



January 16, 2019
NVTA-TA Agenda Item 9.2
Continued From: New
Action Requested:
APPROVE REVISED 01/16/19

NAPA VALLEY TRANSPORTATION AUTHORITY-TAX AGENCY Board Agenda Letter

TO: Board of Directors
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SUBJECT: Napa Countywide Road Maintenance Act Measure T Process & Procedures

RECOMMENDATION

That the Napa Valley Transportation Authority-Tax Agency (NVTA-TA) Board approve the Napa Countywide Road Maintenance Act Measure T Process & Procedures (Attachment 1).

COMMITTEE RECOMMENDATION

The Technical Advisory Committee recommends that NVTA staff refer the item to the NVTA-TA Board for approval with amendments as noted.

EXECUTIVE SUMMARY

NVTA staff developed the Measure T Process and Procedures to provide Measure T recipients with a reference document and guide on various Measure T procedures and timelines. It further outlines a dispute process should there be confusion or disagreement about project eligibility under the ordinance.

Subsequently to the publication of NVTA-TA Board agenda, NVTA staff presented the draft Measure T Process and Procedures to the the Technical Advisory Committee (TAC). The TAC approved the Measure T Process & Procedure document but requested changes as noted below. The changes have been made and are included on Attachment 1 to this memo.

1. Modify language recommending Measure T signage dimensions

2. Clarify language regarding 6.67% Equivalent Funds Requirement Clarify language in the Accounting Records section that refers to the 6.67% Equivalent Funds project report.

PROCEDURAL REQUIREMENTS

1. Staff Report
2. Public Comments
3. Motion, Second, Discussion and Vote

FISCAL IMPACT

Is there a fiscal impact? No

BACKGROUND AND DISCUSSION

On November 6, 2012, the voters in Napa County approved Measure T, the Napa Countywide Road Maintenance Act. Measure T is a ½% sales tax expected to generate over \$400 million over a 25-year period beginning July 1, 2018. Measure T is to be used for the rehabilitation of local streets and roads.

A number queries from jurisdictions prompted the development of the guidelines. Most recently, the question of whether “raising iron” is an eligible expense in the ordinance. Specifically, raising iron refers to relocation or extension of the utility access, such as a manhole, that is embedded in the roadway. This prompted staff to develop a policy for dispute resolution as well as provide guidance on basic requirements of the program. Specifically, the objectives of the Measure T Process and Procedures are to:

- Assist jurisdictions in delivering Measure T projects.
- Provide an easy reference guide to the procedures for various tasks.
- Provide a list of timelines and deadlines of various requirements.
- Summarize responsibilities of NVTa and the Measure T recipients.

SUPPORTING DOCUMENTS

Attachment: (1) Draft Napa Countywide Road Maintenance Act Measure T Process & Procedures – **Revised 01/16/18**

Napa Countywide Road Maintenance Act



Process & Procedures

Approval Date:

Amendment Date:

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Description and Introduction

On November 6, 2012, County voters approved the Napa Countywide Road Maintenance Act, commonly known as “Measure T”. The ordinance established a 25-year period half-cent retail sales tax beginning on July 1, 2018 to improve the maintenance of under-funded local streets and roads and supporting road infrastructure. While the ordinance created a revenue source for street and road maintenance, it only created a general framework and does not provide adequate details on how day-to-day functions would be carried out.

The purpose of this document is to help clarify the Ordinance. The Ordinance identifies a variety of procedures, it does not thoroughly describe the method in which procedures will be executed. The Measure T Process and Procedures are intended to provide a policy interpretation and direction for implementation and adherence to the Measure T ordinance.

Revenues collected by the California Department of Sales Tax and Fee Administration (CDTFA) will be deposited into a Special Revenue Fund administered by the County of Napa. The Office of the Auditor-Controller will make quarterly distributions to the eligible recipients under the Ordinance.

Maintenance of Effort

Jurisdictions eligible to receive Measure T revenues are subject to the Maintenance of Effort (MOE) provision. Measure T establishes a minimum general funds expenditure threshold, for each year of the Ordinance. This threshold is the average amount of general funds a jurisdiction spent in fiscal years 2007-08, 2008-09, 2009-10 on local streets and roads maintenance and supporting infrastructure within the public right of way.

One of the objectives of Measure T is to supplement funds to maintain and rehabilitate local streets and roads. This is the reason a Maintenance of Effort (MOE) requirement was written into the Ordinance so jurisdictions maintain their efforts in fixing roads and do not use Measure T funds to supplant their ongoing efforts.

Project sponsors submit their MOE amount with supporting documentation to validate their MOE. Supporting documentation describes the approach and methodology used by each jurisdiction to develop the MOE. It should include a summary of how each jurisdiction calculated its MOE, and the typical activities, items and costs as well as a supporting resolution from their governing body as a form of self-certification.

REOCCURRING PROCEDURE Each jurisdiction must certify annually to NVTA-TA that it met its MOE expenditures the previous fiscal year. By January 1st each calendar year, each jurisdiction must submit to NVTA staff an electronic copy of a Resolution approved by the jurisdiction’s governing body stating that the jurisdiction met its established MOE. The copy of the Resolution should include supporting documentation showing that the jurisdiction met its MOE target the prior fiscal year.

NVTA staff will compile all jurisdictions' submissions and present it in a report to the NVTA-TA and the relevant committees.

Five-year project list

Each jurisdiction will biennially develop and submit to the Authority a five-year list of projects to be funded with Measure T revenues. Jurisdiction are required to hold a public hearing and receive public comment at their governing body's meeting before the approval and any update of their five-Year project list. Unless otherwise noted, the project list should be submitted no later than January 1 of every even year.

While the Ordinance dictates mandatory submission periods of every two (2) years, the Authority understands that revisions may be warranted prior to the submission date. If the need arises for a jurisdiction to update their five-year list before the January 1st date, the same procedure should be followed where the jurisdiction must first have the Five-year list certified by their governing body and hold a public hearing to receive public comment on the Five-year list of projects. Once certified by the jurisdiction's governing body with a signed resolution, the jurisdiction must transmit the updated list to NVTA staff for review. NVTA staff will present the project list to the Independent Taxpayer Oversight Committee (ITOC) for their recommendation to the NVTA-TA Board.

REOCCURRING PROCEDURE NVTA will perform a call for projects every odd calendar year. The project list should be submitted every two (2) years, but no later than January 1st of every even year of every even numbered year. Jurisdictions are to submit electronically a copy of their five-year list, a resolution from their governing board approving the five-year list and demonstrating that a public hearing was held. NVTA staff will review the project lists and present a compiled package to the ITOC for review. Project lists will be presented before the NVTA-TA Board for approval.

While the Ordinance mandates submission periods of every two (2) years, revisions may be warranted prior to the submission date. If the need arises for a jurisdiction to update their five-year list before the January 1st date, the same procedure should be followed where the jurisdiction must first have the Five-year list certified by their governing body and hold a public hearing to receive public comment on the Five-year list of projects. Once certified by the jurisdiction's governing body with a signed resolution, the jurisdiction must transmit the updated list to NVTA staff for review. NVTA staff will present the project list to the TAC for their consideration and recommendation, then the list will be presented before the Independent Taxpayer Oversight Committee for their recommendation to the NVTA-TA Board.

Project Implementation & Reporting

Before beginning a project, jurisdiction staff must request a project number from NVTA staff via email. At this point NVTA staff will review and cross-reference the proposed project to confirm that the requested project is programmed on the jurisdiction's adopted five-year list. After NVTA staff confirms the project is programmed on the five-year list it will assign a number and coordinate with jurisdiction staff to enter the project into NVTA's Measure T Project webpage.

NVTA recommends that every project, completely or partially, funded with Measure T funds display Measure T signage. If the amount of Measure T funds on the project exceeds \$250,000, the project and project site **must** display Measure T funding signage. NVTA developed a Measure T logo and funding sign template to create **brand**-consistency among jurisdictions' signage and develop a recognizable image for Measure T. ~~Signage dimension guidelines were developed to provide jurisdictions guidance. However, if a jurisdiction prefers to have a different size signage, they must confirm with NVTA.~~ ^[EA1]

The logo ~~and~~, sign template ~~and dimension guidelines~~ can be requested from NVTA staff will be made available for electronic download.

REOCCURRING PROCEDURE Jurisdictions must submit a semi-annual update on projects and expenses by September 30th and March 31st of every year. This report template is Exhibit E of the Measure T Master Agreement between the jurisdictions and NVTA, but can also be requested from NVTA staff.

Project Close Out

Once a project is complete the jurisdiction must notify NVTA staff with a copy of the Notice of Completion. This will notify NVTA staff to update the Measure T webpage to indicate the project is complete. If work was performed by jurisdiction staff and a notice of completion was not filed, the jurisdiction must send a letter indicating project completion. The letter must include the project name, project number, start and completion date.

6.67% Equivalent Funds Requirement

In order for jurisdictions to receive Measure T revenues, jurisdictions collectively must demonstrate that at least 6.67% of the amount of Measure T revenues (henceforth referred to as "Equivalent Funds") received each year is being committed to Class I facilities identified in the adopted Countywide Bicycle Plan/Active Transportation Plan, using funds not derived from the Measure T Ordinance. This can be accomplished by jurisdictions showing that they have collectively set aside funds in their budgets to meet the requirement and/or NVTA has programmed eligible funding sources towards Class I facilities ~~and/or~~ by stipulating specific projects.

Eligible fund sources for Measure T Equivalent projects include: State Transportation Improvement Program (STIP) funds, State Transportation Program and Congestion Mitigation Air Quality funds (known as STP/CMAQ) under the One Bay Area Grant program, as well as other local and/or formula funds.

REOCCURRING PROCEDURE Because Measure T projects are approved on a five-year rolling basis, Measure T Equivalent projects will also be identified on a five-year basis with an update to the Measure T equivalent list every two years. Simultaneously with the five-year project list, NVTA will perform a call for projects every odd calendar year ~~staff~~ for jurisdictions ~~to add or remove~~ any **Measure T** Equivalent Funded-projects ~~they would for consideration for revisions to the like to add to the~~ NVTA list by January 1st. The list of Equivalent Funds projects will be presented before the ITOC for review and recommendation to the NVTA-TA Board. The NVTA-TA Board will review and approve a list of Equivalent Fund projects.

NVTA staff will compare if the 6.67% Equivalent Fund for Class 1 bicycle facilities is being met on a biennial cycle. If jurisdictions, collectively, fail to commit 6.67 % of Equivalent Funds to Class 1 bicycle facilities NVTA holds the right to reject allocation approval. Similarly, if there is a dispute regarding project eligibility, NVTA will withhold Measure T funds allocation until the dispute is resolved.

Dispute Resolution

From time to time, a dispute may arise about the Measure T Ordinance and eligible use of funds. Initial assessment of the issue or project eligibility will be completed by NVTA staff. NVTA staff will be responsible for arguments supported by their assessment of the Measure T ordinance and/or common industry practice, and if necessary, supported by legal interpretation. NVTA Staff argument will be presented to the project sponsor. If a dispute persists, then staff will present the issue to the Technical Advisory Committee for a recommendation to the NVTA-TA Board of Directors. It should be noted that while a consensus determination between NVTA staff and the TAC is desired, there might be instances where separate opinions may be submitted to the NVTA-TA board for consideration. The dispute process is provided in greater detail below:

If the dispute remains unresolved, the jurisdictions will follow the process below:

a. NVTA staff interpretation

The first step to a dispute resolution will be NVTA staff's interpretation of the issue in question. Staff will make a finding of determination based on the language and provisions of the Ordinance, Master Agreements, and previous legal memoranda and opinions.

b. NVTA legal counsel

In the event that NVTA staff cannot arrive at a clear decision based on interpretation of documents and common industry practices, the dispute will be deferred to NVTA's legal counsel for a legal opinion regarding the issue.

c. Discussion at TAC

NVTA staff will present reports and supporting documentation discussing any disputes that arise to the TAC. The purpose is to have an open discussion with the objective to resolve disputes through a collaborative working group process.

d. NVTA-TA Board Action

If the parties in the dispute are unable to come to a resolution at the TAC level, the matter will be presented to the NVTA-TA for final consideration. At its discretion, the Board may request additional input from parties involved as well as legal counsel to resolve the dispute.

Accounting Records

AGENCY RECORD KEEPING All revenue sources and expenditures using the revenue sources shall be fully accounted for and subject to review at any time. Each agency must keep the funds segregated in a **Special Revenue Fund** specifically for Local Streets and Roads (LS&R). A Special Revenue Fund is a governmental fund type used to account for the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The use of a special revenue fund ensures segregation of restricted funds, the ability to allocate proper interest earnings and ease of tracking the inflows and outflows of the revenues.

Measure T funds should be recorded as “Other Governmental Revenue” on the general ledger. All project expenditures should be budgeted for and disbursed from these funds so that a full accounting is captured, within proper accounting categories.

Each agency will account for and tracks its capital projects in a Capital Project Fund and each project may include multiple funding sources. Each agency must provide a full accounting of all revenues and expenses attributed to each specific project. As such, expenditures within the LS&R special revenue fund, shall include “transfers out” to other funds for the monies being used within a capital project that was approved by the Master Agreement. Agencies shall keep the records using accrual accounting, setting up both receivables and payables as of June 30 of each year.

To ensure compliance with the 6.67% Class 1 path requirement, each member agency will track all revenues and expenditures related to these projects and include the information on the progress reports.

FINANCIAL REPORTING REQUIREMENTS Every expenditure will have supporting documentation, including invoices and authorizations to ensure that all costs charged to the funds are eligible and in full compliance with the Master Funding Agreement. This documentation shall be maintained by each agency and shall be made available for inspection and audits upon request by either the NVTa, Auditor-Controller or the designated CPA firm responsible for the NVTa-TA’s audit(s).

Semi-Annual Progress Reports are due March 1st (for the period of July – December) and September 1st (for the period of January – June). Each progress report shall provide a summary listing consisting of the:

- Project Name,
- Approved Budget,
- Amount spent-to-date,
- Remaining Balance,
- Percentage of Completion, and
- Date Completed or Estimated Completion Date

In addition, each agency will provide an accounting a project report of the Class 1 path Equivalent Funds projects requirement, both year-to-date and cumulative since inception of the tax.

Attached to each summary shall be a system generated trial balance report and detailed expenditure listing for the Special Revenue funds. If it is determined that an ineligible expense was made, the jurisdiction will be directed to return the funds to the Special Revenue fund for a future eligible expense.

Once the agency's books are closed for the fiscal year and a comprehensive audit is completed, as stated in Section 4 of the Master Funding Agreement, by January 1st of the following year, each Agency will provide a copy of the Comprehensive Annual Financial Report (CAFR) and the State Controller's Street Report to NVTa. Due to the timing of these reports, where numbers vary, the Agency shall provide a reconciliation explaining the differences.

AUDITS All audits and record keeping will be performed in accordance with generally accepted accounting principles (GAAP) and Generally Accepted Government Accounting Standards (GAGAS). The Auditor-Controller will oversee the annual accounting and fiscal process through review of quarterly and annual reports submitted by each agency. NVTa will oversee project performance through review of semi-annual reports submitted by each agency.

Each member agency will procure an independent certified public accountant to conduct an annual financial audit that includes all transactions regarding Measure T. This will NOT be an additional audit on top of their Comprehensive Annual Financial Report, as these funds are included in their overall agency operations for specified projects. Any findings will be communicated to the Authority Auditor, who will then present to the ITOC and Authority.

NVTa-TA will conduct an independent annual financial audit, which will be overseen by the ITOC. The audit will contain supplementary schedules which summarize each agency's financial status regarding Measure T funds.

Each agency may undergo a compliance and/or performance audit as well, which is non-financial in nature. This audit shall be focused on the projects and compliance with the Master Funding Agreement. These audits will satisfy all audit requirements in the Ordinance.

Audits are an ITOC expenditure and will be paid directly from the ITOC's budget. There is a maximum of \$70,000 per year (adjusted for inflation on the CPI) for annual financial and performance audits. NVTa will track these expenditures annually to ensure the maximum is not exceeded.

COMMUNITY REPORT Section 11.B.e of Ordinance specifies that the "Authority shall publish a biennial report to the community." This report may be completed annually and will be compiled in collaborative manner between NVTa, the agencies, ITOC and the Auditor-Controller. The Community Report is an ITOC expenditure and will be paid directly from the ITOC's budget.