the Napa Project bonds and other obligations must be met, in accordance with the terms of the financing documents prior to allocating funds for any other purposes or projects. Therefore the County, the District and the Municipalities agree that each project specific agreement described in Section 9(c) of this Agreement shall contain guarantees ensuring that the funding of all projects (and substitute projects) identified in Section 8 of the Ordinance and referenced in Section 9(c) of this Agreement shall be subordinate to the Napa Project bonds and other obligations.

revenues of the Flood Protection Sales Tax. In allocating Flood Protection Sales Tax revenues all debt service requirements and other financing costs of such bonds and other obligations shall be met prior to allocating funds for any other purposes or projects.

(e) In connection with any of the debt financing described herein, the County, the District, the Authority and/or the Municipalities may be requested to provide certain information regarding their organization, operations, financial status and/or use of Flood Protection Sales Tax revenues (the "Information") in connection with the issuance of debt and annually thereafter. Each party hereby covenants and warrants that any Information it provides to the Authority, the District, the County, or their respective officers, employees, consultants or agents, shall, to the best of its knowledge be true, complete and correct. Each party hereby agrees to indemnify and hold harmless the other parties with respect to any inaccuracies in the Information provided by it.

SECTION 9: Fund Accounting, Contract Relationships, and Oversight

- (a) The Authority's Auditor will maintain a Tax Fund to receive and disburse Flood Protection Sales Tax revenues in accordance with the Ordinance and the terms of this Agreement and subject to the Agreement for State Administration of District Transactions and Use Taxes, dated May 7, 1998, and any resolution or indenture or similar document providing for issuance of bonds or other obligations of the Authority under Section 20 of the Ordinance.
- (b) The Authority's Auditor will prepare an annual budget for the Authority, including the status of the Tax Fund, which will be formally adopted each year by the governing board of the Authority. The Authority may consult with the Financial Oversight Committee established by the Ordinance in the preparation of this budget. Each year the County's Auditor-Controller will also conduct an audit of the Flood Tax Fund as required by section 23 of the Ordinance. This audit shall be in addition to the audit required by the Ordinance to be conducted by the Financial Oversight Committee.
- (c) All disbursements of Flood Protection Sales Tax revenues will be accomplished through contracts between the Authority and individual Municipalities, the County or the District. Jurisdictions wishing to access such funds shall submit to the Authority a request for disbursement in a form acceptable to the Authority, which, at a minimum, shall state the amount of funds requested, describe the project for which the funds are sought and specify how the proposed project is a permissible use of Flood Protection Sales Tax revenues.
- (d) The Authority's Auditor will establish a financial system technical advisory committee (the "Technical Advisory Committee") to include the Authority's Auditor, the County Auditor-Controller and the appropriate administrator from each Municipality, the County, and the District. The Technical Advisory Committee will determine and recommend necessary controls for tracking of equitable distribution of revenues from the Flood Tax Fund and other financial aspects of this Agreement. The Technical Advisory Committee will also serve as the Debt Advisory Committee.
- (e) The Technical Advisory Committee will provide assistance and support to the

Financial Oversight Committee established by the Ordinance to carry out its oversight mission.

(f) General Administrative expenses of the Authority shall be provided for as follows:

- (1) Notwithstanding any other provision of this Agreement, and prior to the allocation of Flood Protection Sales Tax funds in accordance with Sections 3, 5 and 7, the Authority's Auditor shall annually allocate up to three percent (3%) of gross Flood Protection Sales Tax revenues to be used for the payment of the Authority's general administrative expenses incurred in connection with the administration of the Flood Protection Sales Tax, including costs associated with the operation of the Financial Oversight Committee and Technical Advisory Panel described in the Ordinance as well as the Technical Advisory Committee described in (d); provided, however, that the Authority shall be entitled to retain funds allocated hereunder only to the extent expenses are actually incurred as set forth in (4) below.
- (2) The annual budget adopted by the Authority pursuant to (b) shall take into account these general administrative funds. The Authority shall keep records of all expenditures charged to general administration, which records shall be made reasonably available to the County, the District and the Municipalities upon request.
- (3) Any administrative expenses of the Authority which are clearly and directly related to a particular project as determined by the Authority's Auditor (such as debt financing expenses as described in Section 8) shall not be deemed general administrative expenses hereunder but shall instead be charged to the Flood Account of the jurisdiction responsible for the project. Such charges shall be clearly shown on the quarterly financial report of general administrative expenses described in Section 9 (f) (6). Within 30 days of receiving this report a jurisdiction may appeal the decision of the Authority's Auditor by filing a formal request for review with the Secretary of the Authority. If such a request is filed, it shall be considered at the next regularly scheduled meeting of the Authority's governing body for which the appeal can be properly agendaized. The determination of the issue by the Authority's governing body shall be final and conclusive.
- (4) Any funds allocated for payment of the Authority's general administrative expenses in a particular fiscal year that are not expended during that year (or encumbered for payment of expenses arising in that fiscal year) shall be re-allocated to the County, the District and the Municipalities in accordance with Sections 3, 5 and 7. The Authority shall not be entitled to "carryover" any such excess funds from year to year, but shall instead, in each fiscal year, be subject to the 3% cap set forth in (1) above. To the extent the Authority's general administrative expenses exceed in any fiscal year the amount allocated for their payment hereunder, such expenses shall not be defrayed using Flood Protection Sales Tax revenues.
- (5) Any Department of the County or the Flood Control and Water Conservation District which does not track time and activity in 1 hour or less increments who intends to bill the Authority for general administrative expenses shall conduct a time study in 1 hour increments

for one month of each calendar quarter in order to justify such charges. Such time studies and activity reports shall be available for review by any party to this Agreement. In Departments where some but not all employees track time and activity in 1 hour or less increments, only those employees who do not track time and activity in 1 hour or less increments shall be subject to this requirement.

(6) Not less than sixty (60) days following the end of each calendar quarter the Auditor shall issue a report regarding the administrative expenses incurred during the preceeding quarter. The report shall allocate the total costs of the quarter to the various projects that qualify for sales tax reimbursement, the operation of the Financial Oversight Committee, the Technical Advisory Committee, and the Authority itself. Copies of this report shall be mailed to each party to this Agreement by certified mail. A party that objects to the allocations contained in that report must file written objections with the Auditor within 30 calendar days of receipt of the report. After that point all objections to the allocation(s) of the Auditor are deemed waived. Objections that are received will be resolved in the manner set forth in subparagraph (f)(3) of this section.

SECTION 10: Mutual Indemnification

Notwithstanding section 895.2 of the Government Code, each party hereunder hereby agrees to defend, indemnify and hold harmless the other parties, their officers, agents and employees, from any claim, loss or liability including without limitation, those for personal injury (including death) or damage to property, arising out of or connected to its performance under this Agreement, including activities of that party funded in whole or in part by Flood Protection Sales Tax revenues.

SECTION 11: Miscellaneous Provisions

(a) This Agreement constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings and negotiations, whether written or oral, among the parties with respect to the subject matter hereof, including the MOU.

(b) If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

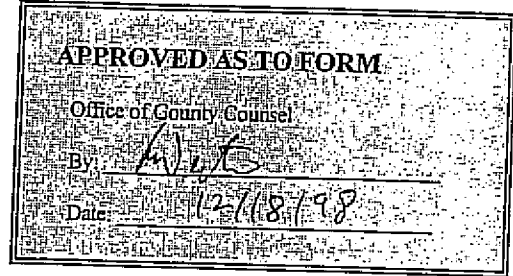
(c) The headings used herein are for reference. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California. To the extent any conflict exists between the terms of this Agreement and the terms of the Ordinance, the terms of the Ordinance shall control.

COUNTY OF NAPA

By Vince Ferraro

ATTEST:
MARY JEAN MCLAUGHLIN
Clerk of the Board

By Teri Sisson, Deputy

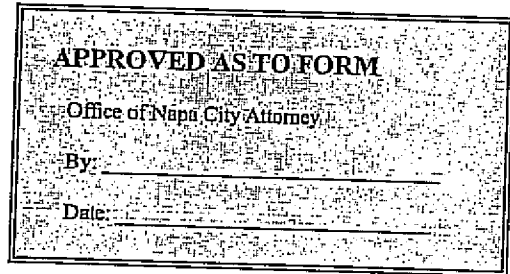


CITY OF NAPA

By _____

ATTEST:

By _____

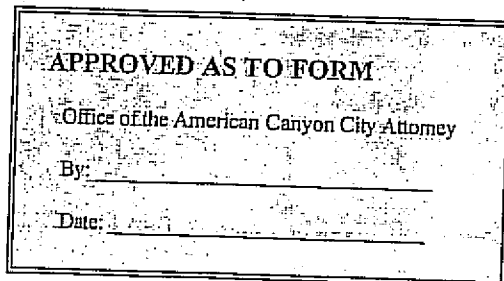


CITY OF AMERICAN CANYON

By _____

ATTEST:

By _____



(d) Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of all parties.

(e) This Agreement may be executed in counterparts with the same force and effect as if each of the signatories had executed the same instrument.

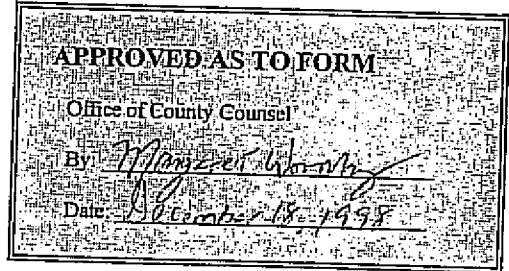
IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date first above written.

NAPA COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

By Milo Rippey

ATTEST:
MARY JEAN MCLAUGHLIN,
District Secretary

By Teri Sisson, Deputy

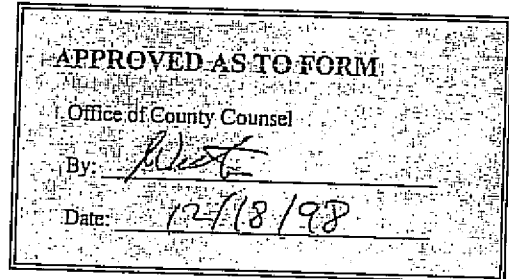


NAPA COUNTY FLOOD PROTECTION AND
WATERSHED IMPROVEMENT AUTHORITY

By Milo Rippey

ATTEST:
MARY JEAN MCLAUGHLIN
Secretary of NCFPWIA

By Teri Sisson, Deputy



CITY OF NAPA

By _____

ATTEST:

APPROVED AS TO FORM:

By _____

By _____

CITY OF AMERICAN CANYON

By *Ben Anderson*

ATTEST:

APPROVED AS TO FORM:

By *[Signature]*

By *William D. Am*

CITY OF ST. HELENA

By _____

ATTEST:

APPROVED AS TO FORM:

By _____

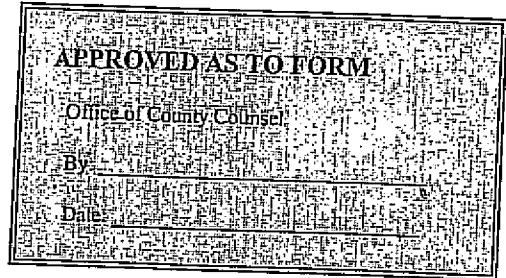
By _____

COUNTY OF NAPA

By _____

ATTEST:
MARY JEAN MCLAUGHLIN
Clerk of the Board

By _____



COUNTERSIGNED:

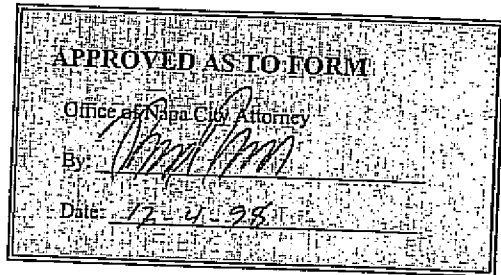
CITY OF NAPA

By *Mr. Edna J. Hanks*
FINANCE DIRECTOR

By *Ed Henderson*

ATTEST:

By *Douglas D. Jones*

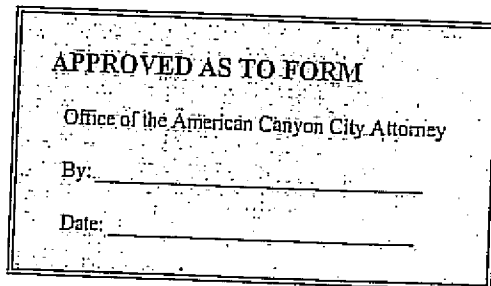


CITY OF AMERICAN CANYON

By _____

ATTEST:

By _____

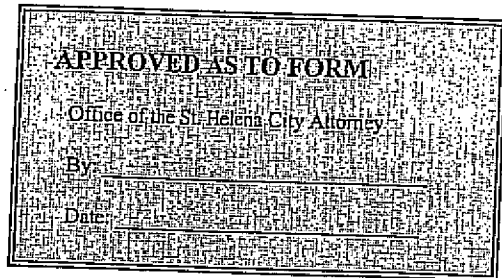


CITY OF ST. HELENA

By _____

ATTEST:

By _____

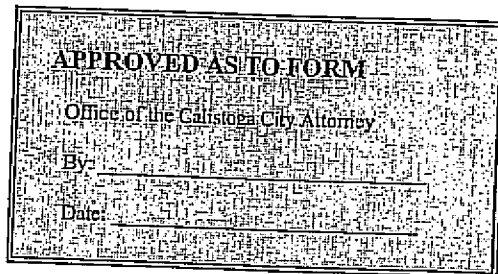


CITY OF CALISTOGA

By _____

ATTEST:

By _____



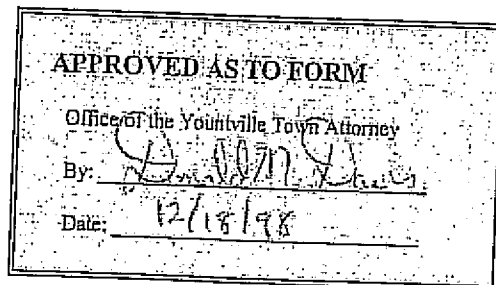
TOWN OF YOUNTVILLE

By Mary Lou Holt
Mary Lou Holt, Mayor



ATTEST:

By K. Joyce Houghton
K. Joyce Houghton
Deputy Town Clerk



TOWN OF YOUNTVILLE
RESOLUTION NUMBER 1561-98

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YOUNTVILLE AUTHORIZING THE MAYOR TO SIGN A JOINT POWERS AGREEMENT REGARDING THE USE AND EQUITABLE DISTRIBUTION OF SALES TAX REVENUES GENERATED BY THE ENACTMENT OF THE NAPA COUNTY FLOOD PROTECTION SALES TAX ORDINANCE.

WHEREAS, on March 3, 1998, the electorate of the County approved the Authority's Ordinance Number 1 which, among other things, imposed a one-half of one percent transactions and use tax in the County and established a Flood Protection and Watershed Improvement Expenditure Plan which describes the projects authorized to be funded with the proceeds of the Flood Protection Sales Tax; and

WHEREAS, in anticipation of the approval of the Ordinance by the electorate, on January 13, 1998, Yountville adopted Resolution Number 1409-98 approving a Memorandum of Understanding, regarding the use and equitable distribution of the sales tax revenues generated by the enactment of the proposed Napa County Flood Protection Sales Tax Ordinance; and

WHEREAS, the Memorandum of Understanding contained operating policies and criteria regarding the equitable distribution of Flood Protection Sales Tax revenues by the Authority to the County, the District, and the municipalities, debt financing for projects contained in the Plan, project substitution, fund accounting, contract relationships, and administrative support to the Financial Oversight Committee established by the Ordinance; and

WHEREAS, the parties now intend to update and replace the Memorandum of Understanding with this formal joint powers agreement.

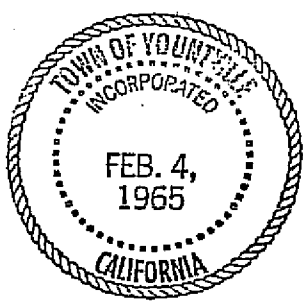
NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Yountville hereby authorize the Mayor to sign the Joint Powers Agreement regarding the use and equitable distribution of sales tax revenue generated by the enactment of the Napa County Flood Protection Sales Tax Ordinance as revised, on behalf of the Town of Yountville.

Mary Lou Holt
Mary Lou Holt, Mayor

STATE OF CALIFORNIA)
COUNTY OF NAPA)§
TOWN OF YOUNTVILLE)

I, Deputy Town Clerk of the Town of Yountville, do hereby certify the foregoing Resolution was duly and regularly adopted by the Town Council of the Town of Yountville at a regular meeting thereof held on the 24th day of November, 1998 by the following vote:

AYES: Jefferson, Knight, Miner, Borrelli-Caldwell, Holt;
NOES: None;
ABSENT: None;
ABSTAIN: None.



(s) *K. Joyce Houghton*
K. Joyce Houghton, Deputy Town Clerk

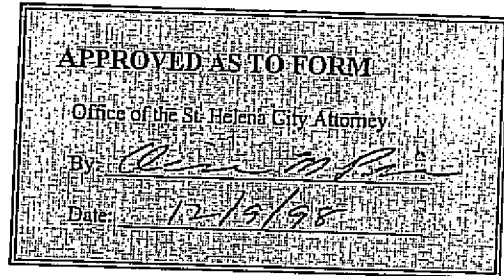


CITY OF ST. HELENA

By Bonnie Long
Bonnie Long, City Administrator

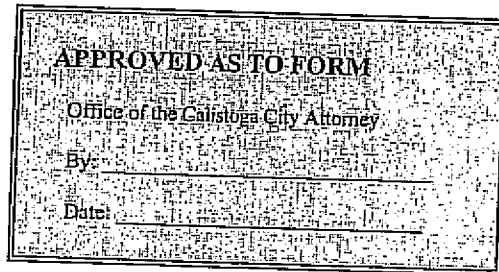
ATTEST:

By Delia Gujosa
City Clerk
Delia Gujosa



CITY OF CALISTOGA

By _____



ATTEST:

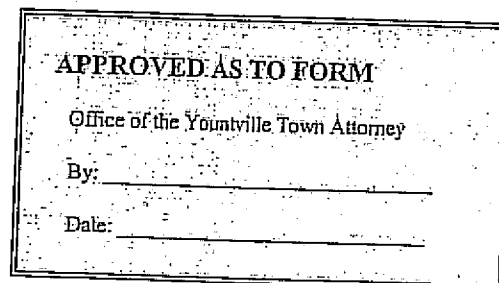
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TOWN OF YOUNTVILLE

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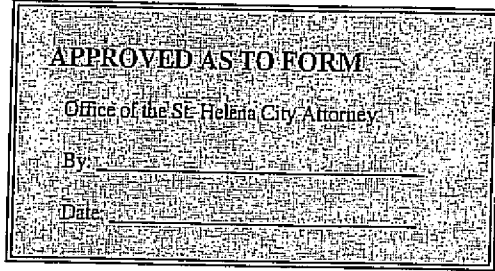
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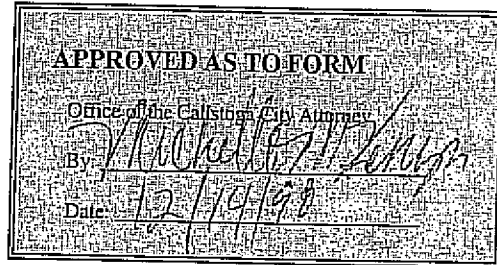
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CITY OF CALISTOGA

By [Signature]

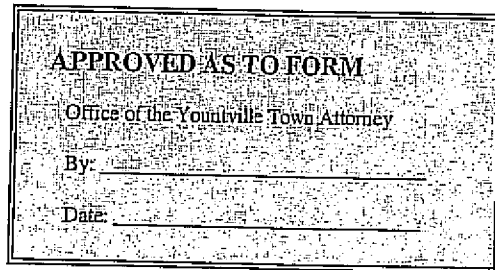


ATTEST:

By [Signature]

TOWN OF YOUNTVILLE

By _____



ATTEST:

By _____

CITY OF ST. HELENA

By _____

ATTEST:

By _____

APPROVED AS TO FORM
Office of the St. Helena City Attorney
By: _____
Date: _____

CITY OF CALISTOGA

By _____

ATTEST:

By _____

APPROVED AS TO FORM
Office of the Calistoga City Attorney
By: _____
Date: _____

TOWN OF YOUNTVILLE

By _____

ATTEST:

By _____

APPROVED AS TO FORM
Office of the Yountville Town Attorney
By: _____
Date: _____

**MEMORANDUM OF UNDERSTANDING
REGARDING THE USE AND EQUITABLE DISTRIBUTION
OF SALES TAX REVENUES GENERATED BY THE ENACTMENT OF
THE
NAPA COUNTY FLOOD PROTECTION SALES TAX ORDINANCE**

PARTIES TO THE MEMORANDUM OF UNDERSTANDING (MOU):

County of Napa (County), Napa County Flood Protection and Watershed Improvement Authority (Authority), the Napa County Flood Control and Water Conservation District (District), the Cities of American Canyon, Napa, St. Helena, Calistoga and the Town of Yountville (Municipalities). Each Municipality representative to the District will be a signatory to the MOU after receiving authority from their Governing Body.

The parties to this MOU hereby agree as follows:

SECTION 1. Purpose

This MOU is the precursor to the Joint Powers Agreement between the Authority, the District, the County and the Municipalities as required by Section 3(g) and Section 5 of the Napa County Flood Protection Sales Tax Ordinance (97-1), (Ordinance).

The Ordinance, if enacted by the people of Napa County, will require that new revenues generated by a 1/2 percent increase in the local sales tax fund only the flood protection, water supply reliability and wastewater projects identified in the Napa County Flood Protection and Watershed Improvement Expenditure Plan (Plan) contained in the Ordinance.

This MOU contains operating policies and criteria regarding equitable distribution of new sales tax revenues to the County and Municipalities, debt financing for projects contained in the Plan, project substitution, fund accounting, contract relationships and administrative support to the Financial Oversight Committee and Technical Advisory Panel established by the Ordinance.

SECTION 2. Recitals

- (a) The Board of Supervisors has placed the Napa County Flood Protection Sales Tax Ordinance No. 1 of the Authority before the voters of Napa County. The Ordinance, if enacted by the voters by a 2/3 vote, will raise the sales tax in Napa County by 1/2 percent with resultant revenues used only for projects contained in the Plan or substitute projects approved in accordance with provisions contained in the Ordinance.

- (b) County-wide, \$6 million per year is expected to be generated by the increase in sales tax, based upon 1995-96 actual sales tax receipts in Napa County.
- (c) The term of the flood protection sales tax will be for a maximum period of 20 years.
- (d) The County, District and the Municipalities have conducted study sessions and deliberations regarding the unmet flood protection needs throughout the County and have identified critical projects which would greatly reduce and/or eliminate the destructive flood damage which regularly occurs in Napa County. These projects are contained in the Ordinance.
- (e) The County, District and Municipalities agree that the funding structure for the City of Napa Project enjoys special consideration given the standing Federal authorization granted to the community in 1965. The Corps of Engineers and the United States Congress have sent a clear message that project planning and design and the local funding must be in place by Spring 1998 in order for Congress to continue appropriating money for this Project. The Project authorization will be terminated by lack of appropriations without the enactment of the Flood Protection Sales Tax Ordinance.
- (f) The County, District and Municipalities have studied and understand the urgent need to commit the local share of cost for the City of Napa/Corps of Engineers Flood Control Project (Napa City Project), including a commitment sufficient to complete the Napa City Project within seven (7) years.
- (g) The County, District and Municipalities have studied the financial analysis provided by Leifer Capital (Leifer Report), the County's financial advisor, which provides guidelines for long term debt financing structures that are feasible using sales tax revenues. The Leifer Report contains criteria for such financing that will assure that the County of Napa General Fund is not placed at risk.
- (h) The County, District and Municipalities understand that the Ordinance requires that after completion of the projects contained in the Plan, and the establishment of County-wide maintenance funds, any new tax revenues that accrue to the Flood Tax Fund established by the Ordinance will be used to retire the related debt early, in order to terminate or reduce the tax increase at the earliest possible time.
- (i) All Municipalities have adopted unanimous resolutions supporting the Board of Supervisors in placing this Ordinance on the ballot.

SECTION 3: Equitable Distribution of Sales Tax Revenues to Finance the Projects Contained in the Ordinance

- (a) The Ordinance contains the following provisions which provide for the distribution of Flood Protection Sales Tax revenues:
 - (1) Section 2 (j): *"The allocation of the flood protection sales tax revenues that will be generated as a result of the passage of this 1/2% transaction and use tax by the*

Authority and subsequent approval by the people with a 2/3rds vote, shall be based on the amount of flood protection sales tax revenue generated by the various geographic areas within the County, subject to Section 20 of this Ordinance."

(2) Section 5: "The distribution of the flood protection sales tax revenues to fund the projects described in this Ordinance, over the life of the tax, shall occur in a manner which is proportional to the flood protection sales tax revenues generated by each incorporated jurisdiction and unincorporated areas in Napa County. The portion of the distributions representing the share of the revenues allocated to the unincorporated area may be used to assist in paying for the incorporated flood protection projects described in this Ordinance."

"Specific allocation formulas and methods of distribution based on the amount of flood protection sales tax revenues generated by each of the incorporated and unincorporated areas in Napa County shall be specified in a Joint Powers Agreement which shall be developed following the enactment of the flood protection sales tax."

- (b) The County, District and Municipalities agree that the entire share of annual sales tax revenues resulting from the Ordinance generated within the City of Napa and from the County unincorporated areas surrounding the City of Napa hereinafter referred to as "Napa vicinity", will be allocated to a City of Napa Project fund. Annually, a minimum of \$4 million (67%) of the new revenues will be appropriated for this purpose, and the following proportions and minimum amounts will be placed in this account annually during the term of the new tax:

	Base Year 1995-96	Percentage
(1) City of Napa:	\$3,124,000	52.0%
(2) County Unincorporated:	\$ 876,000	14.6%

- (c) The remaining annual tax revenues, 33%, generated throughout the County, by the percentages listed below, will be appropriated into individual accounts maintained for projects in each of the below listed municipalities:

	1995-96 Base Year	Future Sharing %
(1) City of American Canyon:*	\$ 400,000	6.7%
(2) City of Calistoga:	\$ 198,000	3.3%
(3) City of St. Helena:	\$ 691,000	11.5%
(4) Town of Yountville:	\$ 137,000	2.3%
(5) County Unincorporated:**	\$ 574,000	9.6%
Total 1995-96 Actual receipts	\$ 2,000,000	

* Sales Tax revenues from enactment of the Ordinance within the City of American Canyon City limits are difficult to predict due to the State Board of Equalization regulations regarding the local Transaction and Use Tax. Approximately 50% of American Canyon's sales tax revenues are from businesses with sales contract exports out of the County which, unlike the State Sales Tax, will not be subject to the new local tax. Therefore, it is agreed that the projected distribution to American Canyon will be set at the historical level for purposes of this MOU but will be reviewed and adjusted after the first year of actual collections (1998-99) are analyzed. Any adjustment to the American Canyon share will analyze and take into account one-time anomalies in the year used for the adjustment. Actual 1/2 cent 1995-96 State Sales Tax revenues collected in the City of American Canyon were \$400,000. Actual shares for American Canyon may equal 50% or \$200,000 or less.

** The County Unincorporated allocation will be placed in sub-accounts for the following geographic areas within the County:

Angwin/Deer Park:	\$ 100,000	17.0%
Berryessa Watershed:	\$ 50,000	7.0%
Balance of County:	\$ 424,000	76.0%

- (d) Except for percentage adjustments resulting from the City of American Canyon review in (c), for the first five (5) years of the tax, the above percentage equitable allocations will be fixed. The County Auditor-Controller will conduct a review of the percentage allocations after five years and make recommendations regarding allocation changes, based upon a review of actual sales tax receipts collected in each jurisdiction.
- (e) Adjustment to County-wide Annual Allocations during Construction of the Napa Project: The City of Napa Project requires a front end cash flow from sales tax revenues greater than it's equitable share during the first seven (7) years of the sales tax term. While the equitable share for County-wide Projects should be \$2.0 million per year, 33% of total, only \$1 million per year, 50% of the equitable distribution, can be committed in the first seven (7) years of the sales tax term. The adjustment to early year cash flow for each community is reflected in Table I. If there is growth in sales tax revenues during the term of the sales tax, County-wide equitable allocations will be increased by the compound rate of inflation that occurs during the seven (7) "under equity" years.
- (f) Project Maintenance Contribution: Napa City Project: The equitable distribution of sales tax revenues to County-wide Projects will be adjusted to reflect a contribution by the upper Napa River watershed communities and the County unincorporated area to the long term maintenance cost of the Napa City Projects which must be periodically cleared of sedimentation which occurs due to erosion in the upper Napa River watershed. This adjustment totals \$1,900,000 for over the last 13 years of the sales tax. The maintenance debit is not applied to the City of American Canyon share. This adjustment is reflected in Table 1, the Base Year Allocation of Sales Tax Revenues.

County-wide Projects Maintenance. To the extent that sales tax revenue growth allows, after meeting other obligations necessary to meet construction inflation costs of the Napa City Project and other County-wide Project allocations (which will only be increased proportionate to the final sales tax cost of the Napa City Project), maintenance trust funds will be established for County-wide Projects. Such maintenance trust funds will not exceed the lesser of, (1) actual maintenance needs, (2) 10% of the actual Project cost for which the trust fund is being established, or (3) 30% of the County-wide Projects share of sales tax growth increment over the term of the sales tax.

These limits are intended to assure that sales tax growth revenues are used to reduce the term of the sales tax.

(g) Table 1: **BASE YEAR ALLOCATION OF FLOOD PROTECTION
SALES TAX REVENUES**

	Total-20 yrs	Annual Revenue Year 1-7	Annual Revenue Year 8-20	Napa City Project Yrly Maintenance Debit Year 8-20	Annual Revenue After Maintenance Year 8-20
City of Napa	\$80,000,000	\$5,000,000	\$3,461,539	***	\$3,461,539
St. Helena	\$ 13,820,000	\$ 345,500	\$ 877,038	\$ 64,308	\$ 812,730
Yountville	\$ 2,740,000	\$ 68,500	\$ 173,885	\$ 13,154	\$ 160,731
American Canyon	\$ 8,000,000	\$ 200,000	\$ 507,692	0.	\$ 507,692
Calistoga	\$ 3,960,000	\$ 99,000	\$ 251,308	\$ 19,000	\$ 232,308
County-Watershed	\$ 8,480,000	\$ 217,000	\$ 535,461	\$ 49,692	\$ 485,769
County-Angwin	\$ 2,000,000	\$ 50,000	\$ 126,923	0	\$ 126,923
County-Berryessa	\$ 1,000,000	\$ 20,000	\$ 66,154	0	\$ 66,154
TOTAL	\$120,000,000	\$6,000,000	\$6,000,000	\$146,154	\$5,853,846

*** Napa City share of maintenance is \$205,000 per year plus the capitalization of a Maintenance Trust Fund of \$10 million, which will pay for project maintenance in perpetuity. These costs are included in the overall financing plan for the Napa Project (see Leifer Report).

SECTION 4: Project Substitution

(a) Section 8 of the Ordinance contains provisions for substitution of Plan projects. It states:

In the event any project described in this Section is not economically or environmentally feasible, the legislative body having jurisdiction over the lands involved shall recommend to the Napa County Flood Control and Water Conservation District a replacement project. Only replacement projects that meet the criteria set forth in the first two paragraphs of this Section shall qualify and may be approved provided, however, that facilities for, or purchase of, North Bay Aqueduct or other water imported from outside Napa County shall not qualify as replacement projects. The Napa County Flood Control and Water Conservation District shall consider recommending approval of a replacement project to the Authority only after obtaining the recommendation of the Financial Oversight Committee and the Technical Review Committee. Approval by the Authority shall be in the form of an amendment to this Ordinance. Changes meeting the above criteria, to the extent permitted by law, shall not need a vote of the People ratifying the amendmen.

In carrying out and administering this provision, the County, Municipalities, and District agree that the following criteria will guide the approval of replacement Plan projects:

- (1) All projects funded by Sales Tax revenues will be permanent public improvements meeting the Government Code definitions of capital projects. Operation and maintenance costs for the capital projects will be allowable.
- (2) All municipalities will address their primary flood protection needs as the highest priority, before water supply reliability and wastewater projects are undertaken.
- (3) Project substitutions will be allowed only if projects identified in the Plan contained in the Ordinance are determined to be not economically or environmentally feasible or if a CEQA analysis of alternatives determines that a different project is superior in addressing the objectives of flood protection, improved water quality or stabilization of water supply reliability for existing residents.
- (4) The Flood Protection Sales Tax Ordinance, in its entirety, will guide the approval of replacement projects. The Ordinance specifies project design criteria, oversight by the Financial Oversight Committee and provides policy and intent statements of the people of Napa County regarding the Plan projects, including replacement projects.

SECTION 5: Use of Additional Revenues

Additional revenues can be expected to accrue to the Flood Protection Fund due to growth in sales tax revenues over the 1995-96 base year levels which represent minimum annual allocations. These additional funds, if any, will not be used for additional projects beyond those identified in the Ordinance. Additional funds can be used only for the following purposes in order of priority:

- (a) Coverage of any project cost increases for City of Napa Project not to exceed 2/3 of total revenues collected.
- (b) Increase in County-wide Project allocations to reflect the rate of inflation during the deferral of equitable distributions during City of Napa Project construction. Additionally, distribution of sales tax growth revenues to County-wide project allocations will be made which are proportional to sales tax allocations to the Napa Project not to exceed 1/3 of total revenues.
- (c) Establishment of Project Maintenance Trust Funds in accordance with Section 3 (f) of this MOU.
- (d) Revenues which accrue to Fund after (a), (b) and (c) conditions are met will be utilized only to retire project-related outstanding debt as early as possible. The Flood Projection Sales Tax will be terminated or reduced at the earliest possible time.

SECTION 6: City of Napa Project Cost Overruns

Sales Tax revenues will be managed by the District to assure that County-wide appropriations are maintained at least at the principal amounts listed in Table 1. Napa City Project cost overruns will be funded in the following order of priority:

- (a) State Flood Control Subventions program reimbursements received by the District.
- (b) Sales tax revenues in excess of \$ 4 million per year which accrue from growth in Flood Protection Sales Tax revenues in the Napa City limits and vicinity.
- (c) City of Napa funding from other than Flood Protection Sales Tax sources.
- (d) Reductions in Project scope.

SECTION 7: Reductions in Sales Tax Revenues

- (a) It is understood that Sales Tax revenues are influenced by cycles in the overall economy, changes in State laws governing what is and is not taxable and other factors of external influence. In the event that new sales tax revenues drop below the 1995-96 base year levels used for the financial forecasting for this MOU, funding of the Napa City Project shall have first priority and all other projects shall be subordinate to the financing needs of the Napa Project.
- (b) The Napa Project will maintain a minimum annual funding base as specified in Table 1 and all other allocations will be proportionately reduced in any year that new sales tax revenues are below \$6.0 million per year County-wide. Such shortfalls that might occur to other area annual allocations due to this reduction in revenues may be adjusted in other years when new sales tax revenues exceed the 1995-96 base year levels.

SECTION 8: Debt Financing Policies

- (a) The Napa Project will require 20 year debt financing for approximately one half of the construction cost, as detailed in the Leifer Report. The debt for this project will require the maintenance of a debt service coverage ratio and other covenants which will affect the ability to borrow for other Plan projects. County-wide projects may be debt financed either through the District or by the Municipalities under legal agreement with the District. Such debt will be subordinate debt to the Napa Project debt.
- (b) The District will enter into Project specific agreements with the Municipalities which will detail such project and financial terms and conditions consistent with this MOU and the Ordinance.
- (c) Since the County of Napa will be the issuer or party to any debt financing transaction for all Projects, there must be guarantees contained in each Project Agreement to protect the County of Napa General Fund. Such protections will include but not be limited to the following:
 - (1) Any debt incurred must indicate the obligation of the County General Fund is limited to the amount of new sales tax revenues generated from the Flood Protection Sales Tax.
 - (2) No County owned assets will be pledged as security for bond holders, the projects themselves must provide the necessary security or the Municipalities must identify additional security.

SECTION 9: Fund Accounting, Contract Relationships, and Oversight

- (a) The County of Napa Auditor-Controller will maintain a separate Fund within the County budget, separate from the General Fund and named the Flood Protection Sales Tax Fund, to receive and disburse such funds which is consistent with this MOU.
- (b) The County Auditor-Controller will prepare an annual budget for the Fund which will be formally adopted each year by the Board of Supervisors after receiving the recommendations of the District and the Financial and Technical Committees established by the Ordinance.
- (c) All disbursements of Fund revenues will be accomplished through contracts between the District and individual municipalities.
- (d) The County Auditor-Controller will establish a financial system Technical Advisory Committee to include the County Auditor-Controller and the appropriate administrator from each Napa County City/Town as well as the District. The technical advisory team will determine and recommend necessary controls for tracking of equitable distribution of revenues from the Fund and other financial aspects of this MOU. The Committee will serve as the Debt Advisory Committee.
- (e) The Technical Advisory Committee will provide assistance and support to the Financial Oversight Committee established by the Ordinance to carry out its oversight mission.

COUNTY OF NAPA:

BY: Vince Ferriole
VINCE FERRIOLE, CHAIRMAN
NAPA COUNTY BOARD OF SUPERVISORS

ATTEST:
MARY JEAN McLAUGHLIN
CLERK OF THE BOARD

BY: Teri Lison

NAPA COUNTY FLOOD PROTECTION AND
WATERSHED IMPROVEMENT AUTHORITY

BY: Mike Rippey
CHAIRMAN, BOARD OF DIRECTORS

ATTEST:
MARY JEAN McLAUGHLIN, SECRETARY

BY: Teri Lison, Deputy

NAPA COUNTY FLOOD PROTECTION AND
WATER CONSERVATION DISTRICT

BY: Mike Rippey
CHAIRMAN, BOARD OF DIRECTORS

ATTEST:
MARY JEAN McLAUGHLIN, SECRETARY

BY: Teri Lison, Deputy

JAN 06 1998 (GDS)

JAN 08 1998 (NCFP)

APPROVED JAN 20 1998 (FC)
BOARD OF SUPERVISORS
COUNTY OF NAPA

MARY JEAN McLAUGHLIN
CLERK OF THE BOARD

BY: m. Price

APPROVED AS TO FORM
Robert Westmeyer
Napa County Counsel/District
Legal Counsel/Authority Legal
Counsel

BY: Maryanne Chubb, District Counsel

MUNICIPALITY

CITY OF AMERICAN CANYON

BY: *Roger L. Cypher*

ROGER CYPHER, MAYOR/
DISTRICT DIRECTOR

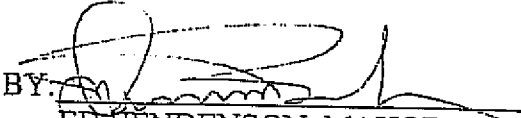
ATTEST:

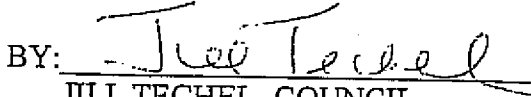
MARK JOSEPH, CITY MANAGER/CLERK

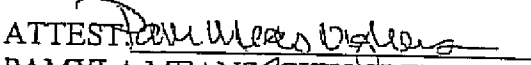
BY: *mj*

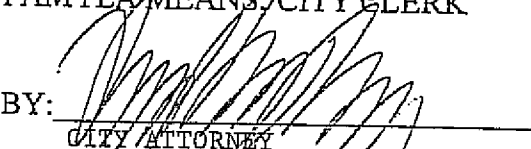
MUNICIPALITY

CITY OF NAPA

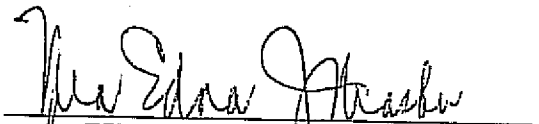
BY: 
ED HENDERSON, MAYOR
DISTRICT DIRECTOR

BY: 
JILL TECHEL, COUNCIL
MEMBER/DISTRICT DIRECTOR.

ATTEST: 
PAMYLA MEANS, CITY CLERK

BY: 
CITY ATTORNEY

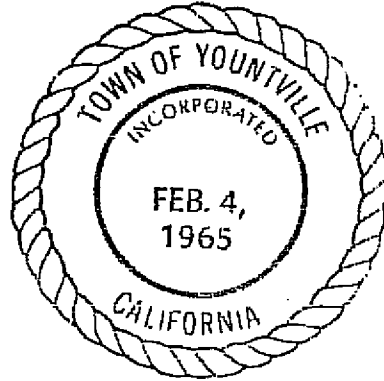
COUNTERSIGNED:


FINANCE DIRECTOR

MUNICIPALITY

TOWN OF YOUNTVILLE

BY: Mary Lou Holt
MARY LOU HOLT, MAYOR/
DISTRICT DIRECTOR



ATTEST:
NANCY WEISS, TOWN
ADMINISTRATOR/CLERK

BY: K. Joyce Houghton
K. Joyce Houghton
Deputy Town Clerk

TOWN OF YOUNTVILLE
RESOLUTION NUMBER 1409-98

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YOUNTVILLE authorizing the Mayor to sign a Memorandum of Understanding regarding the use and equitable distribution of sales tax revenues generated by the enactment of the Napa County Flood Protection Sales Tax Ordinance.

WHEREAS, on December 5, 1997, representatives of Napa County Board of Supervisors, cities of St. Helena, Calistoga, American Canyon, Napa, and Yountville met to review a proposed Memorandum of Understanding regarding the use and equitable distribution of sales tax revenues generated by the enactment of the Napa County Flood Protection Sales Tax Ordinance; and

WHEREAS, revisions to that agreement have been made and are attached and incorporated hereto; and

WHEREAS, each municipality is being requested to authorize their representative to the Napa County Flood Control and Water Conservation District to sign the revised Memorandum of Understanding; and

WHEREAS, the Memorandum of Understanding is a precursor to the Joint Powers Agreement between the Napa County Flood Protection and Water Shed Improvement Authority, the Napa County Flood Control and Water Conservation District, the County, and the municipalities as required by the Napa County Flood Protection Sales Tax Ordinance; and

WHEREAS, the Memorandum of Understanding contains operating policies and criteria regarding equitable distribution of new sales tax revenues to the County and municipalities, debt financing for projects contained in the plan, project substitution, fund accounting, contract relationships, and administrative support to the Financial Oversight Committee and Technical Advisory Panel established by the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Yountville to hereby authorize the Mayor to sign the Memorandum of Understanding regarding the use and equitable distribution of sales tax revenue generated by the enactment of the Napa County Flood Protection Sales Tax Ordinance as revised, on behalf of the Town of Yountville.

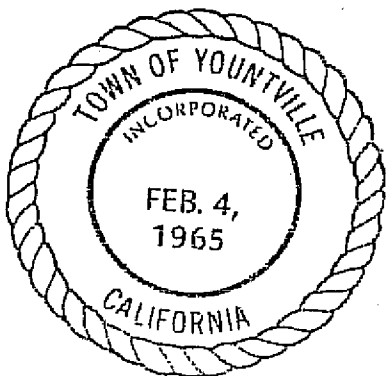
Mary Lou Holt
Mary Lou Holt, Mayor

STATE OF CALIFORNIA)
COUNTY OF NAPA)§
TOWN OF YOUNTVILLE)

I, Deputy Town Clerk of the Town of Yountville, do hereby certify the foregoing Resolution was duly and regularly adopted by the Town Council of the Town of Yountville at a regular meeting thereof held on the 13th day of January, 1998 by the following vote:

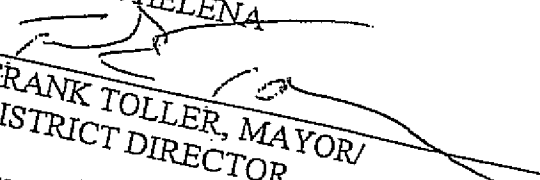
AYES: Borrelli-Caldwell, Jefferson, Knight, Miner, Holt;
NOES: None;
ABSENT: None;
ABSTAIN: None.

(s) K. Joyce Houghton
K. Joyce Houghton, Deputy Town Clerk

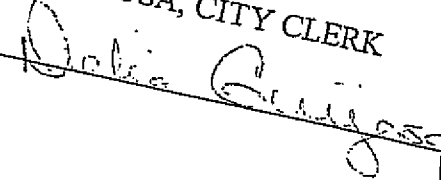


MUNICIPALITY

CITY OF ST. HELENA

BY: 
FRANK TOLLER, MAYOR/
DISTRICT DIRECTOR

ATTEST:
DELIA GUIJOSA, CITY CLERK

BY: 



MUNICIPALITY

CITY OF CALISTOGA

BY:



MARIO CALLEGARI, MAYOR/
DISTRICT DIRECTOR

ATTEST:

PATT OSBORNE, CITY CLERK

BY:

