



CONTRA COSTA
transportation
authority

CONTRA COSTA TRANSPORTATION AUTHORITY

ORDINANCE 19-01

**CONDITIONALLY AMENDING THE MEASURE J TRANSPORTATION EXPENDITURE
PLAN (TEP) GROWTH MANAGEMENT PROGRAM (GMP), WHICH INCLUDES
ATTACHMENT A: PRINCIPLES OF AGREEMENT FOR ESTABLISHING
THE URBAN LIMIT LINE (ULL) TO MATCH THE PROPOSED 2020 TEP**

WHEREAS, Public Utilities Code, §180207 and Section 8 of the Ordinance adopting Measure J provide for a mechanism to amend the Measure J TEP based upon unforeseen circumstances; and

WHEREAS, the Contra Costa Transportation Authority (Authority) is considering the countywide imposition of a one-half of one percent sales tax for transportation purposes for a period of 35 years effective on July 1, 2020 through June 30, 2055; and

WHEREAS, the Authority conducted extensive consultations with local governments and conducted outreach to a wide variety of interest groups and the public in order to develop a TEP proposing a potential mix of projects and programs to be funded by the proposed sales tax; and

WHEREAS, the Authority has concluded that due to the unforeseen circumstances of a new sales tax measure, it would be beneficial to manage one GMP for both Measures.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

- 1) The Measure J TEP GMP, which includes Attachment A: Principles of Agreement for Establishing the ULL is hereby replaced in its entirety as set forth in Exhibit 1, incorporated herein by reference and made a part of this Ordinance as if fully set forth.

The foregoing Ordinance was adopted by the Authority Board on August 28, 2019, and shall become effective only after the following: (1) the 45th day following notice by the Authority to Contra Costa County, the cities/towns, and the Conference of Mayors, unless overridden; and (2) if the proposed one-half of one percent local transportation sales tax is placed on the ballot and successfully approved by the electors on the March 3, 2020 ballot.

SEVERABILITY: If any provision or clause of this Ordinance or the application thereof is held unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, clauses, or applications of this Ordinance which can be implemented without the invalid provision, clause, or application, it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, adopted and/ or ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, and/or phrases may be declared invalid or unconstitutional.

EFFECTIVE DATE: This ordinance shall be effective immediately upon adoption.


PASSED AND ADOPTED by the Contra Costa Transportation Authority Board of Directors in Walnut Creek, State of California, on August 28, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

 E-SIGNED by Robert Taylor
on 2019-09-03 22:07:29 GMT

Robert Taylor, Chair

This Ordinance 19-01 was entered into at a meeting of the Contra Costa Transportation Authority held on August 28, 2019, in Walnut Creek, California, and shall become effective as provided above.

Attest:

 E-SIGNED by Tarienne Grover
on 2019-09-03 15:36:49 GMT

Tarienne Grover, Clerk of the Board

EXHIBIT 1
GROWTH MANAGEMENT PROGRAM

[Attached behind this page]

THE GROWTH MANAGEMENT PROGRAM

Coupled with the Expenditure Plan is Contra Costa's unique and well-tested program for managing growth. The overall goal of the Growth Management Program (GMP) is to preserve and enhance the quality of life and promote a healthy, strong economy to benefit the people and areas of Contra Costa County through a cooperative, multi-jurisdictional process for managing growth, while maintaining local authority over land-use decisions.¹

The objectives of the GMP are to:

- Assure that new residential, business, and commercial growth pays for the facilities required to meet the demands resulting from that growth;
- Require cooperative transportation and land-use planning among Contra Costa County, cities/towns, and transportation agencies;
- Support land-use patterns within Contra Costa County that make more efficient use of the transportation system, consistent with the General Plans of local jurisdictions; and
- Support infill and redevelopment in existing urban and brownfield areas.

The Measure J TEP GMP, which includes Principles of Agreement for Establishing the Urban Limit Line (ULL), is augmented and superseded by this 2020 TEP.

COMPONENTS

To receive its share of funding from the following categories:

- 2020 TEP Modernize Local Roads & Improve Access to Housing and Job Centers;
- Measure J Local Streets Maintenance & Improvements (LSM); and
- Measure J Transportation for Livable Communities (TLC);

each jurisdiction must:

1. Adopt a Growth Management Element (GME)

Each jurisdiction must adopt, or maintain in place, a GME as part of its General Plan that outlines the jurisdiction's goals and policies for managing growth and requirements for achieving those goals. The GME must show how the jurisdiction will comply with sections 2–9 below. The Authority will refine its model GME and administrative procedures in consultation with the Regional Transportation Planning Committees (RTPCs) to reflect the revised GMP.

1. The Authority will, to the extent possible, attempt to harmonize the GMP and the State-mandated Congestion Management Program (CMP).

To the extent they conflict, CMP activities shall take precedence over the GMP activities.

Each jurisdiction is encouraged to incorporate other standards and procedures into its GME to support the objectives and required components of this GMP.

2. Adopt a Development Mitigation Program

Each jurisdiction must adopt, or maintain in place, a Development Mitigation Program to ensure that new growth is paying its share of the costs associated with that growth. This program shall consist of both a local program to mitigate impacts on local streets and other facilities, and a regional program to fund regional and subregional transportation projects, consistent with the Countywide Transportation Plan (CTP).

The jurisdiction's local Development Mitigation Program shall ensure that revenue provided from this measure shall not be used to replace private developer funding that has or would have been committed to any project.

The regional Development Mitigation Program shall establish fees, exactions, assessments, or other mitigation measures to fund regional or subregional transportation improvements needed to mitigate the impacts of planned or forecasted development. Regional mitigation programs may adjust such fees, exactions, assessments or other mitigation measures when developments are within walking distance of frequent transit service or are part of a mixed-use development of sufficient density and with necessary facilities to support greater levels of walking and bicycling.

Each RTPC shall develop the regional Development Mitigation Program for its region, taking account of planned and forecasted growth and the Multimodal Transportation Service Objectives (MTSOs) and actions to achieve them established in the Action Plans for Routes of Regional Significance. RTPCs may use existing regional mitigation programs, if consistent with this section, to comply with the GMP.

3. Address Housing Options

Each jurisdiction shall demonstrate reasonable progress in providing housing opportunities for all income levels as part of a report on the implementation of the actions outlined in its adopted Housing Element. The report will demonstrate progress by:

- a. Comparing the number of housing units approved, constructed or occupied within the jurisdiction over the preceding five years with the average number of units needed each year to meet the housing objectives established in the jurisdiction's Housing Element; or
- b. Illustrating how the jurisdiction has adequately planned to meet the existing and projected housing needs through the adoption of land use plans and regulatory

systems which provide opportunities for, and do not unduly constrain, housing development; or

- c. Illustrating how a jurisdiction's General Plan and zoning regulations facilitate the improvement and development of sufficient housing to meet those objectives.

Jurisdictions will provide prepared reports regarding the production and preservation of affordable units as provided for in the Annual Housing Element Progress Report and subsequent reports. Each jurisdiction shall demonstrate meaningful progress in preserving existing affordable units for lower-income residents by adopting and implementing locally appropriate anti-displacement and affordable housing policies, for example, preservation of affordable housing, density bonus ordinance and/or inclusionary zoning, to support community stabilization.

Jurisdictions are subject to California's Surplus Land Act, which includes the disposition of surplus land, and each jurisdiction will affirm whether it complies with the Surplus Land Act and whether it maintains an inventory of all public land in its jurisdiction that adheres to applicable Surplus Land Act and Government Code 50569 requirements and makes the inventory available to the public.

Each jurisdiction will indicate whether it adheres to applicable local, state, or federal policies or laws regarding tenant protection and whether it has prepared the reports required by such policies or laws and made the reports available to the public.

In addition, each jurisdiction shall consider the impacts that its land use and development policies have on the local, regional and countywide transportation system, including the level of transportation capacity that can reasonably be provided, and shall incorporate policies and standards into its development approval process that support transit, bicycle and pedestrian access in new developments. Each jurisdiction must participate in an Ongoing Cooperative, Multi-Jurisdictional Planning Process.

4. Participate in an Ongoing Cooperative, Multi-Jurisdictional Planning Process

Each jurisdiction shall participate in an ongoing process with other jurisdictions and agencies, the RTPCs and the Authority to create a balanced, safe and efficient transportation system and to manage the impacts of growth. Jurisdictions shall work with the RTPCs to:

- a. Identify Routes of Regional Significance and MTSOs or other tools adopted by the Authority Board for measuring performance and quality of service along routes of

regional significance, collectively referred to as MTSOs for those routes and actions for achieving those objectives;

- b. Apply the Authority's Travel Demand Model (TDM) and technical procedures to the analysis of General Plan Amendments and developments exceeding specified thresholds for their effect on the regional transportation system, including on Action Plan objectives;
- c. Create a Development Mitigation Program as outlined in section 2 above; and
- d. Help develop other plans, programs and studies to address other transportation and growth management issues.

In consultation with the RTPCs, each jurisdiction will use the TDM to evaluate changes to local General Plans and the impacts of major development projects for their effects on the local and regional transportation system and the ability to achieve the MTSOs established in the Action Plans.

Jurisdictions shall also participate in the Authority's ongoing countywide comprehensive transportation planning process. As part of this process, the Authority shall support countywide and subregional planning efforts, including the Action Plans for Routes of Regional Significance, and shall maintain a TDM. Jurisdictions shall help maintain the Authority's TDM system by providing information on proposed improvements to the transportation system and planned and approved development within the jurisdiction.

5. Continuously Comply with an Urban Limit Line (ULL)

In order to be found in compliance with this element of the Authority's GMP, all jurisdictions must continually comply with an applicable voter-approved ULL. Said ULL may either be the Contra Costa County voter-approved ULL (County ULL) or a locally initiated, voter-approved ULL (LV-ULL).

Additional information and detailed compliance requirements for the ULL are fully defined in the ULL Compliance Requirements (Attachment A), which are incorporated herein.

Any of the following actions by a local jurisdiction will constitute non-compliance with the GMP:

- a. The submittal of an annexation request to the Local Agency Formation Commission (LAFCO) for lands outside of a jurisdiction's applicable ULL.
- b. Failure to conform to the Authority's ULL Compliance Requirements.

6. Develop a Five-Year Capital Improvement Program (CIP)

Each jurisdiction shall prepare and maintain a CIP that outlines the capital projects needed to implement the goals and policies of the jurisdiction's General Plan for at least the following five-year period. The CIP shall include approved projects and an analysis of the costs of the proposed projects, as well as a financial plan for providing the improvements. The jurisdiction shall forward the transportation component of its CIP to the Authority for incorporation into the Authority's database of transportation projects.

7. Adopt a Transportation Systems Management (TSM) Ordinance or Resolution

To promote carpools, vanpools, and park-and-ride lots, each jurisdiction shall adopt a local ordinance or resolution that conforms to the model TSM ordinance that the Authority has drafted and adopted. Upon approval of the Authority Board, cities/towns with a small employment base may adopt alternative mitigation measures in lieu of a TSM ordinance or resolution.

8. Adopt Additional Growth Management Policies, as applicable

Each jurisdiction shall adopt and thereafter continuously maintain the following policies (where applicable):

- a. Hillside Development Policy;
- b. Ridgeline Protection Policy;
- c. Wildlife Corridor Policy; and
- d. Creek Development Policy.

Where a jurisdiction does not have a developable hillside, ridgeline, wildlife corridor or creek, it need not adopt the corresponding policy. An ordinance that implements the East Contra Costa Habitat Conservation Plan (HCP)/Natural Community Preservation Plan (NCCP) Act shall satisfy the requirement to have an adopted Wildlife Corridor Policy and Creek Development Policy. In addition to the above, jurisdictions with Prime Farmland and Farmland of Statewide Importance (Prime/Statewide), as defined by the California Department of Conservation and mapped by the Farmland Mapping and Monitoring Program within their planning areas but outside of their city/town shall adopt and thereafter continuously maintain an Agricultural Protection Policy. The policy must ensure that potential impacts of converting Prime/Statewide outside the ULL to other uses are identified and disclosed when considering such a conversion. The applicable policies are required to be in place by no later than July 1, 2022.

9. Adopt a Complete Streets Policy and Road Traffic Safety (aka Vision Zero) Policy

Each jurisdiction shall adopt a Complete Streets Policy, consistent with the California Complete Streets Act of 2008, Assembly Bill 1358 (AB 1358) and with the Authority's Complete Streets

Policy, which accommodates all users of travel modes in the public Right-of-Way (ROW). Each jurisdiction shall also adopt a Vision Zero Policy, which substantially complies with the Authority's Model Vision Zero Policy and reflects best practices for street design elements and programs to mitigate human error and quantifiably improve the traffic safety of all users in the planning, design and construction of projects funded with Measure funds. Jurisdictions shall document their level of effort to implement these policies, including during requests for funding, peer review of project design, and as part of the newly-added compliance requirement in the biennial GMP checklist.

ALLOCATION OF FUNDS

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

Each jurisdiction shall demonstrate its compliance with all of the components of the GMP in a completed compliance checklist. The jurisdiction shall submit, and the Authority shall review and make findings regarding the jurisdiction's compliance with the requirements of the GMP, consistent with the Authority's adopted policies and procedures.

If the Authority determines that the jurisdiction complies with the requirements of the GMP, it shall allocate to the jurisdiction its share of 2020 TEP funding from the Fix and Modernize Local Roads category and its share of Measure J Transportation Sales Tax Expenditure Plan LSM funding. Jurisdictions may use funds allocated under this provision to comply with these administrative requirements.

If the Authority determines that the jurisdiction does not comply with the requirements of the GMP, the Authority shall withhold those funds and also make findings that the jurisdiction shall not be eligible to receive Measure J TLC funds until the Authority determines that the jurisdiction has achieved compliance. The Authority's findings of noncompliance may set deadlines and conditions for achieving compliance.

Withholding of funds, reinstatement of compliance, reallocation of funds, and treatment of unallocated funds shall be as established in adopted Authority policies and procedures.

ATTACHMENT A

Urban Limit Line Compliance Requirements

Definitions—the following definitions apply to the GMP/ULL requirement:

1. Urban Limit Line (ULL) – A ULL, urban growth boundary, or other equivalent physical boundary judged by the Authority to clearly identify the physical limits of the local jurisdiction's future urban development.
2. Local Jurisdictions – Includes Contra Costa County, the 19 cities and towns within Contra Costa County, plus any newly incorporated cities or towns established after July 1, 2020.
3. County ULL – A County ULL placed on the ballot by the County Board of Supervisors, approved by voters at a countywide election, and in effect through the applicable GMP compliance period. The current County ULL was established by Measure L approved by voters in 2006.

The following local jurisdictions have adopted the County ULL as their applicable ULL:

- City of Brentwood
- Town of Moraga
- City of Clayton
- City of Oakley
- City of Concord
- City of Orinda
- Town of Danville
- City of Pinole
- City of El Cerrito
- City of Pleasant Hill
- City of Hercules
- City of Richmond
- City of Lafayette
- City of San Pablo
- City of Martinez
- City of Walnut Creek

4. Local Voter ULL (LV-ULL) – A LV-ULL or equivalent measure placed on the local jurisdiction's ballot, approved by the jurisdiction's voters, and recognized by action of the local jurisdiction's legislative body as its applicable, voter-approved ULL. The LV-ULL will be used as

of its effective date to meet the Authority's GMP/ULL requirement and must be in effect through the applicable GMP compliance period.

The following local jurisdictions have adopted a LV-ULL:

- City of Antioch
- City of Pittsburg
- City of San Ramon

5. Minor Adjustment – An adjustment to the ULL of 30 acres or less is intended to address unanticipated circumstances.

6. Other Adjustments – Other adjustments that address issues of unconstitutional takings and conformance to State and Federal law.

REVISIONS TO THE ULL

1. A local jurisdiction, which has adopted the County ULL as its applicable ULL may revise its ULL with local voter approval at any time during the term of the Authority's GMP by adopting a LV-ULL in accordance with the requirements outlined for a LV-ULL contained in the definitions section.

2. A local jurisdiction may revise its LV-ULL with local voter approval at any time during the term of the Authority's GMP if the resultant ULL meets the requirements outlined for a LV-ULL contained in the definitions section.

3. If voters, through a countywide ballot measure, approve a revision to the County ULL, the legislative body of each local jurisdiction relying on the County ULL shall:

- a. Accept and approve its existing ULL to continue as its applicable ULL, or
- b. Accept and approve the revised County ULL as its applicable ULL, or
- c. Adopt a LV-ULL in accordance with the requirements outlined for a LV-ULL contained in the definitions section.
- d. However, if any countywide measure to approve a revision to the County ULL fails, then the legislative body of each local jurisdiction relying on the prior County ULL may accept and approve the existing County ULL.

4. Local jurisdictions may, without voter approval, enact minor adjustments to their applicable ULL subject to a vote of at least 4/5 of the jurisdiction's legislative body and meeting the following requirements:

- a. Minor adjustment shall not exceed 30 acres;
- b. Adoption of at least one of the findings listed in the County's Measure L (§82-1.018 of County Ordinances 200606 § 3, 91-1 § 2, 90-66 § 4) which includes:
 - A natural or man-made disaster or public emergency has occurred, which warrants the provision of housing and/or other community needs within land located outside the ULL;
 - An objective study has determined that the ULL is preventing the jurisdiction from providing its fair share of affordable housing, or regional housing, as required by State law, and the governing elected legislative body finds that a change to the ULL is necessary and the only feasible means to enable the jurisdiction to meet these requirements of State law;
 - A majority of the cities/towns that are party to a preservation agreement and Contra Costa County has approved a change to the ULL affecting all or any portion of the land covered by the preservation agreement;
 - A minor change to the ULL will more accurately reflect topographical characteristics or legal boundaries;
 - A five-year cyclical review of the ULL has determined, based on the criteria and factors for establishing the ULL set forth in Contra Costa County Code (Section 82-1.010), that new information is available (from city/town, or Contra Costa County growth management studies or otherwise) or circumstances have changed, warranting a change to the ULL;
 - An objective study has determined that a change to the ULL is necessary or desirable to further the economic viability of the East Contra Costa County Airport, and either (i) mitigate adverse aviation-related environmental or community impacts attributable to Buchanan Field, or (ii) further Contra Costa County's aviation related needs; or
 - A change is required to conform to applicable California or Federal law.
- c. Adoption of a finding that the proposed Minor Adjustment will have a public benefit. Said public benefit could include, but is not necessarily limited to, enhanced mobility of people or goods, environmental protections or enhancements, improved air quality or land use, enhanced public safety or security, housing or jobs, infrastructure preservation or other significant positive community effects as

defined by the local land use authority. If the proposed Minor Adjustment to the ULL is proposed to accommodate housing or commercial development, said proposal must include permanent environmental protections or enhancements such as the permanent protection of agricultural lands, the dedication of open space or the establishment of permanent conservation easements.

- d. The Minor Adjustment is not contiguous to one or more non-voter approved Minor Adjustments that in total exceed 30 acres.
 - e. The Minor Adjustment does not create a pocket of land outside the existing ULL, specifically to avoid the possibility of a jurisdiction wanting to fill in those subsequently through separate adjustments.
 - f. Any jurisdiction proposing to process a Minor Adjustment to its applicable ULL that impacts FMMP is required to have an adopted Agricultural Protection Ordinance or must demonstrate how the loss of these agricultural lands will be mitigated by permanently protecting farmland.
5. A local jurisdiction may revise its LV-ULL, and Contra Costa County may revise the County ULL, to address issues of unconstitutional takings or conformance to State or Federal law.

CONDITIONS OF COMPLIANCE

1. Submittal of an annexation request by a local jurisdiction to LAFCO outside of an approved ULL will constitute non-compliance with the GMP.
2. For each jurisdiction, an applicable ULL shall be in place through each GMP compliance reporting period in order for the local jurisdiction to be found in compliance with the GMP requirements.
3. Submittal of an annexation request for land outside an approved ULL by a third party to LAFCO will constitute non-compliance with the GMP, if the local jurisdiction: (1) submits a will-serve letter to LAFCO. A will-serve letter determines the applicant's ability and willingness to serve the subject area and any further development; (2) utilizes an existing applicable tax sharing agreement; and/or (3) enters into a new tax sharing agreement for the annexation request.