

RESOLUTION NO. _____

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SAUSALITO
AUTHORIZING THE CITY ATTORNEY TO COOPERATE WITH THE
LEAGUE OF CALIFORNIA CITIES, OTHER CITIES AND COUNTIES IN
LITIGATION CHALLENGING THE CONSTITUTIONALITY OF ANY
SEIZURE BY STATE GOVERNMENT OF THE CITY'S STREET
MAINTENANCE FUNDS**

WHEREAS, the current economic crisis has placed cities under incredible financial pressure and caused them to make painful budget cuts, including layoffs and furloughs of city workers, decreasing maintenance and operations of public facilities, and reductions in direct services to keep spending in line with declining revenues; and

WHEREAS, since the early 1990s the state government of California has seized over **\$10 billion** of city property tax revenues statewide, now amounting to over \$900 million each year, to fund the State Budget even after deducting public safety program payments to cities by the State; and

WHEREAS, in his proposed FY 2009-10 budget the Governor has proposed transferring \$1 billion of local gas taxes and weight fees to the state general fund to balance the State Budget, and over \$700 million in local gas taxes permanently in future years, immediately jeopardizing the ability of the City to maintain the City's streets, bridges, traffic signals, streetlights, sidewalks and related traffic safety facilities for the use of the motoring public; and

WHEREAS, the loss of almost all of the City's gas tax funds will seriously compromise the City's ability to perform critical traffic safety related street maintenance, including, but not limited to, drastically curtailing patching, resurfacing, street lighting/traffic signal maintenance, payment of electricity costs for street lights and signals, bridge maintenance and repair, sidewalk and curb ramp maintenance and repair, and more; and

WHEREAS, some cities report to the League of California Cities that they will be forced to eliminate part or all of their street maintenance operations while others will be forced to cut back in other areas (including public safety staffing levels) to use City General Funds for basic street repair and maintenance. Furthermore, cities expect that liability damage awards will mount as basic maintenance is ignored and traffic accidents, injuries and deaths increase; and

WHEREAS, in both Proposition 5 in 1974 and Proposition 2 in 1998 the voters of our State overwhelmingly imposed restriction on the State's ability to do what the

Governor has proposed, and any effort to permanently divert the local share of the gas tax would violate the state constitution and the will of the voters; and

WHEREAS, cities and counties maintain 81% of the State road network while the State directly maintains just 8%; and

WHEREAS, ongoing street maintenance is a significant public safety concern. A City's failure to maintain its street pavement (potholes filling, sealing, overlays, etc.), traffic signals, signs, and street lights has a direct correlation to traffic accidents, injuries and deaths; and

WHEREAS, according to a recent statewide needs assessment¹ on a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 68, or "at risk." Local streets and roads will fall to "poor" condition (Score of 48) by 2033 based on existing funding levels available to cities and counties.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sausalito hereby directs the City Attorney to take all necessary steps to cooperate with the League of California Cities, other cities and counties in supporting litigation against the State of California if the Legislature enacts and the Governor signs into law legislation that unconstitutionally diverts the City's share of funding from the Highway Users Tax Account (HUTA), also known as the "gas tax," to fund the State General Fund; and

RESOLVED FURTHER, that the City Manager or Clerk shall send this resolution with an accompanying letter from the Mayor to the Governor and each Legislator, informing them in the clearest of terms of the City's adamant resolve to oppose any effort to frustrate the will of the electorate as expressed in Proposition 5 (1974) and Proposition 8 (1998) concerning the proper use and allocation of the gas tax; and

RESOLVED FURTHER, that a copy of this Resolution shall be sent by the City Manager or Clerk to the League of California Cities, the local chamber of commerce, and other community groups whose members are affected by this proposal to create unsafe conditions on the streets of our City for pedestrians, bicyclists and motorists.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the _____ of _____, 2009 by the following vote:

¹ *California Statewide Local Streets and Roads Needs Assessment*, Nichols Consulting Engineers, Chtd. (2008), sponsored by the League of California Cities, California State Association of Counties and County Engineers Association of California.

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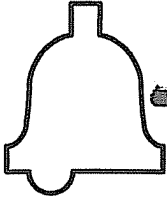
AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

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CITY OF



San Rafael

*Mayor
Albert J. Boro*

*Council Members
Greg Brockbank
Damon Connolly
Barbara Heller
Cyr N. Miller*

June 16, 2009

Senator Mark Leno
Marin Civic Center
3501 Civic Center Drive, Suite 425
San Rafael, CA 94903

Dear Senator Leno:

Like many cities across California, the current economic crisis has placed the City of San Rafael in a position in which we have had no choice but to implement layoffs, furloughs and reduce services, including maintenance and operations of public facilities.

For years the State has seized over \$10 billion of city property tax revenues statewide, now amounting to over \$900 million each year, to fund the state budget even after deducting public safety program payments to cities by the state. In his proposed FY 2009-10 budget, the Governor has proposed transferring \$1 billion of local gas taxes and weight fees to the State general fund and over \$700 million in local gas taxes permanently in future years. This will have an immediate impact in our ability to maintain our streets, traffic signals, sidewalks and curb ramps as we will be using general funds for basic repairs and maintenance.

In addition, we may even have to cut back in other areas including police and fire services to pay for basic street repair and maintenance. Poorly maintained streets will mean delays in emergency response times and increased costs for drivers whose vehicle repairs will rise because of worsening street and road conditions. As street conditions consequently worsen, injuries and traffic accidents will rise, leading to greater injuries and loss of life in some cases.

The City of San Rafael is now joining forces with the League of California Cities that states that the proposed seizure of almost \$1 billion in city and county motor vehicle, or gas, tax funds to help close the state's budget deficit is unconstitutional. In both 1974 and 1998, voters imposed restrictions on the state's ability to use gas taxes for debt service on bonds and to divert local gas taxes for the state general fund—precisely what has been proposed by state leaders.

The City of San Rafael supports litigation against the State of California if the Legislature enacts and the Governor signs into law legislation that unconstitutionally diverts the City's share of funding from the Highway Users Tax Account (HUTA), also known as the "gas tax," to fund the State general fund.

Sincerely,

Ken Nordhoff
City Manager

Enclosure

cc: Mayor & City Council

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