

**CONTRA COSTA TRANSPORTATION
IMPROVEMENT AND GROWTH MANAGEMENT PROGRAM**

**Contra Costa Transportation
Partnership Commission**

adopted
August 3, 1988

Successor: Contra Costa Transportation Authority

*amended, March 18, 1992, Ordinance 92-01
amended June 15, 1994, Ordinance 94-01
amended October 19, 1994, Ordinance 94-02
amended April 16, 1997, Ordinance 97-02
amended January 17, 2001, Ordinance 01-01
amended September 19, 2001, Ordinance 01-02
amended September 19, 2001, Ordinance 01-03
amended February 18, 2004, Ordinance 04-01
amended May 26, 2004, Ordinance 04-02*

MEMBER JURISDICTIONS: Cities of Antioch, Brentwood, Clayton, Concord, El Cerrito, Hercules,
Lafayette, Martinez, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon,
Walnut Creek, Towns of Danville and Moraga, and the County of Contra Costa.

The Program contains the Contra Costa Transportation Improvement and Growth Management Expenditure Plan and Ordinance. The Ordinance, which is required to be adopted by the Contra Costa Transportation Authority (Contra Costa Transportation Partnership Commission) pursuant to Public Utilities Code commencing with Section 180000, is the legal document implementing the local retail transactions and use tax and specifying the method of allocation of the local retail transactions and use tax revenues and other requirements of the Measure. The Ordinance becomes effective at the close of the polls on the day of the election at which the local transportation measure is approved by the voters. The full text of the Expenditure Plan and the Ordinance are provided on the following pages.

3478 Buskirk Avenue, Pleasant Hill, CA 94523 (925) 407-0121

TABLE OF CONTENTS

EXPENDITURE PLAN	4
STATEMENT OF PRINCIPLES	4
MAP	6
PROJECT AND PROGRAM DESCRIPTIONS	7
GROWTH MANAGEMENT PROGRAM	10
APPENDIX A INFORMATION ON LAND USE DEFINITIONS	15
ORDINANCE #88-01	17
SECTION 1. TITLE	17
SECTION 2. EXPENDITURE PLAN PURPOSES	17
SECTION 3. IMPOSITION OF RETAIL TRANSACTIONS AND USE TAX	18
SECTION 4. REQUEST FOR ELECTION	18
SECTION 5. TRANSPORTATION IMPROVEMENT PROGRAM PURPOSES	18
SECTION 6. TRANSPORTATION IMPROVEMENT PROGRAM PROCEDURES	20
SECTION 7. GROWTH MANAGEMENT PURPOSES AND PROCEDURES	25
SECTION 8. AMENDMENTS TO THE EXPENDITURE PLAN AND ORDINANCE	26
SECTION 9. AMENDMENTS TO THE ORDINANCE	26
SECTION 10. AUTHORITY COMMITTEES	26
SECTION 11. PRIVATE SECTOR FUNDING	27
SECTION 12. BONDING AUTHORITY	27
SECTION 13. ADMINISTRATIVE EXPENSES	27
SECTION 14. ESTABLISHMENT OF SEPARATE ACCOUNTS	27
SECTION 15. IMPLEMENTING ORDINANCES	27
SECTION 16. EFFECTIVE AND OPERATIVE DATES	28
SECTION 17. DESIGNATION OF FACILITIES	28
SECTION 19. SEVERABILITY	28
SECTION 20. ANNUAL APPROPRIATIONS LIMIT	28
SECTION 21. COORDINATION	28
SECTION 22. ALLOCATION OF RELEASED FUNDS	28
SECTION 23. ALLOCATION OF EXCESS FUNDS	29
SECTION 24. TRANSPORTATION AUTHORITY EMINENT DOMAIN	29
SECTION 25. SUNSET OF THE AUTHORITY	
SECTION 26. CALDECOTT TUNNEL	
SECTION 27. MAJOR ARTERIALS	29
SECTION 28. DEFINITIONS	29
ACKNOWLEDGEMENTS	Error! Bookmark not defined.

CONTRA COSTA TRANSPORTATION AUTHORITY

Contra Costa Transportation Authority, a Transportation Authority under the provisions of Public Utilities Code Section 180000, was created by the Mayors' Conference and the Board of Supervisors to provide a *countywide* forum for transportation issues in Contra Costa and to propose ways to reduce traffic congestion.

ORIGINAL MEMBERSHIP (1988):

CHAIR: Ronald K. Mullin

VICE-CHAIR: Sunne Wright McPeak

CENTRAL

Ronald K. Mullin, Councilmember, Concord
(Alternate: Carolyn Bovat, Councilmember, Clayton)
Ed Skoog, Mayor, Walnut Creek
(Alternate: Sherry Sterrett, Councilmember, Pleasant Hill)

EAST

Taylor Davis, Councilmember, Pittsburg
(Alternate: Richard Lettman, Councilmember, Pittsburg)
Cathryn Freitas, Councilmember, Antioch
(Alternate: Joel Keller, Mayor, Antioch)

SOUTHWEST

Beverly Lane, Mayor, Danville
(Alternate: Diane Schinnerer, Mayor, San Ramon)
Avon Wilson, Vice Mayor, Lafayette
(Alternate: Don Tatzin, Councilmember, Lafayette)

WEST

Sharon Brown, Mayor, San Pablo
David MacDiarmid, Councilmember, Richmond

BOARD OF SUPERVISORS

Sunne Wright McPeak, District 4

(Alternates: Robert I. Schroder District 3, Tom Powers, District 1, Nancy Fahden, District 2)

Tom Torlakson, District 5

(Alternates: Robert I. Schroder District 3, Tom Powers, District 1, Nancy Fahden, District 2)

MAYORS' CONFERENCE

Anna McCarty, Councilmember, Pinole

(Alternate: Ann Earnest, Councilmember, Hercules)

**CONTRA COSTA TRANSPORTATION
IMPROVEMENT AND GROWTH MANAGEMENT
EXPENDITURE PLAN**

STATEMENT OF PRINCIPLES

The Contra Costa Transportation Partnership Commission was created by the Mayors Conference and the Board of Supervisors to provide a countywide forum for transportation issues and to propose ways to reduce traffic congestion.

To achieve this goal, the Transportation Partnership Commission, also established as the Transportation Authority under State Law (SB 142), has established principles to guide its efforts to develop a Countywide Comprehensive Transportation Plan and to develop an Expenditure Plan for a one-half cent retail transactions and use tax measure to be placed before Contra Costa voters in November, 1988.

The Commission's principles are as follows:

1. A balanced transportation network of highways, local streets, public transit, growth management and regional planning are necessary to preserve the quality of life and a healthy viable economy for Contra Costa residents.
2. Public input, through both the Citizen Advisory Committee and the Regional Transportation Planning Committees, is a critical element of a successful comprehensive transportation and growth management process to reduce traffic congestion.
3. State and Federal monies are insufficient to meet Contra Costa's transportation needs. A local retail transactions and use tax increase for transportation improvements is the only funding method available to local jurisdictions.
4. The Transportation and Growth Management Expenditure Plan is focused on alleviating existing traffic congestion through funding major regional projects and the establishment of a transportation and growth management process.
5. Transportation planning and growth management are needed to assure that new growth pays for the facilities required to meet the demands resulting from that growth. A cooperative planning process will be established on a countywide basis, while maintaining local authority over land use decisions and the establishment of performance standards, exclusive of operating budgets.
6. A complementary, but separate ballot measure will provide for the acquisition and preservation of open space.

These principles are the basis of the Expenditure Plan which is presented by the Commission, its Citizen Advisory Committee, Regional Transportation Planning Committees and Technical Staff for approval by local jurisdictions and the voters of Contra Costa.

EXPENDITURE PLAN
PROJECTS AND PROGRAMS

ALLOCATION

HIGHWAYS AND ARTERIALS

Interstate 680 Corridor	\$100,000,000
North Richmond/Interstate 80 Bypass (Route 93)	70,000,000
Route 4 (east)	80,000,000
Route 4 (west)	45,000,000
Gateway/Lamorinda Traffic Program	19,000,000
Major Arterials - Southwest Region	13,600,000
Camino Pablo (San Pablo Dam Road Corridor)	4,500,000

TRANSIT

Rail Extension - from Concord to North Concord and Eastern Contra Costa	178,000,000
Contra Costa Regional Commuterway	46,000,000
BART Parking	5,500,000

TRAILS

Regional Bicycle and Pedestrian Trails	3,000,000
--	-----------

PROGRAMS

Elderly and Handicapped Transit Service	25,900,000
Local Street Maintenance and Improvements	55,500,000
Carpools, Vanpools, and Park and Ride Lots	8,600,000
Bus Transit Improvements and Coordination	42,400,000
Regional Transportation Planning and Growth Management	10,000,000

TOTAL	\$807,000,000
--------------	----------------------

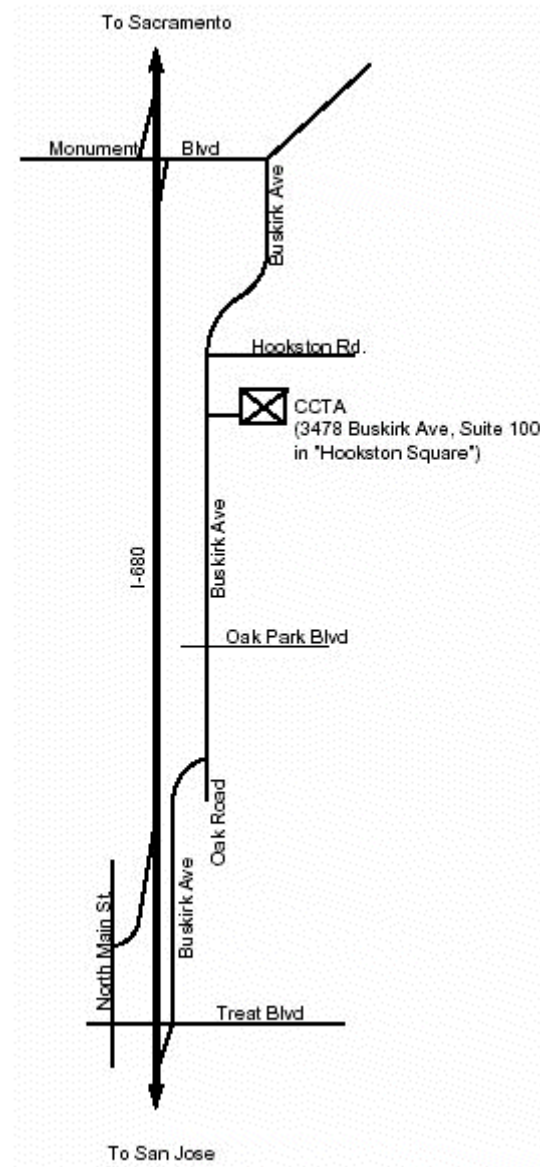
Location Map of Office

Directions:

If Driving Take the Monument Avenue exit from either direction of I-680. Go east on Monument to the 1st light (in front of shopping center) Turn right and follow Buskirk behind the shopping center to the stop sign. Stay to the right and follow Buskirk around until it goes next to the highway. After passing the Hookston/Buskirk intersection, go left into the entrance for Hookston Square. Go through the office parking lot to the right. There is a direction sign to the lobby of the building at the end of the driveway.

If Taking BART Exit at the Pleasant Hill BART station. Get on the Route 116 North County Connection bus. Follow bus stop instructions below.

If Taking Bus Transit stop at the corner of Buskirk and Hookston Road from the Pleasant Hill BART station. Walk to the entrance of Hookston Square and go straight through the parking lot. There is a direction sign for the lobby of the 3478 building on the grass at the end of the driveway.



EXPENDITURE PLAN

PROJECT AND PROGRAM DESCRIPTIONS

PROJECTS

Interstate 680 Corridor: Widen and improve Interstate 680 between the Alameda County Line and the Benicia-Martinez Bridge, and Route 242 between Route 4 and Interstate 680. Project involves interchange, arterial and access improvements necessary to supplement already funded improvements. On Interstate 680, the project includes, but is not limited to, interchange improvements at Concord Ave., Willow Pass Road, and North Main St.; auxiliary lanes between El Cerro Blvd. and Bollinger Canyon Rd.; and the Fostoria Overcrossing. On Route 242, the project includes, but is not limited to, interchange improvements at Solano Way, Concord Ave., and Clayton Rd. The Authority may loan funds to the State to speed completion of already funded improvements to Interstate 680.

North Richmond/Interstate 80 Bypass (Route 93): Complete an expressway between Interstate 580 (the Knox Freeway) near the Richmond-San Rafael Bridge and Interstate 80 at a new Atlas Road interchange near Hilltop.

Route 4 (east): Widen and improve Route 4 between Willow Pass Road in Concord to at least Railroad Avenue in Pittsburg. Project includes freeway widening, lowering the grade over the Willow Pass, and interchange improvements at various locations.

Route 4 (west): Widen and improve Route 4 to a full freeway between Interstate 80 and Cummings Skyway. Project includes reconstruction of the Route 4/Interstate 80 interchange.

Gateway/Lamorinda Traffic Program: To identify action/measures to mitigate the traffic density between Highway 24 and the Town of Moraga including cost benefit analysis. Implementation of preferred project alternative (Lamorinda cities to jointly review and establish criteria for project implementation).

Major Arterials - Southwest Region: Funds to improve major arterials as jointly determined by the local jurisdictions of the Southwest Region (Danville, Lafayette, Moraga, Orinda, San Ramon, and the portions of the County). It is the intent of the Authority that local jurisdictions give priority to the following projects: Widen San Ramon Valley Blvd. from Hartz to Alcosta; widen Dougherty Road from the County line to Crow Canyon Rd.; widen Crow Canyon Rd. from the County line to Bollinger Canyon Rd.; widen eastbound Route 24 off-ramp at Brookwood and up-grade signals; and improve the St. Marys Rd.-Glenside Dr.-Reliez Station Rd. corridor.

Camino Pablo (San Pablo Dam Road Corridor): Improve and realign Camino Pablo in Orinda as a two-lane roadway with protected left turn lanes and separated pedestrian and bicycle paths.

Rail extension from Concord to North Concord and Eastern Contra Costa: Extend rail transit (BART or light rail) from the Concord BART Station to North Concord and over the Willow Pass Grade to eastern Contra Costa.

Contra Costa Regional Commuterway: Develop bus/van commute lanes connecting the residential areas of eastern and central Contra Costa with job centers in central and southern Contra Costa. The project will use available rights-of-way and planned highway widening along the Route 4 and Interstate 680 corridors. Project shall use the Interstate 680 right-of-way in southern Contra Costa. Development of the project shall be sensitive to adjacent land uses, including a study of route realignment in Walnut Creek as part of mitigation of impacts. Project includes constructing park and ride lots, including those at Sycamore Valley and Bollinger Canyon Roads. Project also includes planning and right of way preservation for future connections to western Contra Costa.

BART Parking at the El Cerrito del Norte Station: Provide additional parking at the El Cerrito del Norte BART station. The Authority shall work with BART to speed completion of already funded BART parking projects and to fund additional parking at other BART stations.

Regional Bicycle and Pedestrian Trails: Complete regional bicycle and pedestrian trails including the Iron Horse Trail in the San Ramon Valley, central Contra Costa trails, and connections to eastern Contra Costa and the Martinez Shoreline Park.

PROGRAMS

Elderly and Handicapped Transit Service: Improve paratransit service for elderly and handicapped persons, including additional service and new vehicles.

Local Street Maintenance and Improvements: Funds returned to local jurisdictions on a formula basis for local, subregional and regional transportation projects as determined by cities and the county, including street and road maintenance and/or transit improvements.

Funds shall be allocated annually to each local jurisdiction, provided that the Authority finds the jurisdiction in compliance with the Growth Management Program. Eighteen percent of the annual net retail transactions and use tax revenue shall be distributed as follows: each jurisdiction shall receive a basic allocation of \$50,000, and the remaining amount shall be allocated using a formula of 50% based on population and 50% based on road miles.

It is the intent of the Authority that local jurisdictions give priority to using these funds for improving major arterial streets.

Carpools, Vanpools, and Park and Ride Lots: Funds to provide and promote use of these commute alternatives to be allocated on a grant basis.

Bus Transit Improvements and Coordination: Provide funds to increase ridership, efficiency, and coordination among the transit agencies. The Authority shall allocate funds on a grant basis to support coordinated service proposals submitted by the transit agencies. Service proposals shall focus on major commute corridors such as Ygnacio Valley Road.

A plan for the implementation of transportation improvements in the Ygnacio Valley Road corridor shall be developed by the Central Contra Costa Transit Authority, in cooperation with the City of Walnut Creek.

Regional Transportation Planning and Growth Management: Develop a countywide Comprehensive Transportation Plan and computer model and update it every two years, provide technical support for the Regional Transportation Planning Committees, and conduct transportation and growth management studies. *The Authority may, if so designated, act as the countywide Congestion Management Program Agency and carry out functions consistent with such designation.*¹ The Authority shall annually budget a percentage of the net tax revenue for regional transportation and growth management purposes.

¹ ORDINANCE 92-01 ADDED THIS LANGUAGE AMENDING DESCRIPTION FOR REGIONAL TRANSPORTATION PLANNING & GROWTH MANAGEMENT

EXPENDITURE PLAN

GROWTH MANAGEMENT PROGRAM

To Be Met By Local Jurisdictions For Receipt Of
Local Street Maintenance and Improvements Funding

INTRODUCTION

Consistent with and in furtherance of its role as the county's designated Congestion Management Program Agency, while serving such role, the overall goal of the Growth Management Program is to achieve a cooperative process for Growth Management on a countywide basis, while maintaining local authority over land use decisions and the establishment of performance standards. The Growth Management and Congestion Management Programs functions shall, to the extent possible, be harmonized. To the extent they conflict, Congestion Management Program activities shall take precedence over Growth Management Program activities.²

The transportation retail transaction and use tax is intended to alleviate existing major regional transportation problems. Growth management is needed to assure that future residential, business and commercial growth pays for the facilities required to meet the demands resulting from that growth.

It is the intent of the Transportation Authority to create a process that results in the maintenance of the quality of life in Contra Costa.

LOCAL STREET MAINTENANCE AND IMPROVEMENTS

Portions of the monies received from the retail transaction and use tax will be returned to the local jurisdictions (the cities and the county) for use on local, subregional and/or regional transportation improvements and maintenance projects. Receipt of all such funds requires compliance with the Growth Management Program described below. The funds are to be distributed on a formula based on population and road miles.

ALLOCATION OF FUNDS

The Authority will annually review and allocate funds to cities and the county. In allocating funds, the Authority shall make findings based on a statement of compliance regarding the Growth Management Program.

To receive local street maintenance and improvement funds from the Authority, each jurisdiction shall submit a statement of compliance with the Growth Management Program. Jurisdictions may use funds allocated under this provision to comply with these administrative requirements. The Authority will review this statement and make findings regarding the jurisdiction's efforts. If the jurisdiction's efforts are found satisfactory, the jurisdiction will be allocated its share of local street maintenance and improvement funding.

² ORDINANCE 92-01 ADDED THIS LANGUAGE AMENDING DESCRIPTION FOR REGIONAL TRANSPORTATION PLANNING & GROWTH MANAGEMENT

Because of the great variation among the jurisdictions, it is expected that the Authority will need some flexibility in determining compliance with the Growth Management Program. Generally, this flexibility may take the form of the Authority setting deadlines for achieving one or more requirements as a condition of receiving local street maintenance and improvement funds. *After expiration of any applicable compliance deadlines, a noncomplying local jurisdiction's local street maintenance and improvements funds shall revert to the Authority for allocation to projects contained in the Expenditure Plan which are not fully funded and which are of broader regional significance.*³

GROWTH MANAGEMENT PROGRAM

To receive its local street maintenance and improvement funds, each jurisdiction must:

1. ADOPT A GROWTH MANAGEMENT ELEMENT

Each jurisdiction is to develop a Growth Management Element of its General Plan to be applied in the development review process. The element must include sections 2 and 3 below, and jurisdictions must comply with sections 4-8 below. The Authority and the Regional Transportation Planning Committees shall jointly prepare a model element and administrative procedures to guide the local jurisdictions. Local jurisdictions shall develop their Growth Management Element within one year after receipt of the Authority's model element.

2. ADOPT TRAFFIC LEVEL OF SERVICE (LOS) STANDARDS keyed to types of land use:

<u>Rural</u>	LOS low-C (70 to 74) Volume to Capacity (V/C)
<u>Semi-Rural</u>	LOS high-C (75 to 79) V/C
<u>Suburban</u>	LOS low-D (80 to 84) V/C
<u>Urban</u>	LOS high-D (85 to 89) V/C
<u>Central Business District</u>	LOS low-E (90 to 94) V/C

Based on the categories established above, each jurisdiction shall determine how the Traffic Service standards are to be applied to their General Plan land use and circulation elements, and the land areas to be defined as Rural, Semi-Rural, Suburban, Urban, and Central Business District (as suggested in the Guidelines in Appendix A). Each jurisdiction shall comply with the adopted standards. Jurisdictions may adopt more stringent standards without penalty.

Level of Service (LOS) would be measured by Circular 212 or the method described in the most commonly used version of the Highway Capacity Manual. Any issues with respect to the application of the Highway Capacity Manual or measurement of level of service shall be referred to the Authority's Technical Coordinating Committee for review and recommendation to the Authority. In the event that an intersection(s) exceeds the applicable Traffic Service standard, the Authority

³ ORDINANCE 94-02, AMENDING THE MEASURE C EXPENDITURE PLAN WITH RESPECT TO COMPLIANCE WITH GROWTH MANAGEMENT REQUIREMENTS; REVERSION OF LOCAL STREET MAINTENANCE AND IMPROVEMENT FUNDS TO THE AUTHORITY FOR REALLOCATION TO PROJECTS OF REGIONAL SIGNIFICANCE IN THE EVENT OF NONCOMPLIANCE BY A LOCAL JURISDICTION

shall, jointly with local jurisdictions, establish appropriate mitigation measures or determine that a given intersection is subject to a finding of special circumstances.

Any intersection that presently exceeds the Traffic Service standard and which will be brought into compliance in the most current Five Year Capital Improvement Program (see section 6) shall be considered to be in compliance with the applicable standard.

The Authority, jointly, with affected local jurisdictions, shall determine and periodically review the application of Traffic Service Standards on routes of regional significance. The review will take into account traffic originating outside of the county or jurisdiction, and environmental and financial considerations. Local jurisdictions, through the forum provided by the Authority, shall jointly determine the appropriate measures and programs for mitigation of regional traffic impacts. (See Section 5)

Capital projects necessary to meet and/or maintain the Traffic Service standards are to be included in the required Five Year Capital Improvement Program. (See Section 6)

3. **ADOPT PERFORMANCE STANDARDS**, maintained through capital projects, for the following items, based on local criteria:

- a. fire
- b. police
- c. parks
- d. sanitary facilities
- e. water
- f. flood control

Jurisdictions may have already adopted performance standards for some or all of these items.

Performance standards shall be adopted for inclusion in each local jurisdiction's General Plan. Each jurisdiction shall comply with the adopted standards. The Performance Standards should take into account fiscal constraints, and how the standards are to be applied in each jurisdiction's development review process. To ensure the continued applicability of these standards, each jurisdiction may annually review and modify their adopted standards, in consultation with special districts where appropriate, and provide an opportunity for public comment.

Capital projects, exclusive of operating budgets, to achieve and/or maintain Performance Standards are to be included in the required Five Year Capital Improvement Program. (See Section 6)

4. **ADOPT A DEVELOPMENT MITIGATION PROGRAM** to ensure that new growth is paying its share of the costs associated with that growth.

Local jurisdictions, for the most part, already impose fees for a variety of purposes including site specific traffic improvements. Only a few jurisdictions impose fees for regional traffic mitigation.

To meet the requirements of this Section, each jurisdiction shall:

- 1) Ensure that revenue provided from this measure shall not be used to replace private developer funding which has been or will be committed for any project.
- 2) Adopt a development mitigation program to ensure that development is paying its share of the costs associated with that development.

In addition, the Authority shall:

- 1) Develop a program of regional traffic mitigation fees, assessments or other mitigations, as appropriate, to fund regional and subregional transportation projects, as determined in the Comprehensive Transportation Plan of the Authority.
 - 2) Consider such issues as jobs/housing balance, carpool and vanpool programs and proximity to transit service in the establishment of the regional traffic mitigation program.
 - 3) The development mitigation program will be implemented with the participation and concurrence of local jurisdictions in determining the most feasible methods of mitigating regional traffic impacts. Existing regional traffic impact fees shall be taken into account by the Authority.
5. **PARTICIPATE IN A COOPERATIVE, MULTI-JURISDICTIONAL PLANNING PROCESS TO REDUCE CUMULATIVE REGIONAL TRAFFIC IMPACTS OF DEVELOPMENT.**

The Authority shall establish a forum for jurisdictions to cooperate in easing cumulative traffic impacts. This will be accomplished through the Regional Transportation Planning Committees, and be supported by an ongoing countywide comprehensive transportation planning process in which all jurisdictions shall participate.

As part of this process, a uniform database on traffic impacts will be created, based on the countywide transportation computer model.

Use of the countywide transportation computer model provides an opportunity to test General Plan(s) transportation and land use alternatives, and to assist cities and the county in determining the impact of major development projects proposed for General Plan Amendments. This would provide a quantitative basis for inter-jurisdictional negotiation to mitigate cumulative regional traffic impacts. Input for the model shall include each jurisdiction's Five Year Capital Improvement Program of transportation projects (see Section 6) and the projects of federal, state and regional agencies such as Caltrans, transit operators, the Metropolitan Transportation Commission, etc. In addition, the computer model database will include each local jurisdiction's anticipated land use development projects expected to be constructed within the next five years.

6. **DEVELOP A FIVE YEAR CAPITAL IMPROVEMENT PROGRAM** to meet and/or maintain Traffic Service and Performance Standards (defined in Sections 2 and 3).

Each jurisdiction shall determine the capital projects needed to meet and/or maintain both its adopted Traffic Service and Performance Standards. Capital financial programming will be based on development to be constructed during (at a minimum) the following five year period. The Capital Improvement Program shall include approved projects and an analysis of the costs of the proposed projects as well as a financial plan for providing the improvements.

7. **ADDRESS HOUSING OPTIONS AND JOB OPPORTUNITIES**

As part of its Five Year Capital Improvement Program and pursuant to the state mandated housing element of its General Plan, each jurisdiction shall develop an implementation program that creates housing opportunities for all income levels.

Each jurisdiction shall also address land use information as it relates to transportation demand as well as a discussion of each jurisdiction's efforts to address housing options and job opportunities on a city, subregional and countywide basis.

8. **ADOPT A TRANSPORTATION SYSTEMS MANAGEMENT (TSM) ORDINANCE** or alternative mitigation.

To promote carpools, vanpools and park and ride lots, the Transportation Authority will draft and adopt a Model Transportation Systems Management Ordinance for use by local jurisdictions in developing local ordinances for adoption and implementation. Upon approval of the Authority, cities with a small employment base may adopt alternative mitigation measures in lieu of adopting a TSM Ordinance.

EXPENDITURE PLAN
GROWTH MANAGEMENT PROGRAM
APPENDIX A
INFORMATION ON LAND USE DEFINITIONS

These definitions are for information, guidance and are subject to local jurisdictions' determination in the application of Traffic Service Standards.

RURAL

Rural areas are defined as generally those parts of the jurisdiction which have been designated in the General Plan for agricultural or open space uses and which are characterized by medium to very large parcel sizes (10 acres to several thousand acres). These areas have very low population densities, usually no more than 1 person per acre or 500 people per square mile.

SEMI-RURAL

Semi-Rural areas are defined as generally those parts of the jurisdiction that are designated in the General Plan for agricultural, open space or very low density residential uses, with predominant parcel sizes down to as small as 2 to 3 acres. These areas may support viable agricultural operations, but the operations generally occur on small to medium sized lots. The areas are also characterized by clusters of farm housing or very low density "ranchette" development. The population densities in these areas usually range between 500 to 1,000 persons per square mile (1.0 to 1.5 persons per acre.)

SUBURBAN

Suburban areas are defined as generally those parts of the jurisdiction that are designated in the General Plan for low and medium density single family homes; low density multiple family residences; low density neighborhood and community oriented commercial/industrial uses; and other accompanying uses. Individual structures in suburban areas are generally less than 3 stories in height and residential lots vary from about 6000 square feet up to 2 or 3 acres. Population densities in suburban areas fall within a wide range, from about 1,000 to 7,500 persons per square mile (1.5 to 12.0 people per acre).

URBAN

Urban areas are defined as generally those parts of the jurisdiction that are designated in the General Plan primarily for multiple family housing, with smaller areas designated for high density single family homes; low to moderate density commercial/industrial uses; and many other accompanying uses. Urban areas usually include clusters of residential buildings (apartments and condominiums) up to three or four stories in height and single family homes on relatively small lots. Many commercial strips along major arterial roads are considered urban areas.

Examples of urban areas in Contra Costa County are the older neighborhoods in Richmond, El Cerrito, Pittsburg, and Antioch and the downtown commercial districts in smaller cities such as Martinez, Danville, and Lafayette. Population densities in urban areas are usually at least 7,500 persons per square mile (12.0 people per acre). Employment densities in commercial areas may range up to about 15 jobs per acre.

CENTRAL BUSINESS DISTRICT/MAJOR COMMERCIAL CENTER

Central business districts or major commercial centers are defined as those areas designated in the General Plan for high density commercial and residential uses. They consist of either the downtown area of a major city (Concord, Walnut Creek, Richmond, and the Pleasant Hill BART station area) or a large business park (such as Bishop Ranch). These areas are characterized by large concentrations of jobs and consist of clusters of buildings four stories or more in height. CBD's or major commercial centers generally have high employment densities.

ROUTES OF REGIONAL SIGNIFICANCE

Routes of regional significance are generally those that serve travel across Contra Costa County (for example, eastern Contra Costa to central Contra Costa), or between Contra Costa County and adjacent counties. Examples of routes of regional significance include: the Interstate and State Highway system, Ygnacio Valley Road, Treat Boulevard, San Pablo Avenue, San Pablo Dam Road, Lone Tree Way, etc.

**CONTRA COSTA
TRANSPORTATION IMPROVEMENT AND GROWTH MANAGEMENT**

ORDINANCE NO. 04-02

(Ordinance #88-01 as amended by:
Ordinance 92-01, March 18, 1992
Ordinance 94-01, June 15, 1994
Ordinance 94-02, October 19, 1994
Ordinance 97-02, April 16, 1997
Ordinance 01-01, January 17, 2001
Ordinance 01-02, September 19, 2001
Ordinance 01-03, September 19, 2001
Ordinance 04-01, February 18, 2004
And, on May 26, 2004)

Authorizing the Amendment of the Contra Costa Transportation Improvement and Growth Management Ordinance (No. 88-01), as amended, the Continuance of the Existing Measure C Sales Tax and the Implementation of a New Transportation Expenditure Plan

SECTION 1. TITLE. This Ordinance shall be known and may be cited as the “*Measure C Sales Tax Renewal Ordinance (#04-02)*,” which *continues in effect the existing* retail transactions and use tax.

SECTION 2. EXPENDITURE PLAN PURPOSES. This Ordinance provides for the implementation of the Contra Costa Transportation Improvement and Growth Management Expenditure Plan, as approved and adopted by the Contra Costa Transportation Authority, which will result in countywide transportation facility and service improvements including highway improvements, public transit improvements, trail facility improvements, local street maintenance and improvements and related transportation programs. These needed improvements shall be funded by the retail transactions and use tax provided for in Section 3 of this Ordinance.

The revenues shall be deposited in a special fund and used solely for transportation projects and programs. The specific projects and programs to be implemented as well as the required growth management program are described in the Expenditure Plan which is considered a part of this Ordinance and hereby incorporated by reference as if fully set forth herein.

The revenues received by the Authority from this Ordinance, after deduction of required Board of Equalization costs for performing the functions specified in Section 180204 of the Public Utilities Code, and for the administration of the Contra Costa Expenditure Plan commencing with Public Utilities Code Section 180200, in an amount not to exceed one percent (1%), shall be used for transportation projects and programs countywide as set forth in the Expenditure Plan and in a manner consistent with the Comprehensive Transportation Plan developed by the Authority.

Expenditures for staff salaries and benefits for projects, programs and planning, including Growth Management Program functions and as the County's designated Congestion Management Agency shall be included within and subject to funding under the applicable allocation provided for in the Expenditure Plan, or from other sources.

SECTION 3. CONTINUATION OF RETAIL TRANSACTIONS AND USE TAX. In addition to any other taxes authorized by law, there is hereby continued in effect in the incorporated and unincorporated territory of the County of Contra Costa, in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code which provisions are adopted by reference and Division 19 of the Public Utilities Code commencing with Code Section 180000, a retail transactions and use tax at the rate of one-half of one percent (1/2%) for a period not to exceed twenty five years commencing on April 1, 2009, in addition to any existing or future authorized state or local transactions and use tax of one-half of one percent approved by the voters as Measure C at the November 8, 1988 general election shall remain in effect for the period of time specified above. This tax continues in effect the transportation sales tax currently set to expire on March 31, 2009. Subject to voter approval, the existing retail transactions and use tax is hereby continued in effect and reimposed at the rate of one-half of one percent (1/2%) for an additional period of 25 years, commencing on April 1, 2009, and continuing through March 31, 2034

A. 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 amendments shall operate so as to affect the rate of tax imposed by this Ordinance.

B. Enjoining Collection Forbidden. No injunction of 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 4. REQUEST FOR ELECTION. The Authority requests the Contra Costa County Board of Supervisors place this Ordinance before the voters for approval on the November 2, 2004 ballot.

The proposition to be placed on the ballot shall read substantially as set forth in the attached Exhibit B, which is incorporated in this Ordinance by reference. The election shall be called and conducted in the same manner as provided by law for the conduct of elections by a county. Pursuant to Section 180203 © of the Public Utilities code, the sample ballot to be mailed to the voters shall be the full proposition, as set forth in the ordinance calling the election, and the voter information handbook shall include the entire new TEP as adopted by the Authority. Approval of the attached proposition, and the imposition of the Measure “C” retail transactions and use tax described herein, shall require the affirmative vote of at least two thirds of the electors voting on the attached proposition at the election described in this section.

SECTION 5. (Formerly 5.A) TRANSPORTATION IMPROVEMENT PROGRAM PURPOSES. [The first section, General Project Provisions, is recommended to be retained as part of the Ordinance by the Administration & Projects Committee and is shown here for completeness.] The revenues made available for specified highway, transit and trail projects and programs shall be allocated in accordance with the Expenditure Plan, subject to the following provisions:

A. For all projects:

1. No revenues shall be allocated for any state projects until the Authority has certified that Contra Costa is receiving, at a minimum, its fair share of funds from state and federal sources for transportation projects and programs. The determination of fair share shall consider all relevant factors including the degree to which the Contra Costa region is receiving its statutory county minimum funding for all budgeted, expended, and programmed state funds and federal funds available for capital projects and operating subsidies. The policies and project approval actions of the California Transportation Commission, the State Department of Transportation (hereafter referred to as Caltrans) and the federal Department of Transportation (e.g. Federal Highway Administration and Urban Mass Transportation Administration) will also be reviewed to ensure that Contra Costa is receiving full consideration in the allocation of any additional uncommitted state and federal funding. Part of the certification shall include a finding that the state has not reduced any state fund allocations to the Contra Costa region as a result of the addition of any local revenues as provided herein. The certification shall be made annually.
2. If the Authority finances the construction of transportation facilities by the issuance of bonds or any similar financing device, the Authority shall first allocate the funds necessary to meet all debt service requirements.
3. Each project shall have a local jurisdiction(s) or special district as a sponsor of the project. If there is no local jurisdiction or special district as a project sponsor for a specific Project or Program, the Authority shall be the sponsor for that Project or Program.
4. All state improvements to be funded with revenues as provided in this Ordinance, including project development and overall project management, shall be a joint responsibility of Caltrans, the Authority and the affected local jurisdiction(s) or special district(s). All major project approval actions including the project concept, the project location, and any subsequent change in project scope shall be jointly agreed upon by Caltrans, the Authority and the project sponsors, and where appropriate, by the Federal Highway Administration and/or the California Transportation Commission.
5. The Authority may use the proceeds of this Ordinance to accelerate projects which are anticipated to be funded through the State Transportation Improvement Program (STIP). It must be demonstrated by Caltrans that a meaningful acceleration can be accomplished using Authority funds and the State must commit to refunding those proceeds in dollars or in the acceleration or completion of other Expenditure Plan Projects and Programs and/or STIP projects.

In the event that the refund of acceleration funds impacts the implementation of any Expenditure Plan Project or Program, the Authority shall amend the Expenditure Plan under Section 8.

6. Any local funds already allocated, committed or otherwise included in the financial plan for any project on the Expenditure Plan shall be made available for project development and implementation as required in the project's financial and implementation program. All local jurisdictions and special districts are encouraged to seek all available funding from private and public sources to further the purposes of the Expenditure Plan and this Ordinance.

- B. For Highway Projects: Once any state highway facility or usable portion thereof is constructed to at least minimum acceptable state standards, the state shall be responsible for the maintenance and operation thereof.
- C. For Transit Projects: Prior to the construction of any transit facility or usable portion thereof, the Authority, in cooperation with affected transit operators and agencies, shall determine the entity to be responsible for the maintenance and operation thereof.
- D. For Trail Projects: Prior to the construction of any trail facility or usable portion thereof, the Authority, in cooperation with affected agencies, shall determine the entity(ies) to be responsible for the maintenance and operation thereof.

Sections 5B and 5C will be incorporated into the existing Measure C.

SECTION 6. TRANSPORTATION IMPROVEMENT PROGRAM PROCEDURES.⁴

- A. It is the intent of the Legislature and the Authority that revenues provided from this Ordinance be used to supplement existing revenues being used for transportation improvements and programs. Each local jurisdiction receiving Local Street Maintenance and Improvements funds pursuant to Section 5 shall meet the requirements of that section.
- B. Under state enabling legislation, funds generated pursuant to Measure C are to be used to supplement and not replace existing local revenues used for transportation purposes.⁵ To meet the requirements of state law, a jurisdiction must demonstrate maintenance of a minimum level of local street and road expenditures in conformance with the requirements below.
- C. The local jurisdiction shall expend each fiscal year from its general fund for street and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1987-88, 1988-89, and 1989-1990 fiscal years, as reported to the Controller pursuant to Streets and Highways Code section 2151. Minimum annual average general fund expenditures for each of the local jurisdictions, calculated as set forth herein are as follows:

Concord	\$4,374,420
Walnut Creek	\$2,309,350
Antioch	\$2,271,666
Richmond	\$1,420,937
San Ramon	\$1,053,697
Pleasant Hill	\$1,019,834
Martinez	\$1,013,178
Pittsburg	\$0,961,877

⁴ ORDINANCE 94-01, AMENDING ORDINANCE 88-01 WITH REFERENCE TO MAINTENANCE OF EFFORT COVERS SECTIONS 6 AND 6.1

⁵ ORDINANCE 97-02 AMENDED ORDINANCE 88-01 WITH REFERENCE TO MAINTENANCE OF EFFORT CONTAINED IN SECTIONS 6 AND 6.1.

County of Contra Costa	\$0,420,064
Pinole	\$0,414,486
Lafayette	\$0,329,600
San Pablo	\$0,201,641
Danville	\$0,185,742
Brentwood	\$0,177,369
El Cerrito	\$0,173,871
Moraga	\$0,123,808
Orinda	\$0,095,823
Hercules	\$0,085,423
Clayton	\$0,000,000

- D. For purposes of this section, in calculating a local jurisdiction's annual general fund expenditures and its average general fund expenditures for the 1987-88, 1988-89, and 1989-90 fiscal years, any unrestricted funds which the local jurisdiction may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, but excluding any Local Street Maintenance and Improvement funds, expended for streets and highway purposes are expenditures from the general fund.
- E. If a local jurisdiction fails to comply with the maintenance of effort requirements in a particular fiscal year, the local jurisdiction may expend during that fiscal year and the following fiscal year, a total amount which is not less than the total amount required to be expended for those years for purposes of complying with its maintenance of effort requirement.
1. At the end of the first fiscal year in which the local jurisdiction does not expend the amount required, the local jurisdiction shall have its Local Street Maintenance and Improvement distribution reduced by the amount by which the jurisdiction has not met its required Maintenance of Effort.
 2. Provided the local jurisdiction has met the requirement of this subdivision to expend an amount in the two-year period sufficient to meet its maintenance of effort obligation for such two-year period, the amount withheld shall be distributed to the local jurisdiction, without interest, following the end of the next fiscal year. Such distribution shall be referred to herein as the "make-up payment."
- F. Any local jurisdiction which fails to comply with its maintenance of effort requirement, using the two-year period, shall have its Local Street Maintenance and Improvements funding reduced by the aggregate amount by which the jurisdiction failed to meet its required Maintenance of Effort for such two-year period.
1. The amount of the second year distribution shall be adjusted as follows: (i) if the local jurisdiction's second year maintenance of effort expenditures are less than or equal to its required maintenance of effort for such year, the second year distribution shall be reduced by the amount, if any, by which the second year maintenance of effort requirement exceeds the local jurisdiction's actual expenditures; (ii) if the local jurisdiction's second year maintenance of effort expenditures are greater than its required maintenance of effort for such year, but less than an amount which, together with its actual first year maintenance of effort expenditures,

would be equal to or greater than its two year maintenance of effort requirement, the amount of the second year distribution shall be increased by the amount by which the local jurisdiction's actual second year maintenance of effort expenditures exceed its required maintenance of effort for such year.

2. Any remaining undistributed funds shall revert to the Authority for allocation to projects contained in the Expenditure Plan which are not fully funded and which are of regional significance.
- G. The Authority may request fiscal data from local jurisdictions, in addition to data provided pursuant to Streets and Highways Code Section 2151 for the 1987-88, 1988-89 and 1989-90 fiscal years. Each local jurisdiction shall furnish the data to the Authority not later than 120 days after receiving the request. The Authority may withhold payments to local jurisdictions that do not comply with requests for information or which provide incomplete information.
- H. At the conclusion of each fiscal year each local jurisdiction shall verify compliance with subdivision C. Subject to compliance with the provisions of subdivision C and to any adjustment in the amount of such payments in accordance with this Section 6, the Authority shall distribute Local Street Maintenance and Improvement payments pursuant to Section 5 of this Ordinance.
- I. For any local jurisdiction incorporated after July 1, 1987, the Authority shall calculate the annual average of expenditures pursuant to subdivision C for the period between July 1, 1987 and June 30, 1990 that the local jurisdiction was incorporated.
- J. Revenues from a fee imposed or contribution first received by a local jurisdiction on or after January 1, 1990 which are used on or after July 1, 1990, by that local jurisdiction for maintenance or improvement purposes on its streets and highways shall be considered as general fund expenditures for the purposes of compliance with the provisions of this Section in the fiscal year in which such expenditures are made.
- K. A local jurisdiction shall provide all necessary information requested by the Authority if the local jurisdiction requests an adjustment to its average base year or annual expenditures that are the result of any amendment of this Section after January 1, 1994. The Authority shall not make any change to the average base year or annual expenditure until the Authority has received and verified the accuracy of the necessary data.

SECTION 6.1. MAINTENANCE OF EFFORT COMMITTEE.

- A. The Authority finds and declares all of the following:
 1. That Measure C provides that a portion of monies received from the retail transactions and use tax imposed by Measure C be returned to local jurisdictions for use on local, subregional and/or regional transportation improvements and maintenance projects, subject to compliance with the Growth Management Program described in the Measure.
 2. As required by the statutes pursuant to which the Authority is organized and in order to provide assurances to the voters in Contra Costa that such street maintenance and improvements

revenues would be used for increased transportation expenditures and not be used to relieve local jurisdiction general fund contributions for transportation, a maintenance of effort requirement was included in Section 6 of the Ordinance.

3. Due to the complexity of local jurisdiction financing practices, it is not practicable to adopt a countywide ordinance that accurately identifies local jurisdiction funding sources and practices for all occasions.
 4. It is the intent of the Authority that an impartial committee be formed to evaluate and to make recommendations for action by the Authority with respect to unusual local jurisdiction funding practices and make adjustments to the maintenance of effort requirements of Section 6 of the Ordinance without violating objectives of that Section.
- B. A local jurisdiction seeking a modification of its maintenance of effort requirement pursuant to this Section, may request that Authority staff review the request and make a recommendation for action to the Authority.
- C. If the local jurisdiction asserts and the Authority finds that the requested determination would involve sensitive policy or administrative issues, the Authority may appoint a Maintenance of Effort Committee to review the request and to make a recommendation for action to the Authority. The committee would be comprised of the following five members:
1. Two (2) members appointed from the membership of the City-County Engineers Advisory Committee of Contra Costa County and selected by the members of such committee.
 2. Two (2) members appointed by the Public Managers Association of Contra Costa County; each such appointee shall be a finance director or city manager of a local jurisdiction.
 3. One (1) member appointed from the membership of the Transportation Partnership Advisory Committee of the Authority and selected by the members of such committee.
- D. The Maintenance of Effort Committee chair shall be selected from among the members of the committee by vote of a majority of the members of the committee.
- E. Any local jurisdiction wishing to adjust its maintenance of effort requirement shall submit to the Authority a request for adjustment and the necessary documentation to justify the adjustment. The Authority staff, or, if the Authority determines and finds that it is necessary to refer the matter to a committee, the Maintenance of Effort Committee, shall review the request and shall make a recommendation to the Authority. Recommendations shall be advisory only and shall not bind the Authority to any course of action. Taking into consideration the recommendation, the Authority may adjust the annual average of expenditures for the 1987-88, 1988-89 and 1989-90 fiscal years reported pursuant to Streets and Highways Code Section 2151. The Authority shall make an adjustment if one or more of the following conditions exists:
1. The local jurisdiction has undertaken one or more major capital projects during those fiscal years, that required accumulating unrestricted revenues to support the project during one or more fiscal years.

2. A source of unrestricted revenue used to support the major capital project or projects is no longer available to the local jurisdiction and the local jurisdiction lacks authority to continue the unrestricted funding source.
3. One or more sources of unrestricted revenues that were available to the local jurisdiction is producing less than 95 percent of the amount produced in those fiscal years, and the reduction is not caused by any discretionary action of the local jurisdiction.

The amount of the adjustment shall be limited to the proportionate impact of extraordinary expenditures as set forth in paragraph 1 or the reduced revenue as set forth in paragraphs 2 and 3.

F. Because of the loss to local jurisdictions of unrestricted revenues for road maintenance and improvements due to the diversion of property tax revenues by the state Legislature in order to balance the state budget; and in light of the potential impacts of the requirements of Proposition 218 with respect to the establishment and maintenance of assessment districts and fee programs to defray revenue lost as noted above, the Authority will consider requests for adjustments to the expenditure requirements of local jurisdictions to address these problems. Accordingly:

1. Any local jurisdiction may request an adjustment in its expenditure requirement if a calculation of its maintenance of effort requirement on the basis of (i) the ratio of population and street mileage of such local jurisdiction, weighted 50% to each, to the total population and street mileage within the entire county, (ii) multiplied by the total of average expenditures of all jurisdictions within the county, results in a lower requirement than that calculated based on an average of expenditures for fiscal years 1987-88, 1988-89 and 1989-90. For purposes of making the calculation provided herein, the following data shall be used:

	Population (1990 Stats)	Miles of Street Maintained	Weighted Average of Population and Miles
Concord	111,300	329.7	\$2,183,881
Antioch	62,000	164.9	1,159,076
Walnut Creek	63,800	172.3	1,201,784
Martinez	31,000	94.0	614,915
Pleasant Hill	32,300	92.8	624,952
San Ramon	35,000	120.0	747,292
Pittsburg	45,700	123.6	860,639
Pinole	17,000	51.9	338,288
Brentwood	7,100	23.5	146,872
San Pablo	21,600	48.8	377,316
Moraga	16,400	50.0	326,140
Hercules	16,900	52.2	338,152
Lafayette	23,300	92.1	527,872
Clayton	6,900	32.5	172,329
County	154,600	727.4	3,920,003
Orinda	17,800	92.9	472,306

Richmond	84,300	248.1	1,649,140
Danville	31,600	107.3	661,930
El Cerrito	23,400	71.2	464,912

2. The Authority may reduce the local jurisdiction’s expenditure requirement pursuant to a request under this subdivision by an amount not in excess of the difference between (i) the amount required to be expended by such local jurisdiction as set forth in Section 6C. and (ii) the amount which would be required based on the weighted road miles-population calculation described in subdivision 1 above.
3. In determining the amount of the reduction in such local jurisdiction’s expenditure requirement, if any, the Authority may consider factors such as evidence that the amount of expenditures in the base years exceeded average expenditures over a multi-year period, the stage of development or “build-out” of the local jurisdiction, and hardship factors.
4. No adjustment to a local jurisdiction’s expenditure amount pursuant to this subdivision shall require any adjustment to the expenditure requirement of any other local jurisdiction.
5. No adjustment under this subdivision shall affect the right of a local jurisdiction to seek an adjustment under subdivision E above, and no adjustment approved pursuant to subdivision E above shall affect the right of a local jurisdiction to seek an adjustment under this subdivision.

G. The request reviewing body may recommend, and the Authority may also grant a reduction in expenditure requirements for a single fiscal year under extraordinary circumstances, if both the following conditions are met:

1. The local jurisdiction submits a request for adjustment and the necessary documentation to justify the adjustment.
2. The local jurisdiction has suffered an extraordinary loss of revenues or incurred an extraordinary expenditure due to circumstances beyond its control.

H. Members of a Maintenance of Effort Committee shall serve without compensation, but may be reimbursed for travel expenses incurred as a result of attending meetings of the committee. The Authority shall administer the provisions of this section.⁶

SECTION 7. GROWTH MANAGEMENT PURPOSES AND PROCEDURES. This section links compliance with the growth management program to receipt of Local Street Maintenance and Improvement Funds. It should be moved to the existing TEP; or alternatively, amended to reflect the date(s) for which the new GMP will take effect and the addition at that time of the need for compliance in order to receive TLC funds.

⁶ END OF CHANGES MADE BY ORDINANCE 97-02 AMENDING MAINTENANCE OF EFFORT REQUIREMENTS

SECTION 8. AMENDMENTS TO THE EXPENDITURE PLAN AND ORDINANCE. The Authority may annually review and propose amendments to the Expenditure Plan to provide for the use of additional federal, state and local funds, to account for unexpected revenues, or to take into consideration unforeseen circumstances. The Authority shall establish a process for proposed Expenditure Plan amendment(s) which ensures that the affected Regional Planning Transportation Committee(s) participate in the development of the proposed amendment(s). Upon completion of this process, amendment(s) to the Expenditure Plan must be passed by a roll call vote entered in the minutes and must have a majority of the Authority concurring with the proposed amendment(s). Subsequently, the Authority shall notify the Board of Supervisors, the City Council of each city in the county and the Mayors' Conference and provide each entity with a copy of the proposed amendments. Pursuant to Public Utilities Code 180207, proposed amendments shall become effective 45 days after notice is given, unless successfully appealed under the process outlined in the following paragraph. The Authority shall hold a public hearing on the proposed amendment(s) within this 45 day period.

In the event that a local jurisdiction does not agree with the Authority's amendments(s), the jurisdiction's policy decision-making body must, by a majority vote, determine to formally notify the Authority of its intent, in writing via registered mail, to obtain an override of the Authority's amendment(s). The appealing jurisdiction will have 45 days from the date of its determination to appeal the proposed amendment to obtain resolutions supporting its appeal for an override of the amendment(s) from a majority of the cities representing a majority of the population residing in the incorporated areas of the county and from the Board of Supervisors. If a jurisdiction does not obtain the necessary resolutions supporting its appeal, the Authority's amendment(s) to the Expenditure Plan will stand.

SECTION 9. AMENDMENTS TO THE ORDINANCE. With the exception of Section 3, which requires a majority vote of the electors of the County of Contra Costa to be amended, this Ordinance may be amended to further its purposes. The Authority shall establish a process for proposed Ordinance amendments which ensures that the Regional Planning Transportation Committees participate in proposed Ordinance amendment(s). Upon completion of that process, amendment(s) to this Ordinance must be passed by a roll call vote entered in the minutes and must have two-thirds of the Authority concurring with the proposed amendment(s).

In the event that a local jurisdiction does not agree with the Authority's amendments(s), the jurisdiction's policy decision-making body must, by a majority vote, determine to formally notify the Authority of its intent, in writing via registered mail, to obtain an override of the Authority's amendment(s). The appealing jurisdiction will have 45 days from the date the Authority adopts the proposed amendment to obtain resolutions supporting its appeal for an override of the amendment(s) from a majority of the cities representing a majority of the population residing within the incorporated areas of the county and from the Board of Supervisors. If a jurisdiction does not obtain the necessary resolutions supporting its appeal, the Authority's amendment(s) to the Ordinance will stand.

SECTION 10. AUTHORITY COMMITTEES. It is the intent of the Authority to continue the committees which were established as part of the Transportation Partnership Commission organization. The committees are:

- A. the Regional Planning Transportation Committees which were established to develop transportation plans on a geographic basis for sub-areas of the County.

B. the Transportation Partnership Advisory Committee which will serve as the Authority's citizens advisory committee;

C. the Technical Coordinating Committee which will serve as the Authority's technical advisory committee.

SECTION 11. PRIVATE SECTOR FUNDING. Revenues provided from this Ordinance shall not be used to replace private developer funding which has been or will be committed for any project.

SECTION 12. BONDING AUTHORITY. This section incorporates by reference all of the relevant provisions contained in Public Utilities Code Sections 180200 ("Pay-as-you-go" financing) and 180250 through 180264. This Ordinance authorizes the authority to issue limited tax bonds to finance capital outlay expenditures as may be provided for in the adopted transportation expenditure plan, payable from the proceeds of the tax. In accordance with Public Utilities Code Section 180250 (b) the maximum bonded indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principle of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.

SECTION 13. ADMINISTRATIVE EXPENSES.⁷ Revenues may be expended by the Authority for salaries, wages, benefits, overhead and those services including contractual services necessary to administer the Ordinance; however, in no case shall the annual expenditures for the salaries and benefits of the staff necessary to perform administrative functions for the Authority exceed one percent of the annual revenues provided by the Ordinance. Administrative functions are providing overall program direction and management necessary to implement Authority policy; formulating organizational goals and objectives; coordinating the activities of regional transportation planning committees, performing finance, accounting, purchasing, personnel, government and community relations; and legal matters. Managing, supervising, performing or contracting for projects, planning and growth or congestion management functions are not administrative functions and shall be paid from the revenues allocated to the appropriate purpose as set forth herein.

SECTION 14. ESTABLISHMENT OF SEPARATE ACCOUNTS. The Authority shall allocate funds to Expenditure Plan Projects and Programs as necessary to meet contractual and program obligations. The Authority may allocate funds as described but may reserve the right not to disburse monies until needed to meet contractual project or program obligations, exclusive of the Local Street Maintenance and Improvement Funds. Each agency receiving funds from this Ordinance shall deposit said funds in a separate interest bearing Transportation Improvement Account. Any interest earned on funds allocated pursuant to this Ordinance shall be expended only for those purposes for which the funds were allocated or shall be returned to the Authority. The Authority reserves the right to audit such accounts.

SECTION 15. IMPLEMENTING ORDINANCES. Upon approval of this Ordinance by the voters the Authority shall, in addition to the local rules required to be provided pursuant to this Ordinance, adopt implementing ordinances, rules and administrative procedures, including Authority terms of office, and

⁷ ORDINANCE 92-01 AMENDING ANNUAL EXPENDITURES FOR SALARIES & BENEFITS OF STAFF

take such other actions as may be necessary and appropriate to carry out its responsibilities to implement the Contra Costa Transportation Improvement and Growth Management Expenditure Plan.

SECTION 16. EFFECTIVE AND OPERATIVE DATES. If at least a two-thirds majority of the electors voting on this measure at the election scheduled for November 2, 2004 vote to approve this Ordinance, then it will become effective the next day on November 3, 2004. If so approved, this Ordinance becomes operative on April 1, 2005 pursuant to Public Utilities Code Section 180204(a).

SECTION 17. DESIGNATION OF FACILITIES. Each project or program in excess of \$250,000 funded in whole or in part by revenues from the Ordinance shall be clearly designated in writing via signs and/or documents, during its construction or implementation as being funded by revenues from the Ordinance.

SECTION 18. CONTRACTS, LOCAL PREFERENCE. It is the preference of Authority, where feasible, and allowed under applicable law, to contract with Northern California organizations and businesses and to maximize contract opportunities for minority and women owned businesses. The Authority shall develop administrative procedures for contracts.

SECTION 19. SEVERABILITY. If any section, part, clause or phrase of this Ordinance is for any reason held invalid or unconstitutional, the remaining portions shall not be affected but shall remain in full force and effect.

If a state law is passed in the future which prevents local jurisdictions from establishing standards for any of the six Growth Management Performance Standards in the Authority's Growth Management Program the Authority may elect to delete or modify the requirements for that Performance Standard.

SECTION 20. ANNUAL APPROPRIATIONS LIMIT. Article XIII(B) of the California Constitution requires the establishment of an annual appropriations limit for certain governmental entities. The maximum annual appropriations limit for the Authority has been established as \$765 million. The appropriations limit shall be subject to adjustment as provided by law. All expenditures of the retail transactions and use tax revenues imposed in Section 3 are subject to the appropriations limit of the Authority.

SECTION 21. COORDINATION. The Authority shall consult and coordinate its actions to secure funding for the completion and improvement of the priority regional projects with the California Transportation Commission, transit operators and other interested and affected parties for the purpose of integrating its transportation improvements with other planned improvements and operations impacting the county. In addition, the Authority shall seek all ways to expedite the completion of Expenditure Plan projects, the implementation of which is the responsibility of other agencies. Use of acceleration as described in Section 5.A.1.e as well as supporting and advocating for Caltrans to contract out are both means through which the Authority can work to achieve timely project implementation.

SECTION 22. ALLOCATION OF RELEASED FUNDS. If additional funds become available for a specific project or projects on the Expenditure Plan, the Authority may reallocate the retail transaction and use tax funds released by the receipt of those additional funds. In the allocation of the released funds, the Authority shall give first priority to Expenditure Plan Projects and Programs which provide congestion relief in the geographic region which received the additional funds. Second priority shall be

given to other projects and programs within the affected geographic region which may be placed on the Expenditure Plan through the amendment process described in Section 8. Third priority to all other Expenditure Plan Projects and Programs. Fourth priority shall be given to other projects of regional significance which may be placed on the Expenditure Plan through the amendment process described in Section 8.

SECTION 23. ALLOCATION OF EXCESS FUNDS. In the event, that the retail transactions and use tax revenues generated by this Ordinance are greater than projected or contingency fund requirements are less than projected, the Authority may allocate those excess funds. Determination of when the contingency funds become excess funds will be established by a process to be developed by the Authority.

In the allocation of excess funds, the Authority shall give first priority to Expenditure Plan Projects and Programs, and second priority to other projects of regional significance which are consistent with the Comprehensive Transportation Plan of the Authority and may be placed on the Expenditure Plan through the amendment process described in Section 8.

SECTION 24. TRANSPORTATION AUTHORITY EMINENT DOMAIN. The Authority will not use its power of eminent domain as provided in Public Utilities Code Section 180152.

SECTION 25. INTENTIONALLY OMITTED. This section terminated the Authority in the event the tax did not receive approval by the voters in 1988.

SECTION 26. INTENTIONALLY OMITTED. Ordinance 88-01 encouraged the Authority to secure state and federal funds for the tunnel, and authorized loaning money to the state for delivery. These provisions are no longer necessary.

SECTION 27. MAJOR ARTERIALS.

INTENTIONALLY OMITTED. This section dealt with defining the Southwest Arterials category and arterial funding from the I-680 category. It should be omitted or moved to the existing TEP.

SECTION 28. DEFINITIONS.

A. Authority. Means the Contra Costa Transportation Authority. The Authority shall continue in effect as currently constituted. The Authority has all of the powers set forth in Division 19 of the Public Utilities Code (commencing with Section 180000).

B. Bicycle and Pedestrian Trail Facilities. Means all purposes necessary and convenient to the design, right-of-way acquisition and construction of facilities intended for use by bicycles and pedestrians. Bicycle facilities shall also mean facilities and programs that help to encourage the use of bicycles such as secure bicycle parking facilities, bicycle promotion programs and bicycle safety education programs.

C. Bonds. Means indebtedness and securities of any kind or class, including but not limited to bonds, notes, revenue anticipation notes, commercial paper, and certificates of participation.

D. Comprehensive Transportation Plan. Means the long-range transportation planning document prepared and adopted by the Authority and updated from time to time.

E. Expenditure Plan. Means the expenditure plan required by Section 180206 of the Public Utilities Code to be adopted prior to the call of an election on this Ordinance. The expenditure plan includes the allocation of revenues for each authorized purpose. As of April 1, 2005, the 2004 Transportation Expenditure Plan augments the expenditure plan adopted in 1988. Any reference to "Expenditure Plan" in this Ordinance, unless the context otherwise requires, refers to the 1988 and 2004 plans.

F. Highways and Arterials. Means all purposes necessary and convenient to the design, right-of-way acquisition, and construction of highway and arterial street facilities, including all interstate highway routes and any other facilities so designated in the Expenditure Plan.

G. Local Street Maintenance and Improvements. Means all purposes necessary and convenient to the maintenance, operation and construction of local streets and roads and transit purposes. Local street and road purposes shall include all purposes allowable under Article XIX, Section 1(a) of the State Constitution.

H. Transit. Means all purposes necessary and convenient to the construction, operation and maintenance of transit services and facilities including the acquisition of vehicles and right-of-way. Transit services include, but are not limited to, bus, light rail, rapid transit and commuter rail services and facilities.

PASSED AND ADOPTED by the Contra Costa Transportation *Authority*, on May 26, 2004 by the following vote:

AYES: 11
NOES: 0
ABSENT: 0

/s/ Amy Worth
Chair

May 26, 2004
Date

Amended by Resolutions of the Contra Costa Transportation Authority as follows:

- Ordinance 92-01, March 18, 1992*
- Ordinance 94-01, June 15, 1994*
- Ordinance 94-02, October 19, 1994*
- Ordinance 97-02, April 16, 1997*
- Ordinance 01-01, January 17, 2001*
- Ordinance 01-02, September 19, 2001*
- Ordinance 01-03, September 19, 2001*
- Ordinance 04-01, February 18, 2004*
- Ordinance 04-02, May 26, 2004*

