

RESOLUTION NO. STA 88-0002

**A RESOLUTION APPROVING INITIAL STUDY,
ADOPTING THE COUNTY TRANSPORTATION EXPENDITURE PLAN,
AND APPROVING AND AUTHORIZING EXECUTION OF THE
TRANSPORTATION EXPENDITURE AGREEMENT**

BE IT RESOLVED by the Governing Body of the Sacramento Transportation Authority, a public district formed for the local performance of governmental functions under the Local Transportation Authority and Improvement Act, commencing at Section 180000 of the Public Utilities Code, as follows:

1. This Body has reviewed and considered that Initial Study dated January 28, 1988, Control No. 88-PW-0104, entitled "Sacramento Transportation Authority, County Transportation Expenditure Plan, Transportation Expenditure Agreement, prepared by the Environmental Impact Section of the County of Sacramento, which has been prepared for this project, and hereby certifies that it concurs with the conclusions of that Initial Study, as follows:

(a) Pursuant to Title 14, California Administrative Code, Section 15162, the County Environmental Coordinator has determined that there are no substantial changes in the project or in the circumstances under which the project is to be undertaken, and that the project involves no new impacts not considered in the previous Environmental Impact Reports. Therefore, no further environmental documents are required.

(b) The previous EIRs described below were reviewed and the information contained in them considered. It is found that these EIRs are still considered applicable, adequate, and complete for the proposed project:

-- Final Environmental Impact Report entitled "Sacramento County General Plan Update - Phase I and II" (1981) (County Control Number: PL-80-091; State Clearinghouse Number 80102405).

-- Final Environmental Impact Report entitled "Sacramento City General Plan Update" (1987) (City Control Number: M85-049; State Clearinghouse Number 86101310).

2. The components of the Sacramento County Transportation Expenditure Plan (SCTEP) are consistent with the General Plans of Sacramento County, and the Cities of Sacramento, Folsom, Galt, and Isleton. Further, as a result of that consistency, the environmental impacts which are attributable to the SCTEP are no different than those which were discussed and evaluated in the environmental documentation which was prepared for those General Plans.

3. The primary purpose, intent, and objective of the SCTEP is to mitigate two of the most serious environmental problems which presently occur within Sacramento County: traffic congestion and air pollution. The transportation improvements contained in the SCTEP will directly reduce the frequency and severity of traffic congestion problems, which will also result in the beneficial secondary effect of reducing vehicular emissions, thereby improving air quality and helping to reduce the frequency and magnitude of periodic violations of Federal air quality standards.

4. This Council hereby recognizes and adopts the Findings of Overriding Consideration which were previously adopted by the County of Sacramento and City of Sacramento for their respective General Plan Final Environmental Impact Reports.

These findings are based on substantial evidence in the record, which includes, but is not limited to, the materials accompanying the findings adopted by the City of Sacramento on January 19, 1988, in that document entitled "Findings of Fact and Statement of Overriding Consideration for Adoption of Sacramento City General Plan Update", the materials accompanying the findings adopted by the County of Sacramento on July 29, 1982; in that document entitled "Findings of Fact and Statement of Overriding Concern for Adoption of Sacramento County General Plan Update and the Regional Transportation Plan dated May 1987 and adopted by the Sacramento Area Council of Governments on May 21, 1987, which was distributed to each legislative body as part of the materials accompanying this project.

BE IT FURTHER RESOLVED that this Body hereby adopts that certain document entitled "Sacramento County Transportation Expenditure Plan", dated July 26, 1988, a copy of which is attached hereto.

BE IT FINALLY RESOLVED that this Body hereby approves and directs the Chairperson to execute in the name and in behalf of the Authority that certain contract entitled "Transportation Expenditure Agreement", dated July 26, 1988, between the Sacramento Transportation Authority, the Cities of Sacramento, Folsom, Isleton, and Galt, the Sacramento Regional Transit District, and the County of Sacramento, a copy of which is attached hereto.

On a motion by Member COLLIN, seconded by Member STRENG, the foregoing Resolution was passed and adopted by the Governing Body of the Sacramento Transportation Authority, at a regular meeting thereof, this 9th day of August, 1988, by the following vote, to wit:

AYES: Members, Collin, O'Hara, G. Johnson, T. Johnson, Kastanis, Rudin,
 Porter, Shore, Streng
 NOES: Members, None
 ABSENT: Members, Robie, Smoley

Jim Streng
 Chairperson, Governing Body of the
 Sacramento Transportation Authority

(SEAL)

ATTEST: *Renee A. Williams*
 Clerk of the Governing Body

(SB/142z4)

In accordance with Section 25103 of the Government Code of the State of California a copy of this document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on

AUG 09 1988

By *Haley A. Donaldson*
 Deputy Ch. Board of Supervisors

FILED

AUG 09 1988

BOARD OF DIRECTORS
 By *Renee A. Williams*
 Clerk of the Board

ORDINANCE NO. STA-0002

**AN ORDINANCE OF THE SACRAMENTO
TRANSPORTATION AUTHORITY IMPOSING A
TRANSACTIONS AND USE TAX TO BE ADMINISTERED
BY THE STATE BOARD OF EQUALIZATION**

BE IT ENACTED by the Governing Body of the Sacramento Transportation Authority, a public district formed for the local performance of governmental functions under the Local Transportation Authority and Improvement Act, commencing at Section 180000 of the Public Utilities Code, as follows:

Section 1. TITLE. This ordinance shall be known as the Sacramento Transportation Authority Transactions and Use Tax Ordinance. The Sacramento Transportation Authority hereinafter shall be called "Authority". This ordinance shall be applicable in the incorporated and unincorporated territory of the County of Sacramento, which territory shall be referred to herein as "District".

Section 2. OPERATIVE DATE. "Operative date" means the first day of the first calendar quarter commencing more than 120 days after adoption of this ordinance, the date of such adoption being as set forth below.

Section 3. 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 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 Division 19 of the Public Utilities Code (Section 180000, et seq.) which authorize the Authority to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax 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 State 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 record keeping upon persons subject to taxation under the provisions of this ordinance.

Section 4. CONTRACT WITH STATE. Prior to the operative date, the Authority shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Authority shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. MAXIMUM TAX RATE. The maximum tax rate hereunder shall be one-half of one percent.

Section 6. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the 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.

Section 7. PLACE OF SALE. For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are

consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 8. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the District of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said 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.

Section 9. USE OF PROCEEDS. The revenue derived from the tax imposed by this ordinance shall be used to help relieve traffic congestion, improve air quality, construct new and repair existing highways, local streets and roads, expand public transit, and increase public safety by providing essential countywide transportation improvements. The proceeds shall be used to fund administration of the Sacramento Transportation Authority, air quality mitigation measures, public road improvements, public transit functions, and elderly and handicapped transportation functions, consistent with the terms of the Sacramento County Transportation Expenditure Plan adopted by the Sacramento Transportation Authority, as the same may be amended pursuant to Public Utilities Code §180207, and the Transportation Expenditure Agreement entered into as of July 26, 1988 by the Sacramento Transportation Authority, the Sacramento Regional Transit District, the City of Sacramento, the City of Folsom, the City of Isleton, the City of Galt, and the County of Sacramento.

The tax proceeds will be allocated pursuant to terms and conditions of the Transportation Expenditure Agreement as follows: (i) not more than 1% for administration purposes; (ii) exactly 1.5% for mitigation of motor vehicle emissions or evaluation of mitigation measures; and (iii) exclusive of any situs allocation to the Cities of Folsom, Isleton and Galt, and reserve for contingencies, the remaining revenues to be allocated in accordance with regulation by the Transportation Authority of the objects of expenditures 35% for Public Road Improvement Projects, 28% for Maintenance of existing local streets, roads and highways, 35% for Public Transit Functions, and 2% for Elderly and Handicapped Transportation Functions. Situs allocation to the Cities of Folsom, Isleton, and Galt is required by the Transportation Expenditure Agreement and is described in Paragraphs 10 and 11 thereof.

The authority may issue bonds payable from the proceeds of the tax for capital outlay expenditures.

Section 10. TERM OF TAX. The tax shall become operative on the first day of the first calendar quarter commencing

more than 120 days after adoption of this ordinance and shall continue until and terminate on the earlier of the following two alternative dates:

(a) The date twenty years following the date on which the Sales Tax became effective; or

(b) The first day of the first calendar quarter commencing more than 120 days after the date on which a judgment by a Court of competent jurisdiction becomes final which either adjudicates the invalidity of subparagraph "a" or "b", or both, of Paragraph 13 of the Transportation Expenditure Agreement, or declines enforcement relief because of the invalidity thereof; provided that the Governing Body of the Authority shall be empowered to levy the tax following the date of such a final adjudication or declination at the voter-approved rate so long as necessary (but in any event terminating on a date which corresponds with the last day of a calendar quarter) to fulfill the obligations of the Authority under any contract made pursuant to Paragraphs 5, 8, 22 and 23 of the Transportation Expenditure Agreement, or any bonds or other instrument of indebtedness issued in the name of the Authority, which is in effect on the date of such a final adjudication or declination.

Section 11. ADOPTION OF PROVISIONS OF STATE LAW.

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

Section 12. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the State of California is named or referred to as the taxing agency, the name of this District shall be substituted therefor. The substitution, however, shall not be made when the word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California; the substitution shall not be made when the result of that substitution would require action to be taken by or against this District or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance; the substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other

consumption 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 to impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provisions of that code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code. The word "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. A retailer engaged in business in the District shall not be required to collect use tax from the purchaser of tangible personal property unless the retailer ships or delivers the property into the District or participates within the District in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the District or through any representative, agent, canvasser, solicitor, subsidiary or person in the District under the authority of the retailer.

Section 13. 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 14. 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 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 State, or any foreign government.

(2) Sales of property to be used outside the District which is shipped to a point outside the District, pursuant to the contract of sales, by delivery to such point by the retailer 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:

(i) with respect to vehicles (other than commercial vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9850) of the Vehicle Code, by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence.

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

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

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

(5) For the purposes of subsections (3) and (4) the sale 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 is exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this District of tangible personal property:

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

(2) Purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition

to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

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

(4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

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

(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 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 9850) 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 15. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 16. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the Authority, or against any officer of the State or the Authority, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 17. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 18. REQUEST FOR ELECTION.

(a) The Sacramento Transportation Authority hereby requests that the Sacramento County Board of Supervisors call a special election to place this ordinance before the voters for approval on November 8, 1988, and that such special election be consolidated with the Statewide General Election to be held on November 8, 1988.

(b) The proposition to be placed on the ballot shall read substantially as follows:

"REVISED SACRAMENTO TRANSPORTATION IMPROVEMENT PROGRAM.
To help relieve traffic congestion, improve air quality, construct new and repair existing highways, local streets and roads, expand public transit, and increase public safety by providing essential countywide transportation improvement, including:

- o One and one-half percent of the total revenues for air quality improvements;
- o Air quality impact shall be considered as a major part of project approval;
- o Reduced traffic congestion by widening and improving area highways;

- o Expanded commuter and public transit services, including light rail extensions and purchase of new/additional buses;
- o Expanded transportation service to senior citizens and handicapped people;
- o Construction, repair, and widening of bridges;
- o Construct new and repair existing highways, local streets and roads;
- o A spending limit of no more than 1% for administration of the program;
- o A mandate for collection of separate developer fees or taxes for new construction which impacts streets and roads.

shall a one-half of one percent transactions and use tax be approved for a period of twenty years, with no more than 35% for construction of highways, streets, and roads, 28% for maintenance of existing local streets, roads, and highways, 35% for increased bus and light rail services, and 2% for increased transportation services to senior citizens and handicapped persons, with the proceeds placed in a special fund solely for use on transportation purposes, including authorization to issue bonds payable from the proceeds of the tax, with an appropriations limit not to exceed \$69 million? The tax shall terminate in less than twenty years, continuing only so long as necessary to pay off then-existing obligations, if the percentage allocations are found by a court to be unenforceable."

(c) The sample ballot to be mailed to the voters shall contain the full proposition as set forth in subsection (b) hereof.

(d) The voter information handbook shall include the entire Sacramento County Transportation Expenditure Plan as adopted by the Authority, which includes as Exhibit A the Transportation Expenditure Agreement.

(e) The Board of Supervisors of Sacramento County is authorized to canvass the returns of said election and to cause the results thereof to be properly certified to the Authority.

Section 19. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the Authority transactions and use taxes and shall take effect immediately.

(f) SECTION 20. This Ordinance was introduced and the title thereof read at the regular meeting of the Governing Body on August 9, 1988, and on August 9, 1988, further reading was waived by unanimous vote of the Directors present.

On a motion by Member Kastanis, seconded by Member G. Johnson, the foregoing Ordinance was passed and enacted by the Governing Body of the Sacramento Transportation Authority, State of California, at a regular meeting thereof, this 9th day of August, 1988, by the following vote, to wit:

AYES: Members Collin, O'Hara, G. Johnson, T. Johnson, Kastanis, Rudin, Porter, Shore, Streng

NOES: Members None

ABSENT: Members Robie, Smoley



Jim Streng

Chairperson, Governing Body of the Sacramento Transportation Authority

Attest:

Beverly A. Williams
Clerk of the Board of Supervisors
Ex Officio Clerk of the Sacramento Transportation Authority

(2/3 Vote Required)

In accordance with Section 25103 of the Government Code of the State of California a copy of this document has been delivered to the Chairman of the Board of Supervisors, County of Sacramento on

AUG 09 1988

By *Hally A. Donaldson*
Deputy Clerk, Board of Supervisor:

FILED

AUG 09 1988

BOARD OF DIRECTORS
By *Beverly A. Williams*
Clerk of the Board