

ORANGE COUNTY LOCAL TRANSPORTATION AUTHORITY

ORDINANCE NO. 3

JULY 24, 2006

Orange County Local Transportation Authority
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TABLE OF CONTENTS

Ordinance No. 3	<u>Page</u>
Preamble	1
Section 1. Title	1
Section 2. Summary	2
Section 3. Imposition of Retail Transactions and Use Tax.....	2
Section 4. Purposes.....	2
Section 5. Bonding Authority	3
Section 6. Maintenance of Effort Requirements	3
Section 7. Administration	4
Section 8. Annual Appropriations Limit.....	4
Section 9. Effective and Operative Dates	5
Section 10. Safeguards of Use of Revenues	5
Section 11. Ten-Year Comprehensive Program Review	6
Section 12. Amendments.....	6
Section 13. Request for Election	7
Section 14. Effect on Ordinance No. 2.....	8
Section 15. Severability	8
ATTACHMENT A – Renewed Measure M Transportation Investment Plan	A-1
ATTACHMENT B - Allocation of Net Revenues	
Section I. Definitions.....	B-1

Section II.	Requirements	B-4
Section III.	Requirements for Eligible Jurisdictions	B-7
Section IV.	Allocation of Net Revenues; General Provisions	B-10
Section V.	Allocation of Net Revenues; Streets and Roads Programs/Projects	B-12
Section VI.	Allocation of Net Revenues; Transit Programs/ Projects.....	B-14
Section VII.	Allocation of Net Revenues; Environmental Cleanup Projects.....	B-17

ATTACHMENT C - Taxpayer Oversight Committee

Section I.	Purpose and Organization	C-1
Section II.	Committee Membership.....	C-1
Section III.	Appointment of Members.....	C-2
Section IV.	Duties and Responsibilities.....	C-4

1 **Ordinance No. 3**

2 **Renewed Measure M Transportation Ordinance and Investment Plan**

3
4 **PREAMBLE**

5 A. Pursuant to California Public Utilities Code Section 180050, the Orange
6 County Transportation Authority ("Authority") has been designated as the Orange County
7 Local Transportation Authority by the Orange County Board of Supervisors.

8 B. There has been adopted a countywide transportation expenditure plan,
9 referred to as the Orange County Transportation Investment Plan, dated July 24, 2006,
10 pursuant to California Public Utilities Code Section 180206 ("Plan"), which will be
11 administered by the Authority.

12 C. The Plan provides for needed countywide transportation facility and service
13 improvements which will be funded, in part, by a transactions and use tax of one-half of one
14 percent (1/2%).

15 D. Local Transportation Ordinance Number 2 ("Ordinance No. 2") funds
16 transportation facility and service improvements through a transactions and use tax of one-
17 half of one percent (1/2%) that will be imposed through March 31, 2011.

18 E. Ordinance No. 3 ("Ordinance") provides for the continuation of the existing
19 Ordinance No. 2 transactions and use tax of one-half of one percent (1/2%) for an
20 additional period of thirty (30) years to fund transportation facility and service
21 improvements.

22 **SECTION 1. TITLE**

23 The Ordinance shall be known and may be cited as the Renewed Measure M
24 Transportation Ordinance and Investment Plan. The word "Ordinance," as used in the
25 Ordinance, shall mean and include Attachment A entitled "Renewed Measure M
26 Transportation Investment Plan," Attachment B entitled "Allocation of Net Revenues," and
27 Attachment C entitled "Taxpayer Oversight Committee," which Attachments A, B and C are
28 attached hereto and incorporated by reference as if fully set forth herein.

1 SECTION 2. SUMMARY

2 The Ordinance provides for the implementation of the Orange County Transportation
3 Investment Plan, which will result in countywide transportation improvements for freeways,
4 highways, local streets and roads, bus and rail transit, transportation-related water quality
5 ("Environmental Cleanup"), and transit services for seniors and disabled persons. These
6 needed improvements will be funded by the continuation of the one-half of one percent
7 (1/2%) transaction and use tax for a period of thirty years. The revenues shall be deposited
8 in a special fund and used solely for the identified improvements authorized by the
9 Ordinance.

10 SECTION 3. IMPOSITION OF RETAIL TRANSACTIONS AND USE TAX

11 Subject to approval by the electors, the Authority hereby imposes, in the
12 incorporated and unincorporated territories of Orange County ("County"), in accordance
13 with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the
14 California Revenue and Taxation Code and Division 19 (commencing with Section 180000)
15 of the California Public Utilities Code, continuance of the existing retail transactions and
16 use tax at the rate of one-half of one percent (1/2%) commencing April 1, 2011, for a period
17 of thirty years. This tax shall be in addition to any other taxes authorized by law, including
18 any existing or future state or local sales tax or transactions and use tax. The imposition,
19 administration and collection of the tax shall be in accordance with all applicable statutes,
20 laws, rules and regulations prescribed and adopted by the State Board of Equalization.

21 SECTION 4. PURPOSES

22 All of the gross revenues generated from the transactions and use tax plus any
23 interest or other earnings thereon (collectively, "Revenues"), after the deduction for: (i)
24 amounts payable to the State Board of Equalization for the performance of functions
25 incidental to the administration and operation of the Ordinance, (ii) costs for the
26 administration of the Ordinance as provided herein, (iii) two percent (2%) of the Revenues
27 annually allocated for Environmental Cleanup and (iv) satisfaction of debt service
28 requirements of all bonds issued pursuant to the Ordinance that are not satisfied out of

1 separate allocations, shall be defined as "Net Revenues" and shall be allocated solely for
2 the transportation purposes described in the Ordinance.

3 SECTION 5. BONDING AUTHORITY

4 "Pay as you go" financing is the preferred method of financing transportation
5 improvements and operations under the Ordinance. However, the Authority may use bond
6 financing as an alternative method if the scope of planned expenditures makes "pay as you
7 go" financing unfeasible. Following approval by the electors of the ballot proposition
8 authorizing imposition of the transactions and use tax and authorizing issuance of bonds
9 payable from the proceeds of the tax, bonds may be issued by the Authority pursuant to
10 Division 19 of the Public Utilities Code, at any time before, on, or after the imposition of
11 taxes, and from time to time, payable from the proceeds of the tax and secured by a pledge
12 of revenues from the proceeds of the tax, in order to finance and refinance improvements
13 authorized by the Ordinance.

14 SECTION 6. MAINTENANCE OF EFFORT REQUIREMENTS

15 It is the intent of the Legislature and the Authority that the Net Revenues allocated to
16 a jurisdiction pursuant to the Ordinance for street and road projects shall be used to
17 supplement existing local discretionary funds being used for transportation improvements.
18 Each jurisdiction is hereby required to annually maintain as a minimum no less than the
19 maintenance of effort amount of local discretionary funds required to be expended by the
20 jurisdiction for local street and road purposes pursuant to the current Ordinance No. 2 for
21 Fiscal Year 2010-2011. The maintenance of effort level for each jurisdiction as determined
22 through this process shall be adjusted effective July 1, 2014 and every three fiscal years
23 thereafter in an amount equal to the percentage change for the Construction Cost Index
24 compiled by Caltrans for the immediately preceding three calendar years, providing that
25 any percentage increase in the maintenance of effort level based on this adjustment shall
26 not exceed the percentage increase in the growth rate in the jurisdiction's general fund
27 revenues over the same time period. The Authority shall not allocate any Net Revenues to
28 any jurisdiction for any fiscal year until that jurisdiction has certified to the Authority that it

1 has included in its budget for that fiscal year an amount of local discretionary funds for
2 streets and roads purposes at least equal to the level of its maintenance of effort
3 requirement. An annual independent audit may be conducted by the Authority to verify that
4 the maintenance of effort requirements are being met by the jurisdiction. Any Net
5 Revenues not allocated pursuant to the maintenance of effort requirement shall be
6 allocated to the remaining eligible jurisdictions according to the formula described in the
7 Ordinance.

8 SECTION 7. ADMINISTRATION

9 The Authority shall allocate Revenues to fund facilities, services and projects as
10 specified in the Ordinance, and shall administer the Ordinance consistent with the authority
11 cited. Revenues may be expended by the Authority for salaries, wages, benefits, and
12 overhead and for those services, including contractual services, necessary to carry out its
13 responsibilities pursuant to Division 19; however, in no case shall the Revenues expended
14 for salaries and benefits of Authority administrative staff exceed more than one percent
15 (1%) of the Revenues in any year. The Authority shall use, to the extent possible, existing
16 state, regional and local transportation planning and programming data and expertise, and
17 may, as the law permits, contract with any public agency or private firm for services
18 necessary to carry out the purposes of the Ordinance. Expenses incurred by the Authority
19 for administrative staff and for project implementation, including contracting with public
20 agencies and private firms, shall be identified in the annual report prepared pursuant to
21 Section 10, subpart 8, of the Ordinance.

22 SECTION 8. ANNUAL APPROPRIATIONS LIMIT

23 The annual appropriations limit established pursuant to Article XIII. B. of the
24 California Constitution and Section 180202 of the Public Utilities Code shall be established
25 as \$1,123 million for the 2006-07 fiscal year. The appropriations limit shall be subject to
26 adjustment as provided by law. All expenditures of the Revenues are subject to the
27 appropriations limit of the Authority.

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1 SECTION 9. EFFECTIVE AND OPERATIVE DATES

2 The Ordinance shall be effective on November 8, 2006, if two thirds of the electors
3 vote on November 7, 2006, to approve the ballot measure authorizing the extension of the
4 imposition of the existing tax. The continuance of the imposition of the existing tax
5 authorized by Section 3 of the Ordinance shall be operative on April 1, 2011.

6 SECTION 10. SAFEGUARDS OF USE OF REVENUES

7 The following safeguards are hereby established to ensure strict adherence to the
8 limitations on the use of the Revenues:

9 1. A transportation special revenue fund (the "Local Transportation
10 Authority Special Revenue Fund") shall be established to maintain all Revenues.

11 2. The County of Orange Auditor-Controller ("Auditor-Controller"), in the
12 capacity as Chair of the Taxpayer Oversight Committee, shall annually certify whether the
13 Revenues have been spent in compliance with the Ordinance.

14 3. Receipt, maintenance and expenditure of Net Revenues shall be
15 distinguishable in each jurisdiction's accounting records from other funding sources, and
16 expenditures of Net Revenues shall be distinguishable by program or project. Interest
17 earned on Net Revenues allocated pursuant to the Ordinance shall be expended only for
18 those purposes for which the Net Revenues were allocated.

19 4. No Net Revenues shall be used by a jurisdiction for other than
20 transportation purposes authorized by the Ordinance. Any jurisdiction which violates this
21 provision must fully reimburse the Authority for the Net Revenues misspent and shall be
22 deemed ineligible to receive Net Revenues for a period of five (5) years.

23 5. A Taxpayer Oversight Committee ("Committee") shall be established to
24 provide an enhanced level of accountability for expenditure of Revenues under the
25 Ordinance. The Committee will help to ensure that all voter mandates are carried out as
26 required. The roles and responsibilities of the Committee, the selection process for
27 Committee members and related administrative procedures shall be carried out as
28 described in Attachment C.

1 6. A performance assessment shall be conducted at least once every
2 three years to evaluate the efficiency, effectiveness, economy and program results of the
3 Authority in satisfying the provisions and requirements of the Investment Summary of the
4 Plan, the Plan and the Ordinance. A copy of the performance assessment shall be
5 provided to the Committee.

6 7. Quarterly status reports regarding the major projects detailed in the
7 Plan shall be brought before the Authority in public meetings.

8 8. Annually the Authority shall publish a report on how all Revenues have
9 been spent and on progress in implementing projects in the Plan, and shall publicly report
10 on the findings.

11 SECTION 11. TEN-YEAR COMPREHENSIVE PROGRAM REVIEW

12 At least every ten years the Authority shall conduct a comprehensive review of all
13 projects and programs implemented under the Plan to evaluate the performance of the
14 overall program and may revise the Plan to improve its performance. The review shall
15 include consideration of changes to local, state and federal transportation plans and
16 policies; changes in land use, travel and growth projections; changes in project cost
17 estimates and revenue projections; right-of-way constraints and other project constraints;
18 level of public support for the Plan; and the progress of the Authority and jurisdictions in
19 implementing the Plan. The Authority may amend the Plan based on its comprehensive
20 review, subject to the requirements of Section 12.

21 SECTION 12. AMENDMENTS

22 The Authority may amend the Ordinance, including the Plan, to provide for the use
23 of additional federal, state and local funds, to account for unexpected revenues, or to take
24 into consideration unforeseen circumstances. The Authority shall notify the board of
25 supervisors and the city council of each city in the county and provide them with a copy of
26 the proposed amendments, and shall hold a public hearing on proposed amendments prior
27 to adoption, which shall require approval by a vote of not less than two thirds of the
28 Authority Board of Directors. Amendments shall become effective forty five days after

1 adoption. No amendment to the Plan which eliminates a program or project specified on
2 Page 31 of the Plan shall be adopted unless the Authority Board of Directors adopts a
3 finding that the transportation purpose of the program or project to be eliminated will be
4 satisfied by a different program or project. No amendment to the Plan which changes the
5 funding categories, programs or projects identified on page 31 of the Plan shall be adopted
6 unless the amendment to the Plan is first approved by a vote of not less than two thirds of
7 the Committee. In addition, any proposed change in allocations among the four major
8 funding categories of freeway projects, street and road projects, transit projects and
9 Environmental Cleanup projects identified on page 31 of the Plan, or any proposed change
10 of the Net Revenues allocated pursuant to Section IV C 3 of Attachment B for the Local
11 Fair Share Program portion of the Streets and Roads Projects funding category, shall be
12 approved by a simple majority vote of the electors before going into effect.

13 SECTION 13. REQUEST FOR ELECTION

14 Pursuant to California Public Utilities Code Section 180201, the Authority hereby
15 requests that the County of Orange Board of Supervisors call a special election to be
16 conducted by the County of Orange on November 7, 2006, to place the Ordinance before
17 the electors. To avoid any misunderstanding or confusion by Orange County electors, the
18 Authority requests that the Ordinance be identified as "Measure M" on the ballot. The ballot
19 language for the measure shall contain a summary of the projects and programs in the Plan
20 and shall read substantially as follows:

21 "Measure "M," Orange County Transportation Improvement Plan

22 Shall the ordinance continuing Measure M, Orange County's half-cent sales tax for
23 transportation improvements, for an additional 30 years with limited bonding authority to
fund the following projects:

- 24 * relieve congestion on the I-5, I-405, 22, 55, 57 and 91 freeways;
- 25 * fix potholes and resurface streets;
- 26 * expand Metrolink rail and connect it to local communities;
- 27 * provide transit services, at reduced rates, for seniors and disabled persons;
- 28

- 1 * synchronize traffic lights in every community;
- 2 * reduce air and water pollution, and protect local beaches by cleaning up oil runoff
- 3 from roadways;
- 4 and establish the following taxpayer protections to ensure the funds are spent as directed
- 5 by the voters:
- 6 * require an independent Taxpayer Oversight Committee to review yearly audits to
- 7 ensure that voter mandates are met;
- 8 * publish an annual report to the taxpayers on how all funds are spent; and
- 9 * update the transportation improvement plan every 10 years, with voter approval
- 10 required for major changes;
- 11 be adopted for the purpose of relieving traffic congestion in Orange County?"

12 SECTION 14. EFFECT ON ORDINANCE NO. 2

13 The Ordinance is not intended to modify, repeal or alter the provisions of Ordinance
14 No. 2, and shall not be read to supersede Ordinance No. 2. The provisions of the
15 Ordinance shall apply solely to the transactions and use tax adopted herein. If the
16 Ordinance is not approved by the electors of the County, the provisions of Ordinance No. 2
17 and all powers, duties, and actions taken thereunder shall remain in full force and effect.

18 SECTION 15. SEVERABILITY

19 If any section, subsection, part, clause or phrase of the Ordinance is for any reason
20 held invalid, unenforceable or unconstitutional by a court of competent jurisdiction, that
21 holding shall not affect the validity or enforceability of the remaining funds or provisions of
22 the Ordinance, and the Authority declares that it would have passed each part of the

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1 Ordinance irrespective of the validity of any other part.

2 APPROVED AND ADOPTED by the Orange County Local Transportation Authority

3 on the _____ day of _____, 2006.

4

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By: _____
Arthur C. Brown, Chairman
Orange County Local Transportation
Authority

6

7 ATTEST:

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9 By: _____
Wendy Knowles, Clerk of the Board
Orange County Local Transportation Authority

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RENEWED MEASURE M

Transportation Investment Plan



ORANGE COUNTY LOCAL TRANSPORTATION AUTHORITY

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www.octa.net

1 operation or maintenance necessary for, incidental to, or convenient for a state or interstate
2 freeway.

3 J. "Local Fair Share Program": a formula-based allocation to Eligible
4 Jurisdictions for Street and Road Projects as described in the Plan.

5 K. "Local Traffic Signal Synchronization Plan": identification of traffic
6 signal synchronization street routes and traffic signals within a jurisdiction.

7 L. "Master Plan of Arterial Highways (MPAH)": a countywide
8 transportation plan administered by the Authority defining the ultimate number of through
9 lanes for arterial streets, and designating the traffic signal synchronization street routes in
10 Orange County.

11 M. "Net Revenues": The remaining Revenues after the deduction for: (i)
12 amounts payable to the State Board of Equalization for the performance of functions
13 incidental to the administration and operation of the Ordinance, (ii) costs for the
14 administration of the Ordinance, (iii) two percent (2%) of the Revenues annually allocated
15 for Environmental Cleanup, and (iv) satisfaction of debt service requirements of all bonds
16 issued pursuant to the Ordinance that are not satisfied out of separate allocations.

17 N. "Pavement Management Plan": a plan to manage the preservation,
18 rehabilitation, and maintenance of paved roads by analyzing pavement life cycles,
19 assessing overall system performance and costs, and determining alternative strategies
20 and costs necessary to improve paved roads.

21 O. "Permit Streamlining": commitments by state and federal agencies to
22 reduce project delays associated with permitting of freeway projects through development
23 of a comprehensive conservation strategy early in the planning process and the permitting
24 of multiple projects with a single comprehensive conservation strategy.

25 P. "Programmatic Mitigation": permanent protection of areas of high
26 ecological value, and associated restoration, management and monitoring, to
27 comprehensively compensate for numerous, smaller impacts associated with individual
28 transportation projects. Continued function of existing mitigation features, such as wildlife

1 passages, is not included.

2 Q. "Project Final Report": certification of completion of a project funded
3 with Net Revenues, description of work performed, and accounting of Net Revenues
4 expended and interest earned on Net Revenues allocated for the project.

5 R. "Regional Capacity Program": capital improvement projects to
6 increase roadway capacity and improve roadway operation as described in the Plan.

7 S. "Regional Traffic Signal Synchronization Program": competitive capital
8 and operations funding for the coordination of traffic signals across jurisdictional boundaries
9 as included in the Traffic Signal Synchronization Master Plan and as described in the Plan.

10 T. "Revenues": All gross revenues generated from the transactions and
11 use tax of one-half of one percent (1/2%) plus any interest or other earnings thereon.

12 U. "State Board of Equalization": agency of the State of California
13 responsible for the administration of sales and use taxes.

14 V. "Street and Road Project": the planning, design, construction,
15 improvement, operation or maintenance necessary for, incidental to, or convenient for a
16 street or road, or for any transportation purpose, including, but not limited to, purposes
17 authorized by Article XIX of the California Constitution.

18 W. "Traffic Forums": a group of Eligible Jurisdictions working together to
19 facilitate the planning of traffic signal synchronization among the respective jurisdictions.

20 X. "Traffic Signal Synchronization Master Plan": an element of the
21 MPAH to promote smooth traffic flow through synchronization of traffic signals along
22 designated street routes in the County.

23 Y. "Transit": the transportation of passengers by bus, rail, fixed guideway
24 or other vehicle.

25 Z. "Transit Project": the planning, design, construction, improvement,
26 equipment, operation or maintenance necessary for, or incidental to, or convenient for
27 transit facilities or transit services.

28 AA. "Watershed Management Areas": areas to be established by the

1 County of Orange, in cooperation with local jurisdictions, or by another public entity with
2 appropriate legal authority, for the management of water run-off related to existing or new
3 transportation projects.

4 II. REQUIREMENTS.

5 The Authority may allocate Net Revenues to the State of California, an Eligible
6 Jurisdiction, or the Authority for any project, program or purpose as authorized by the
7 Ordinance, and the allocation of Net Revenues by the Authority shall be subject to the
8 following requirements:

9 A. Freeway Projects

10 1. The Authority shall make every effort to maximize state and
11 federal funding for Freeway Projects. No Net Revenues shall be allocated in any year to
12 any Freeway Project if the Authority has made findings at a public meeting that the state or
13 the federal government has reduced any allocations of state funds or federal funds to the
14 Authority as the result of the addition of any Net Revenues.

15 2. All Freeway Projects funded with Net Revenues, including
16 project development and overall project management, shall be a joint responsibility of
17 Caltrans, the Authority, and the affected jurisdiction(s). All major approval actions,
18 including the project concept, the project location, and any subsequent change in project
19 scope shall be jointly agreed upon by Caltrans, the Authority, and the project sponsors, and
20 where appropriate, by the Federal Highway Administration and/or the California
21 Transportation Commission.

22 3. Prior to the allocation of Net Revenues for a Freeway Project,
23 the Authority shall obtain written assurances from the appropriate state agency that after
24 the Freeway Project is constructed to at least minimum acceptable state standards, the
25 state shall be responsible for the maintenance and operation of such Freeway Project.

26 4. Freeway Projects will be built largely within existing rights of
27 way using the latest highway design and safety requirements. However, to the greatest
28 extent possible within the available budget, Freeway Projects shall be implemented using

1 Context Sensitive Design, as described in the nationally recognized Federal Highway
2 Administration (FHWA) Principles of Context Sensitive Design Standards. Freeway
3 Projects will be planned, designed and constructed using a flexible community-responsive
4 and collaborative approach to balance aesthetic, historic and environmental values with
5 transportation safety, mobility, maintenance and performance goals. Context Sensitive
6 Design features include: parkway-style designs; environmentally friendly, locally native
7 landscaping; sound reduction; improved wildlife passage and aesthetic treatments, designs
8 and themes that are in harmony with the surrounding communities.

9 5. At least five percent (5%) of the Net Revenues allocated for
10 Freeway Projects shall fund Programmatic Mitigation for Freeway Projects. These funds
11 shall be derived by pooling funds from the mitigation budgets of individual Freeway
12 Projects, and shall only be allocated subject to the following:

13 a. Development of a Master Environmental Mitigation and
14 Resource Protection Plan and Agreement (Master Agreement) between the Authority and
15 state and federal resource agencies that includes:

16 (i) commitments by the Authority to provide for
17 programmatic environmental mitigation of the Freeway Projects,

18 (ii) commitments by state and federal resource
19 agencies to reduce project delays associated with permitting and streamline the permit
20 process for Freeway Projects,

21 (iii) an accounting process for mitigation obligations
22 and credits that will document net environmental benefit from regional, programmatic
23 mitigation in exchange for net benefit in the delivery of transportation improvements
24 through streamlined and timely approvals and permitting, and

25 (iv) a description of the specific mitigation actions and
26 expenditures to be undertaken and a phasing, implementation and maintenance plan.

27 (v) appointment by the Authority of a Mitigation and
28 Resource Protection Program Oversight Committee ("Environmental Oversight

1 Committee”) to make recommendations to the Authority on the allocation of the Net
2 Revenues for programmatic mitigation, and to monitor implementation of the Master
3 Agreement. The Environmental Oversight Committee shall consist of no more than twelve
4 members and be comprised of representatives of the Authority, Caltrans, state and federal
5 resource agencies, non-governmental environmental organizations, the public and the
6 Taxpayers Oversight Committee.

7 b. A Master Agreement shall be developed as soon as
8 practicable following the approval of the ballot proposition by the electors. It is the intent of
9 the Authority and state and federal resource agencies to develop a Master Agreement prior
10 to the implementation of Freeway Projects.

11 c. Expenditures of Net Revenues made subject to a Master
12 Agreement shall be considered a Freeway Project and may be funded from the proceeds of
13 bonds issued subject to Section 5 of the Ordinance.

14 B. Transit Projects

15 1. The Authority shall make every effort to maximize state and
16 federal funding for Transit Projects. No Net Revenues shall be allocated in any year for
17 any Transit Project if the Authority has made findings at a public meeting that the state or
18 the federal government has reduced any allocations of state funds or federal funds to the
19 Authority as the result of the addition of any Revenues.

20 2. Prior to the allocation of Net Revenues for a Transit Project, the
21 Authority shall obtain a written agreement from the appropriate jurisdiction that the Transit
22 Project will be constructed, operated and maintained to minimum standards acceptable to
23 the Authority.

24 C. Street and Road Projects

25 Prior to the allocation of Net Revenues for any Street and Road
26 Project, the Authority, in cooperation with affected agencies, shall determine the entity(ies)
27 to be responsible for the maintenance and operation thereof.

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1 III. REQUIREMENTS FOR ELIGIBLE JURISDICTIONS.

2 A. In order to be eligible to receive Net Revenues, a jurisdiction shall
3 satisfy and continue to satisfy the following requirements.

4 1. Congestion Management Program. Comply with the conditions
5 and requirements of the Orange County Congestion Management Program (CMP)
6 pursuant to the provisions of Government Code Section 65089.

7 2. Mitigation Fee Program. Assess traffic impacts of new
8 development and require new development to pay a fair share of necessary transportation
9 improvements attributable to the new development.

10 3. Circulation Element. Adopt and maintain a Circulation Element
11 of the jurisdiction's General Plan consistent with the MPAH.

12 4. Capital Improvement Program. Adopt and update biennially a
13 six-year Capital Improvement Program (CIP). The CIP shall include all capital
14 transportation projects, including projects funded by Net Revenues, and shall include
15 transportation projects required to demonstrate compliance with signal synchronization and
16 pavement management requirements.

17 5. Traffic Forums.

18 Participate in Traffic Forums to facilitate the planning of traffic
19 signal synchronization programs and projects. Eligible Jurisdictions and Caltrans, in
20 participation with the County of Orange and the Orange County Division of League of
21 Cities, will establish the boundaries for Traffic Forums. The following will be considered
22 when establishing boundaries:

- 23 a. Regional traffic routes and traffic patterns;
24 b. Inter-jurisdictional coordination efforts; and
25 c. Total number of Traffic Forums.

26 6. Local Traffic Signal Synchronization Plan. Adopt and maintain a
27 Local Traffic Signal Synchronization Plan which shall identify traffic signal synchronization
28 street routes and traffic signals; include a three-year plan showing costs, available funding

1 and phasing of capital, operations and maintenance of the street routes and traffic signals;
2 and include information on how the street routes and traffic signals may be synchronized
3 with traffic signals on the street routes in adjoining jurisdictions. The Local Traffic Signal
4 Synchronization Plan shall be consistent with the Traffic Signal Synchronization Master
5 Plan.

6 7. Pavement Management Plan. Adopt and update biennially a
7 Pavement Management Plan, and issue, using a common format approved by the
8 Authority, a report every two years regarding the status of road pavement conditions and
9 implementation of the Pavement Management Plan.

10 a. Authority, in consultation with the Eligible Jurisdictions,
11 shall define a countywide management method to inventory, analyze and evaluate road
12 pavement conditions, and a common method to measure improvement of road pavement
13 conditions.

14 b. The Pavement Management Plan shall be based on:
15 either the Authority's countywide pavement management method or a comparable
16 management method approved by the Authority, and the Authority's method to measure
17 improvement of road pavement conditions.

18 c. The Pavement Management Plan shall include:

19 (i) Current status of pavement on roads;

20 (ii) A six-year plan for road maintenance and
21 rehabilitation, including projects and funding;

22 (iii) The projected road pavement conditions resulting
23 from the maintenance and rehabilitation plan; and

24 (iv) Alternative strategies and costs necessary to
25 improve road pavement conditions.

26 8. Expenditure Report. Adopt an annual Expenditure Report to
27 account for Net Revenues, developer/traffic impact fees, and funds expended by the
28 Eligible Jurisdiction which satisfy the Maintenance of Effort requirements. The Expenditure

1 Report shall be submitted by the end of six (6) months following the end of the jurisdiction's
2 fiscal year and include the following:

- 3 a. All Net Revenue fund balances and interest earned.
- 4 b. Expenditures identified by type (i.e., capital, operations,
5 administration, etc.), and program or project .

6 9. Project Final Report. Provide Authority with a Project Final
7 Report within six months following completion of a project funded with Net Revenues.

8 10. Time Limits for Use of Net Revenues.

9 a. Agree that Net Revenues for Regional Capacity Program
10 projects and Regional Traffic Signal Synchronization Program projects shall be expended
11 or encumbered no later than the end of the fiscal year for which the Net Revenues are
12 programmed. A request for extension of the encumbrance deadline for no more than
13 twenty-four months may be submitted to the Authority no less than ninety days prior to the
14 deadline. The Authority may approve one or more requests for extension of the
15 encumbrance deadline.

16 b. Agree that Net Revenues allocated for any program or
17 project, other than a Regional Capacity Program project or a Regional Traffic Signal
18 Synchronization Program project, shall be expended or encumbered within three years of
19 receipt. The Authority may grant an extension to the three-year limit, but extensions shall
20 not be granted beyond a total of five years from the date of the initial funding allocation.

21 c. In the event the time limits for use of Net Revenues are
22 not satisfied then any retained Net Revenues that were allocated to an Eligible Jurisdiction
23 and interest earned thereon shall be returned to the Authority and these Net Revenues and
24 interest earned thereon shall be available for allocation to any project within the same
25 source program.

26 11. Maintenance of Effort. Annual certification that the Maintenance
27 of Effort requirements of Section 6 of the Ordinance have been satisfied.

28 12. No Supplanting of Funds. Agree that Net Revenues shall not be

1 used to supplant developer funding which has been or will be committed for any
2 transportation project.

3 13. Consider, as part of the Eligible Jurisdiction's General Plan, land
4 use planning strategies that accommodate transit and non-motorized transportation.

5 B. Determination of Non-Eligibility

6 A determination of non-eligibility of a jurisdiction shall be made only
7 after a hearing has been conducted and a determination has been made by the Authority's
8 Board of Directors that the jurisdiction is not an Eligible Jurisdiction as provided
9 hereinabove.

10 IV. ALLOCATION OF NET REVENUES; GENERAL PROVISIONS.

11 A. Subject to the provisions of the Ordinance, including Section II above,
12 use of the Revenues shall be as follows:

13 1. First, the Authority shall pay the State Board of Equalization for
14 the services and functions;

15 2. Second, the Authority shall pay the administration expenses of
16 the Authority;

17 3. Third, the Authority shall satisfy the annual allocation
18 requirement of two percent (2%) of Revenues for Environmental Cleanup; and

19 4. Fourth, the Authority shall satisfy the debt service requirements
20 of all bonds issued pursuant to the Ordinance that are not satisfied out of separate
21 allocations.

22 B. After providing for the use of Revenues described in Section A above,
23 and subject to the averaging provisions of Section D below, the Authority shall allocate the
24 Net Revenues as follows:

25 1. Forty-three percent (43%) for Freeway Projects;

26 2. Thirty-two percent (32%) for Street and Road Projects; and

27 3. Twenty-five percent (25%) for Transit Projects.

28 C. The allocation of thirty-two percent (32%) of the Net Revenues for

1 Street and Road Projects pursuant to Section B 2 above shall be made as follows:

2 1. Ten percent (10%) of the Net Revenues shall be allocated for
3 Regional Capacity Program projects;

4 2. Four percent (4%) of the Net Revenues shall be allocated for
5 Regional Traffic Signal Synchronization Program projects; and

6 3. Eighteen percent (18%) of the Net Revenues shall be allocated
7 for Local Fair Share Program projects.

8 D. In any given year, except for the allocations for Local Fair Share
9 Program projects, the Authority may allocate Net Revenues on a different percentage basis
10 than required by Sections B and C above in order to meet short-term needs and to
11 maximize efforts to capture state, federal, or private transportation dollars, provided the
12 percentage allocations set forth in Sections B and C above shall be achieved during the
13 duration of the Ordinance.

14 E. The Authority shall allocate Net Revenues for programs and projects
15 as necessary to meet contractual, program or project obligations, and the Authority may
16 withhold allocations until needed to meet contractual, program or project obligations, except
17 that Net Revenues allocated for the Local Fair Share Program pursuant to Section C above
18 shall be paid to Eligible Jurisdictions within sixty days of receipt by the Authority.

19 F. The Authority may exchange Net Revenues from a Plan funding
20 category for federal, state or other local funds allocated to any public agency within or
21 outside the area of jurisdiction to maximize the effectiveness of the Plan. The Authority and
22 the exchanging public agency must use the exchanged funds for the same program or
23 project authorized for the use of the funds prior to the exchange. Such federal, state or
24 local funds received by the Authority shall be allocated by the Authority to the same Plan
25 funding category that was the source of the exchanged Net Revenues, provided, however,
26 in no event shall an exchange reduce the Net Revenues allocated for Programmatic
27 Mitigation of Freeway Projects.

28 G. If additional funds become available for a specific project or program

1 described in the Plan, the Authority may allocate the Net Revenues replaced by the receipt
2 of those additional funds, in the following order of priority: first, to Plan projects and
3 programs which provide congestion relief in the geographic region which received the
4 additional funds; second, to other projects and programs within the affected geographic
5 region which may be placed in the Plan through an amendment to the Ordinance; and third,
6 to all other Plan projects and programs.

7 H. Upon review and acceptance of the Project Final Report, the Authority
8 shall allocate the balance of Net Revenues for the project, less the interest earned on the
9 Net Revenues allocated for the project.

10 V. ALLOCATION OF NET REVENUES; STREETS AND ROADS PROGRAMS/
11 PROJECTS

12 A. Regional Capacity Program.

13 1. Matching Funds. An Eligible Jurisdiction shall contribute local
14 matching funds equal to fifty percent (50%) of the project or program cost. This local match
15 requirement may be reduced as follows:

16 a. A local match reduction of ten percent (10%) of the
17 eligible cost if the Eligible Jurisdiction implements, maintains and operates in conformance
18 with the Traffic Signal Synchronization Master Plan.

19 b. A local match reduction of ten percent (10%) of the
20 eligible cost if the Eligible Jurisdiction either:

21 (i) has measurable improvement of paved road
22 conditions during the previous reporting period as determined pursuant to the Authority's
23 method of measuring improvement of road pavement conditions, or

24 (ii) has road pavement conditions during the previous
25 reporting period which are within the highest twenty percent of the scale for road pavement
26 conditions as determined pursuant to the Authority's method of measuring improvement of
27 road pavement conditions.

28 c. A local match reduction of five percent (5%) of the

1 eligible cost if the Eligible Jurisdiction does not use any Net Revenues as part of the funds
2 for the local match.

3 2. Allocations shall be determined pursuant to a countywide
4 competitive procedure adopted by the Authority. Eligible Jurisdictions shall be consulted by
5 the Authority in establishing criteria for determining priority for allocations.

6 B. Regional Traffic Signal Synchronization Program.

7 1. Traffic Signal Synchronization Master Plan.

8 The Authority shall adopt and maintain a Traffic Signal
9 Synchronization Master Plan, which shall be a part of the Master Plan of Arterial Highways.
10 The Traffic Signal Synchronization Master Plan shall include traffic signal synchronization
11 street routes and traffic signals within and across jurisdictional boundaries, and the means
12 of implementing, operating and maintaining the programs and projects, including necessary
13 governance and legal arrangements.

14 2. Allocations.

15 a. Allocations shall be determined pursuant to a countywide
16 competitive procedure adopted by the Authority. Eligible Jurisdictions shall be consulted by
17 the Authority in establishing criteria for determining priority for allocations.

18 b. The Authority shall give priority to programs and projects
19 which include two or more jurisdictions.

20 c. The Authority shall encourage the State to participate in
21 the Regional Traffic Signal Synchronization Program and Authority shall give priority to use
22 of transportation funds as match for the State's discretionary funds used for implementing
23 the Regional Traffic Signal Synchronization Program.

24 3. An Eligible Jurisdiction shall contribute matching local funds
25 equal to twenty percent (20%) of the project or program cost. The requirement for
26 matching local funds may be satisfied all or in part with in-kind services provided by the
27 Eligible Jurisdiction for the program or project, including salaries and benefits for
28 employees of the Eligible Jurisdiction who perform work on the project or programs.

1 4. An Eligible Jurisdiction shall issue a report once every three
2 years regarding the status and performance of its traffic signal synchronization activities.

3 5. Not less than once every three years an Eligible Jurisdiction
4 shall review and revise, as may be necessary, the timing of traffic signals included as part
5 of the Traffic Signal Synchronization Master Plan.

6 6. An Eligible Jurisdiction withdrawing from a signal
7 synchronization project shall be required to return Net Revenues allocated for the project.

8 C. Local Fair Share Program.

9 The allocation of eighteen percent (18%) of the Net Revenues for
10 Local Fair Share Program projects shall be made to Eligible Jurisdictions in amounts
11 determined as follows:

12 1. Fifty percent (50%) divided between Eligible Jurisdictions based
13 on the ratio of each Eligible Jurisdiction's population for the immediately preceding calendar
14 year to the total County population (including incorporated and unincorporated areas) for
15 the immediately preceding calendar year, both as determined by the State Department of
16 Finance;

17 2. Twenty-five percent (25%) divided between Eligible Jurisdictions
18 based on the ratio of each Eligible Jurisdiction's existing Master Plan of Arterial Highways
19 ("MPAH") centerline miles to the total existing MPAH centerline miles within the County as
20 determined annually by the Authority; and

21 3. Twenty-five percent (25%) divided between Eligible Jurisdictions
22 based on the ratio of each Eligible Jurisdiction's total taxable sales to the total taxable sales
23 of the County for the immediately preceding calendar year as determined by the State
24 Board of Equalization.

25 VI. ALLOCATION OF NET REVENUES; TRANSIT PROGRAMS/PROJECTS.

26 A. Transit Extensions to Metrolink.

27 1. The Authority may provide technical assistance, transportation
28 planning and engineering resources for an Eligible Jurisdiction to assist in designing Transit

1 Extensions to Metrolink projects to provide effective and user-friendly connections to
2 Metrolink services and bus transit systems.

3 2. To be eligible to receive Net Revenues for Transit Extension to
4 Metrolink projects, an Eligible Jurisdiction must execute a written agreement with the
5 Authority regarding the respective roles and responsibilities pertaining to construction,
6 ownership, operation and maintenance of the Transit Extension to Metrolink project.

7 3. Allocations of Net Revenues shall be determined pursuant to a
8 countywide competitive procedure adopted by the Authority. This procedure shall include
9 an evaluation process and methodology applied equally to all candidate Transit Extension
10 to Metrolink projects. Eligible Jurisdictions shall be consulted by the Authority in the
11 development of the evaluation process and methodology.

12 B. Metrolink Gateways.

13 1. The Authority may provide technical assistance, transportation
14 planning and engineering resources for an Eligible Jurisdiction to assist in designing
15 Regional Transit Gateway facilities to provide for effective and user-friendly connections to
16 the Metrolink system and other transit services.

17 2. To be eligible to receive Net Revenues for Regional Gateway
18 projects, an Eligible Jurisdiction must execute a written agreement with the Authority
19 regarding the respective roles and responsibilities pertaining to construction, ownership,
20 operation and maintenance of the Regional Gateway facility.

21 3. Allocations of Net Revenues shall be determined pursuant to a
22 countywide competitive procedure adopted by the Authority. This procedure shall include
23 an evaluation process and methodology applied equally to all candidate Regional Gateway
24 projects. Eligible Jurisdictions shall be consulted by the Authority in the development of the
25 evaluation process and methodology.

26 C. Mobility Choices for Seniors and Persons with Disabilities.

27 1. An Eligible Jurisdiction may contract with another entity to
28 perform all or part of a Mobility Choices for Seniors and Persons with Disabilities project.

1 2. A senior is a person age sixty years or older.

2 3. Allocations.

3 a. One percent (1%) of the Net Revenues shall be allocated
4 to the County to augment existing senior non-emergency medical transportation services
5 funded with Tobacco Settlement funds as of the effective date of the Ordinance. The
6 County shall continue to fund these services in an annual amount equal to the same
7 percentage of the total annual Tobacco Settlement funds received by the County. The Net
8 Revenues shall be annually allocated to the County in an amount no less than the Tobacco
9 Settlement funds annually expended by the County for these services and no greater than
10 one percent of net revenues plus any accrued interest.

11 b. One percent (1%) of the Net Revenues shall be allocated
12 to continue and expand the existing Senior Mobility Program provided by the Authority.
13 The allocations shall be determined pursuant to criteria and requirements for the Senior
14 Mobility Program adopted by the Authority.

15 c. One percent (1%) of the Net Revenues shall be allocated
16 to partially fund bus and ACCESS fares for seniors and persons with disabilities in an
17 amount equal to the percentage of partial funding of fares for seniors and persons with
18 disabilities as of the effective date of the Ordinance, and to partially fund train and other
19 transit service fares for seniors and persons with disabilities in amounts as determined by
20 the Authority.

21 d. In the event any Net Revenues to be allocated for seniors
22 and persons with disabilities pursuant to the requirements of subsections a, b and c above
23 remain after the requirements are satisfied then the remaining Net Revenues shall be
24 allocated for other transit programs or projects for seniors and persons with disabilities as
25 determined by the Authority.

26 D. Community Based Transit/Circulators.

27 1. The Authority may provide technical assistance, transportation
28 planning, procurement and operations resources for an Eligible Jurisdiction to assist in

1 designing Community Based Transit/Circulators projects to provide effective and user-
2 friendly transit connections to countywide bus transit and Metrolink services.

3 2. To be eligible to receive Net Revenues for Community Based
4 Transit/Circulators projects, an Eligible Jurisdiction must execute a written agreement with
5 the Authority regarding the respective roles and responsibilities pertaining to construction,
6 ownership, operation and maintenance of the Community Based Transit/Circulators project.

7 3. Allocations of Net Revenues shall be determined pursuant to a
8 countywide competitive procedure adopted by the Authority. This procedure shall include
9 an evaluation process and methodology applied equally to all candidate Community Based
10 Transit/Circulator projects. Eligible Jurisdictions shall be consulted by the Authority in the
11 development of the evaluation process and methodology.

12 4. An Eligible Jurisdiction may contract with another entity to
13 perform all or part of a Community Based Transit/Circulators project.

14 VII. ALLOCATION OF NET REVENUES; ENVIRONMENTAL CLEANUP
15 PROGRAMS/PROJECTS.

16 A. An Eligible Jurisdiction may contract with any other public entity to
17 perform all or any part of an Environmental Cleanup project.

18 B. Allocation Committee.

19 1. The Allocation Committee shall not include any elected public
20 officer and shall include the following twelve (12) voting members:

- 21 (i) one (1) representative of the County of Orange;
- 22 (ii) five (5) representatives of cities, subject to the
23 requirement for one (1) representative for the cities in each supervisorial district;
- 24 (iii) one (1) representative of the California Department of
25 Transportation;
- 26 (iv) two (2) representatives of water or wastewater public
27 entities;
- 28 (v) one (1) representative of the development industry;

1 (vi) one (1) representative of the scientific or academic
2 community;

3 (vii) one (1) representative of private or non-profit
4 organizations involved in environmental and water quality protection/enforcement matters;

5 In addition, one (1) representative of the Santa Ana Regional Water
6 Quality Control Board and one (1) representative of the San Diego Regional Water Quality
7 Control Board shall be non-voting members of the Allocation Committee.

8 2. The Allocation Committee shall recommend to the Authority for
9 adoption by the Authority the following:

10 a. A competitive grant process for the allocation of
11 Environmental Cleanup Revenues, including the highest priority to capital improvement
12 projects included in a Watershed Management Area. The process shall give priority to
13 cost-effective projects and programs that offer opportunities to leverage other funds for
14 maximum benefit.

15 b. A process requiring that Environmental Cleanup
16 Revenues allocated for projects and programs shall supplement and not supplant funding
17 from other sources for transportation related water quality projects and programs.

18 c. Allocation of Environmental Cleanup Revenues for
19 proposed projects and programs.

20 d. An annual reporting procedure and a method to assess
21 the water quality benefits provided by completed projects and programs.

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1 ATTACHMENT C

2 TAXPAYER OVERSIGHT COMMITTEE

3
4 I. PURPOSE AND ORGANIZATION. A Taxpayer Oversight Committee
5 ("Committee") is hereby established for the purpose of overseeing compliance with the
6 Ordinance as specified in Section IV hereof. The Committee shall be organized and
7 convened before any Revenues are collected or spent pursuant to the Ordinance.

8 II. COMMITTEE MEMBERSHIP. The Committee shall be governed by eleven
9 members ("Member"). The composition of the Committee membership shall be subject to
10 the following provisions.

11 A. Geographic Balance. The membership of the Committee shall be
12 geographically balanced at all times as follows:

13 1. There shall be two Members appointed from each of the
14 County's supervisorial districts (individually, "District"); and

15 2. The Auditor-Controller shall be a Member and chairman
16 ("Chair") of the Committee.

17 B. Member Term. Each Member, except the Auditor-Controller and
18 as provided in Section III B 2 below, shall be appointed for a term of three years; provided,
19 however, that any Member appointed to replace a Member who has resigned or been
20 removed shall serve only the balance of such Member's unexpired term, and no person
21 shall serve as a Member for a period in excess of six consecutive years.

22 C. Resignation. Any Member may, at any time, resign from the
23 Committee upon written notice delivered to the Auditor-Controller. Acceptance of any
24 public office, the filing of an intent to seek public office, including a filing under California
25 Government Code Section 85200, or change of residence to outside the District shall
26 constitute a Member's automatic resignation.

27 D. Removal. Any Member who has three consecutive unexcused
28 absences from meetings of the Committee shall be removed as a Member. An absence

1 from a Committee meeting shall be considered unexcused unless, prior to or after such
2 absence (i) the Member submits to each of the other Members a written request to excuse
3 such absence, which request shall state the reason for such absence and any special
4 circumstances existing with respect to such absence; and (ii) a majority of the other
5 Members agree to excuse such absence.

6 E. Reappointment. Any former Member may be reappointed.

7 III. APPOINTMENT OF MEMBERS.

8 A. Membership Recommendation Panel.

9 1. The Authority shall contract with the Orange County Grand
10 Jurors' Association for the formation of a committee membership recommendation panel
11 ("Panel") to perform the duties set forth in this subsection III A. If the Orange County Grand
12 Jurors' Association refuses or fails to act in such capacity, the Authority shall contract with
13 another independent organization selected by the Authority for the formation of the Panel.

14 2. The Panel shall have five members who shall screen and
15 recommend potential candidates for Committee membership.

16 3. The Panel shall solicit, collect and review applications from
17 potential candidates for membership on the Committee. No currently elected or appointed
18 officer of any public entity will be eligible to serve as a Member, except the Auditor-
19 Controller. A Member shall reside within the District the Member is appointed to represent.
20 Subject to the foregoing restrictions, the Panel shall evaluate each potential candidate on
21 the basis of the following criteria:

22 a. Commitment and ability to participate in Committee
23 meetings;

24 b. Demonstrated interest and history of participation in
25 community activities, with special emphasis on transportation-related activities; and

26 c. Lack of conflicts of interest with respect to the allocation
27 of Revenues.

28 4. For initial membership on the Committee, the Panel shall

1 recommend to the Authority at least five candidates from each of the two Districts that are
2 represented by one member on the Ordinance No. 2, Citizens Oversight Committee
3 ("COC") as of the date the Authority appoints the initial Members. Thereafter, the Panel
4 shall recommend to the Authority at least five candidates for filing each vacancy on the
5 Committee.

6 B. Initial Members.

7 1. The COC members, as of the date the Authority appoints the
8 initial Members of the Committee, shall be appointed as initial Members of the Committee.
9 These Members shall each serve until each of their respective terms as a member of the
10 COC expires.

11 2. Two additional initial Members shall be appointed. The
12 Authority shall place the names of the candidates recommended by the Panel on equally-
13 sized cards which shall be deposited randomly in a container. In public session, the
14 Chairman of the Authority will draw a sufficient number of names from said container to
15 allocate Committee membership in accordance with the membership requirements and
16 restrictions set forth in Section II hereof. The first person whose name is drawn shall be
17 appointed to serve a term of three years. Thereafter, the person whose name is drawn
18 who is not from the same District as the first person whose name is drawn shall be
19 appointed to serve a term of two years.

20 C. Member Vacancy. A member vacancy, however caused, shall be
21 filled by the Authority. A Member shall be appointed on or about July 1 to replace a
22 Member whose term has expired. A Member may be appointed at any time as necessary
23 to replace a Member who has resigned or been removed. The Authority shall place the
24 names of the candidates recommended by the Panel for the appointment on equally-sized
25 cards which shall be deposited randomly in a container. In a public session, the Chairman
26 of the Authority will draw one name from said container for each vacancy on the
27 Committee. The person whose name is so drawn shall be appointed by the Authority to fill
28 the vacancy.

1 IV. DUTIES AND RESPONSIBILITIES. The Committee is hereby charged
2 with the following duties and responsibilities:

3 A. The initial Members shall convene to adopt such procedural rules and
4 regulations as are necessary to govern the conduct of Committee meetings, including, but
5 not limited to, those governing the calling, noticing and location of Committee meetings, as
6 well as Committee quorum requirements and voting procedures. The Committee may
7 select its own officers, including, but not limited to, a Committee co-chair who will be the
8 primary spokesperson for the Committee.

9 B. The Committee shall approve, by a vote of not less than two thirds of
10 all Committee members, any amendment to the Plan proposed by the Authority which
11 changes the funding categories, programs or projects identified on page 31 of the Plan.

12 C. The Committee shall receive and review the following documents
13 submitted by each Eligible Jurisdiction:

- 14 1. Congestion Management Program;
- 15 2. Mitigation Fee Program;
- 16 3. Expenditure Report;
- 17 4. Local Traffic Signal Synchronization Plan; and
- 18 5. Pavement Management Plan.

19 D. The Committee shall review yearly audits and hold an annual public
20 hearing to determine whether the Authority is proceeding in accordance with the Plan. The
21 Chair shall annually certify whether the Revenues have been spent in compliance with the
22 Plan. In addition, the Committee may issue reports, from time to time, on the progress of
23 the transportation projects described in the Plan.

24 E. The Committee shall receive and review the performance assessment
25 conducted by the Authority at least once every three years to review the performance of the
26 Authority in carrying out the purposes of the Ordinance.

27 F. Except as otherwise provided by the Ordinance, the Committee may
28 contract, through the Authority, for independent analysis or examination of issues within the

1 Committee's purview or for other assistance as it determines to be necessary.

2 G. The Committee may submit a written request to the Authority to explain
3 any perceived deviations from the Plan. The Authority's Chair must respond to such
4 request, in writing, within sixty days after receipt of the same.

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