

TRANSPAC

JOINT EXERCISE OF POWERS AGREEMENT

This Joint Powers Agreement ("Agreement") is entered into on this 21st day of August, 2014, by and between the cities of Clayton, Concord, Martinez, Pleasant Hill, and Walnut Creek, all municipal corporations, and Contra Costa County, a state political subdivision. Each public agency which is a party to this Agreement is hereby referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, the Parties entered into the Central Contra Costa Transportation/Land Use Partnership ("TRANSPAC") Agreement dated November 29, 1990 and superseded by the First Amendment to the Central Contra Costa Transportation/Land Use Partnership Agreement dated February 22, 1993 ("Partnership Agreement") to cooperate in the establishment of policies and action to more effectively respond to the requirements of Measure C; and

WHEREAS, Section 12 of the Partnership Agreement provides that TRANSPAC shall conduct an annual review of the implementation of the Partnership Agreement to determine whether the execution of a Joint Exercise of Powers Agreement that establishes TRANSPAC as a separate legal entity is a more suitable alternative to the Partnership Agreement; and

WHEREAS, Government Code Section 6500 et seq. permits two or more public agencies by agreement to exercise jointly powers common to the contracting parties; and

WHEREAS, the Parties have determined that establishing TRANSPAC as a separate legal entity enables the Parties to more effectively respond to transportation issues and is a more suitable alternative to the Partnership Agreement.

NOW, THEREFORE, THE PARTIES TO THIS AGREEMENT DO AGREE AS FOLLOWS:

1. DEFINITIONS

The following words as used in this Agreement are defined as follows:

- (a) "Agency" shall mean each city and county which is a Party to this Agreement.
- (b) "Board" or "TRANSPAC Board" shall mean the board designated herein to administer this Agreement.
- (c) "Joint Transportation Planning Program" shall mean a transportation planning program undertaken by the Agencies.
- (d) "Managing Director" shall mean the person selected by the Board to manage the day-to-day activities of TRANSPAC.

(e) "Measure C" shall refer to half-cent local transportation sales tax established in 1988.

(f) "Measure J" shall refer to the extended half-cent local transportation sales tax first established by Measure C or replacement and augmentation thereof.

(g) "TRANSPAC" shall mean the public and separate entity created by this Agreement.

(h) "TRANSPAC TAC" shall mean a technical advisory committee to TRANSPAC.

2. OBJECTIVES

The intent of this Agreement is to express cooperation between the Parties and to establish policies which will protect and advance the interest of the Central Contra Costa County communities, which include the TRANSPAC boundaries as shown in Appendix A attached hereto and incorporated herein, with respect to transportation issues in general and the utilization of Measure J funds in particular. More specifically, TRANSPAC is hereby authorized to do all acts necessary for the exercise of its objectives, including but not limited to, the following:

- (a) Conduct, authorize, review and accept studies and reports;
- (b) Periodically review transportation plans and recommend changes thereto;
- (c) *Hold and conduct meetings pursuant to this Agreement;*
- (d) Develop regional strategies to meet Measure J requirements;
- (e) Address transportation issues that affect the Central Contra Costa County communities;
- (f) Assess Central Contra Costa County transportation needs, including transit services;
- (g) Coordinate with County Connection regarding transit services;
- (h) Advise the Agencies on transportation issues that impact the Agencies and the region;
- (i) Coordinate with Agencies on the responses and actions concerning transportation issues;
- (j) Work with Central Contra Costa jurisdictions to formulate transportation policy statements;
- (k) Sponsor educational forums, workshops and discussions on transportation matters;

(l) Advocate the interest of Agencies concerning transportation management and funding issues to local, state and federal officials;

(m) To provide comprehensive, accurate, reliable and useful multimodal travel information to meet the needs of Central Contra Costa travelers; and

(n) Gather information necessary to accomplish the foregoing purposes.

3. POWERS

The powers of TRANSPAC include, but are not limited to, the following:

(a) To make and enter into contracts;

(b) To apply for and accept grants, advances and contributions;

(c) To employ and contract for services of agents, employees, consultants, engineers, attorneys, and other such persons or firms as it deems necessary to carry out the objectives of this Agreement;

(d) To conduct studies;

(e) To incur debts, liabilities, or obligations, subject to the limitations set forth herein;

(f) To receive and use contributions and advances from an Agency as provided in Government Code section 6504, including contributions or advances of personnel, equipment or property;

(g) To provide a program of benefits for employees, including, but not limited to, contracting for retirement benefits with an existing retirement system; and

(h) To exercise other reasonable and necessary powers in furtherance or support of any purpose of the Authority or the bylaws of the Authority.

4. ORGANIZATIONAL STRUCTURE

The TRANSPAC Board shall provide overall policy direction for the operations and activities of the Joint Transportation Planning Program. TRANSPAC TAC shall provide administrative guidance, technical review, and decision making for the ongoing operational activities of the Joint Transportation Planning Program. Any staff or consultants hired by TRANSPAC shall report directly to the TRANSPAC Board or its designee.

5. TRANSPAC ORGANIZATION

TRANSPAC Board. TRANSPAC shall be governed by the TRANSPAC Board. The TRANSPAC Board is empowered to establish its own procedures for operation and may revise these periodically as deemed necessary.

(a) Members.

The Board shall consist of 6 members (one member from each Agency), which shall be determined as follows:

(i) For the City Agencies, one councilmember shall be appointed by the respective City Council.

(ii) For the County Agency, one Supervisor shall be appointed by the County Board of Supervisors.

Upon execution of this Agreement, the governing body of each Agency shall appoint its member to serve as a member of the Board and an alternate member of the Board to serve in the absence of its regular member, both shall be elected officials. Each member and alternate shall serve at the pleasure of the appointing governing board without compensation.

The Board shall also consist of 6 ex-officio members (one member from each Agency), which shall be determined as follows:

(i) For the City Agencies, one planning commissioner shall be appointed by the respective City Council.

(ii) For the County Agency, one planning commissioner shall be appointed by the County Board of Supervisors.

Upon execution of this Agreement, the governing body of each Agency shall appoint its ex-officio member to serve as an ex-officio member of the Board and an alternate ex-officio member to serve in the absence of its regular ex-officio member, both shall be planning commissioners. Each ex-officio member and alternate shall serve at the pleasure of the appointing governing board without compensation. Ex-officio members shall not be entitled to vote and shall not be counted towards the quorum.

(b) Officers.

TRANSPAC shall select a Chair and a Vice Chair who shall be elected officials and shall hold office for a period of one year, commencing February. However, the first Chair and Vice Chair shall hold office from the date of appointment to the following February. If any Agency removes a Board member who is also an officer, the Board shall appoint a member from the newly constituted Board to fill the vacant office for the remainder of that term.

(i) Chair

The Chair shall preside over Board meetings, call them to order and adjourn them, announce the business and order to be acted upon, recognize people entitled to the floor, put to vote all questions moved and seconded, announce voting results, maintain rules of order, and carry out other duties as set forth in the bylaws.

(ii) Vice Chair

The Vice Chair shall serve as chair in the absence of the regularly elected chair.

(iii) Secretary

The Board shall designate someone to serve as the Secretary and shall prepare, distribute, and maintain minutes of the meeting of the TRANSPAC Board, TRANSPAC TAC and any committees of TRANSPAC or shall contract for such services. The Secretary shall also maintain the official records of TRANSPAC and shall file notices as required by this Agreement.

(iv) Treasurer/Auditor

The City of Pleasant Hill shall serve as the initial Treasurer/Auditor. The Board shall have the authority to designate a different Treasurer/Auditor consistent with Government Code Section 6505.5 should the City of Pleasant Hill not be able to serve as the Treasurer/Auditor in the future for any reason.

The Treasurer shall:

(1) Receive and provide for the receipt of all funds of TRANSPAC and place them in the treasury to the credit and for the account of TRANSPAC.

(2) Be responsible, upon an official bond, for the safekeeping and disbursement of all TRANSPAC funds.

(3) Pay, when due, out of TRANSPAC funds, the indebtedness of TRANSPAC and any other sum duly authorized for payment from TRANSPAC funds.

(4) Verify and report, in writing, in July, October, January, and April of each year to the Board and to the Parties to this Agreement the amount of funds held for TRANSPAC, the amount of receipts and amount paid out since the last report.

(5) Invest TRANSPAC's funds in the manner provided by law and collect interest thereon for the account of TRANSPAC.

The Auditor shall ensure that an independent audit is made by a certified public accountant to ensure that the Treasurer is complying with the aforementioned requirements and Government Code section 6505 regarding strict accountability of all funds.

(c) Board Meetings.

(i) Regular Meetings. The Board should attempt to hold at least one regular meeting a month.

(ii) Special Meetings. Special meetings of the Board may be called as provided in accordance with the Ralph M. Brown Act (Gov. Code sections 54950 et seq.) ("Brown Act").

(iii) Notices of Meetings. All meetings of the Board shall be held in accordance with the Brown Act and other applicable laws.

(iv) Minutes. The Board shall keep written minutes of all meetings. As soon as possible after each meeting, the Board shall cause a copy of the minutes to be distributed to members of the Board and to the Agencies.

(v) Quorum. A majority of the members of the Board shall constitute a quorum, except that less than a quorum may adjourn from time-to-time.

(d) Vote.

(i) Authorized Voting Members. Each voting member or designated alternate when taking the place of the member shall be authorized to vote.

(ii) TRANSPAC Business. Four votes of the voting members present shall be required to take action with respect to the budget. A majority vote of the voting members present will be required to take action on all other matters.

(iii) Appointments of Representatives to the Contra Costa Transportation Authority ("CCTA"). A majority of the members present shall be required to appoint or recall a representative to the CCTA consistent with the requirements of CCTA's Administrative Code. The TRANSPAC representatives and his or her alternate to the CCTA shall be a Board Member of TRANSPAC.

(e) TRANSPAC Staff.

TRANSPAC shall have staff to carry out the objectives of the Agreement. In addition, independent consultants may be engaged as needed. The Managing Director shall report to the TRANSPAC Board. Additional staff may be added with Board approval within the constraints of the then current fiscal year budget.

(f) TRANSPAC TAC.

The TRANSPAC TAC shall serve as the technical advisory committee for Transpac. It shall be made up of at least one staff member from each Agency selected by each Agency. TRANSPAC TAC shall study and discuss issues pertaining to TRANSPAC and shall make recommendations to TRANSPAC concerning those issues.

6. TRANSPAC BUDGET, WORK PROGRAM AND AGENCY PAYMENTS

TRANSPAC shall adopt a budget by an annual resolution. The budget shall set forth all operational expenses of TRANSPAC. It shall also set forth the proportional amount each Agency will be required to pay.

(a) Within 120 days of the effective date of this Agreement the Board shall formulate a budget for the first fiscal year of TRANSPAC's operation. In doing so, the Board shall assign each agency a proportionate share of required funding to meet the budget agreed upon. Absent

formal Board action extending this deadline, failure to agree upon a budget within the 120 days' time frame shall cause this Agreement to terminate.

(b) After the first year, the annual budget and work program shall be prepared by April 1 and shall then be submitted to the Board for its review and consideration to be adopted on or after July 1.

(c) All bills and invoices for expenses incurred pursuant to said budget shall be routed to the Treasurer, who shall pay such expenses from the budget. The Treasurer has the authority to set forth the method and timing of payment of such invoices. The Treasurer shall also calculate the amount owed by each Party under the formula set forth in Section 7, and shall bill each Party accordingly. Each Party shall pay its billing by TRANSPAC within 30 days of receipt thereof. Bills shall be prepared for each calendar quarter in which activity occurs and shall be payable by the Parties upon demand.

7. PAYMENT OBLIGATIONS

Each Party shall pay, upon demand, its proportionate share of expenses. The funding allocation of each Party is as follows: each Party shall contribute 50% of TRANSPAC funding on an equal (1/6th) share basis. The remaining 50% TRANSPAC subsidy is based on the percentage of Measure J return-to-source funding received by each Party from Contra Costa Transportation Authority. This funding allocation shall be reviewed annually and, if necessary may be altered by written amendment to this Agreement.

8. DISPOSITION OF TRANSPAC FUNDS UPON TERMINATION

In the event this Agreement is terminated, TRANSPAC funds, together with interest accrued thereon, which remain after payment of all outstanding TRANSPAC debts, shall be distributed to the Parties in the same proportion as the Parties have paid into TRANSPAC.

9. WITHDRAWAL

Any Party may, upon 60 days' written notice to the Chair of TRANSPAC, withdraw from this Agreement. However, a withdrawing Party shall be liable for its proportionate share of TRANSPAC expenses incurred up to the date notice of termination became effective, which exceeds the withdrawing Agency's contribution under Section 7, and provided further, that in no event shall a withdrawing Party be entitled to a refund of all or any part of its contribution made under Section 7. A withdrawing Party may no longer be eligible to receive Measure J return-to-source funding.

10. TERMINATION

This Agreement shall remain in effect indefinitely, unless amended or terminated as provided hereunder. This Agreement may be terminated by the affirmative vote of the governing bodies of not less than two-thirds of the Parties.

11. AMENDMENTS

The TRANSPAC Board shall first consider any and all amendments to this Agreement. A majority vote of the TRANSPAC Board shall be required before any recommended amendment to this agreement is forwarded to the Parties for consideration and adoption. The Agreement may be amended by an affirmative vote of the governing bodies of not less than two-thirds of the Parties.

12. NOTICES

All notices shall be deemed to have been given when mailed to the governing body of each Party. Notices to TRANSPAC shall be sent to:

TRANSPAC
c/o City of Pleasant Hill
100 Gregory Lane
Pleasant Hill, California 94523

13. LIMITED LIABILITY OF THE AUTHORITY

Consistent with Government Code section 6508.1, the debts, liabilities, and obligations of TRANSPAC shall be limited to the assets of TRANSPAC and shall under no circumstances be the debts, liabilities, and obligations of any of the Parties. A Party may, but has no obligations to, separately contract for or assume responsibility in writing for specific debts, liabilities, or obligations of the Authority. In furtherance of this Section, TRANSPAC shall indemnify the Parties as provided in Section 14 below.

14. INDEMNIFICATION

TRANSPAC shall defend, indemnify and hold harmless each Party and each Party's officers, officials, agents, and employees from any and all liability, including, but not limited to, claims, losses, suits, injuries, damages, costs and expenses, including attorneys' fees and consequential damages, of every kind, nature and description (collectively, "Losses") directly or indirectly arising from or as a result of any act of the Authority or its agents, servants, employees or officers in the observation or performance of any of its responsibilities under this Agreement, or any failure by the Authority to perform any such responsibilities; and/or any actions or inactions of Parties taken as a result of their membership in TRANSPAC. Notwithstanding the foregoing, TRANSPAC shall not be required to indemnify any Party against any Losses that are caused by the negligence or willful misconduct of such Party seeking indemnification or any of their respective officers, agents, or employees.

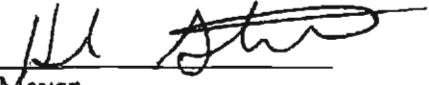
15. EFFECTIVE DATE

This Agreement shall take effect upon receipt of executed copies of the Agreement from not less than two-thirds of the Parties.

[SIGNATURES ON THE FOLLOWING PAGES]

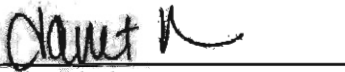
CITY OF CLAYTON

Executed on August 28, 2014.



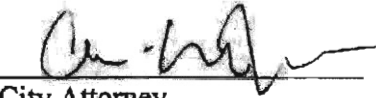
Mayor

Attest:



City Clerk

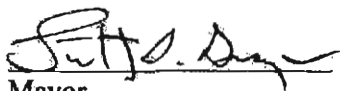
Approved as to form:



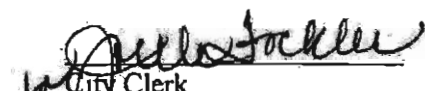
City Attorney

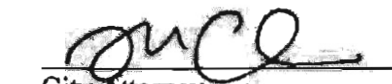
CITY OF CONCORD

Executed on Aug. 27, 2014.


Mayor

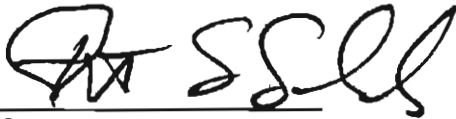
Attest:


City Clerk
Approved as to form:


City Attorney

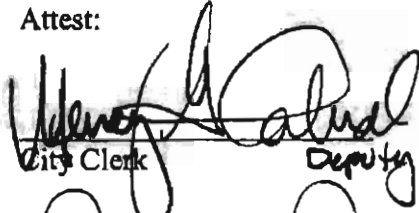
CITY OF MARTINEZ

Executed on 8/21, 2014.



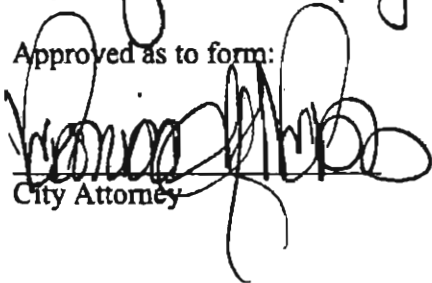
Mayor

Attest:


City Clerk

Deputy

Approved as to form:

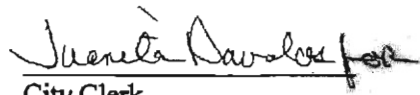

City Attorney

CITY OF PLEASANT HILL


Executed on August 28, 2014.


Mayor

Attest:


City Clerk

Approved as to form:

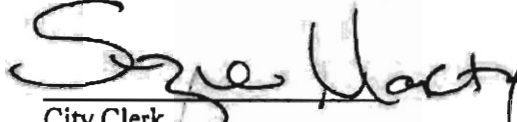

City Attorney

CITY OF WALNUT CREEK

Executed on 9/9, 2014.

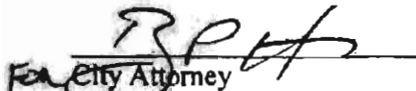

Mayor

Attest:


City Clerk




Approved as to form:


City Attorney

CONTRA COSTA COUNTY


Executed on 9-3, 2014.


Chair

Attest:


Clerk of the Board

Approved as to form:


Deann County Counsel

APPENDIX A

[INSERT BEHIND THIS PAGE]

TRANSPAC BOUNDARY MAP

