

ORDINANCE NO. ____

**AN ORDINANCE OF THE COUNTY OF SANTA CRUZ IMPOSING
A ONE-HALF OF ONE PERCENT TRANSACTIONS AND USE TAX
TO BE ADMINISTERED BY STATE BOARD OF EQUALIZATION
FOR TRANSPORTATION IMPROVEMENTS INCLUDED IN THE
SANTA CRUZ COUNTY LOCAL TRANSPORTATION EXPENDITURE PLAN**

ORDINANCE

The people of the County of Santa Cruz ordain as follows:

SECTION I

The Santa Cruz County Code is hereby amended by adding Chapter 4.22 to read as follows:

Chapter 4.22

**TRANSPORTATION IMPROVEMENT
TRANSACTIONS AND USE TAX**

Sections:

- 4.22.010 Summary.
- 4.22.020 Definitions.
- 4.22.030 Purposes.
- 4.22.040 Imposition of transactions and use tax.
- 4.22.050 Transactions tax rate.
- 4.22.060 Place of sale.
- 4.22.070 Use tax rate.
- 4.22.080 Adoption of provisions of state law.
- 4.22.090 Limitations on adoption of state law and collection of use tax.
- 4.22.100 Permit not required.
- 4.22.110 Exemptions and exclusions.
- 4.22.120 Conformance with statutory amendments.
- 4.22.130 Enjoining collection forbidden.
- 4.22.140 Bonding authority.
- 4.22.150 Maintenance of effort.
- 4.22.160 Matching funds.
- 4.22.170 Collection and administration of funds.
- 4.22.180 Administrative costs.
- 4.22.190 Effective date.
- 4.22.200 Election.
- 4.22.210 Implementing policies and regulations.
- 4.22.220 Independent audit committee.
- 4.22.230 Contract with state.
- 4.22.240 Expenditure plan amendment.
- 4.22.250 Termination date.

4.22.010 Summary.

Pursuant to Revenue and Taxation Code Section 7285.5, this Chapter provides for the imposition of a retail transactions and use tax (commonly known as a “sales tax”) of one-half of one percent for a period of thirty (30) years, the authority to issue notes, bonds, certificates of participation, or other forms of indebtedness secured by such taxes, the administration of the tax proceeds, and a Local Transportation Expenditure Plan. The transactions and use tax provisions of this Chapter shall be applicable in the incorporated and unincorporated territory of Santa Cruz County, which territory shall be referred to herein as “District”. This tax shall be in addition to any other taxes authorized by law, including any existing or future state or local sales and use tax or transactions and use tax.

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4.22.020 Definitions. The following definitions shall apply in this Chapter and Expenditure Plan:

- A. “Auditor-Controller” means the elected Auditor-Controller of the County of Santa Cruz.
- B. “Commission” means the Santa Cruz County Regional Transportation Commission, the local area transportation planning agency created by Government Code Section 67940.
- C. “County” means the County of Santa Cruz, governed by the Board of Supervisors.
- D. “Expenditure Plan” or “Plan” means the Santa Cruz County Local Transportation Expenditure Plan adopted as part of the Ordinance enacting this Chapter, including any future amendments thereto.
- E. “Fund” means the Regional Transportation Fund established by this Chapter and as set forth in Government Code Section 29532(a).
- F. “Highway Authority” means the Highway 1 Construction Authority, the joint exercise of powers agency created pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500, et seq.) of the California Government Code, committed exclusively to delivering the Highway 1 Widening/Carpool lane project.
- G. “Local jurisdictions” means the County of Santa Cruz, the City of Capitola, the City of Santa Cruz, the City of Scotts Valley and the City of Watsonville.

H. “Sales Tax” or “Sales and Use Tax” means the retail transactions and use tax established by this Chapter.

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4.22.030 Purposes.

The Commission has recommended that the County submit to the voters of Santa Cruz County for their approval an ordinance which would, if so approved, authorize the County to impose a one-half of one percent transactions and use tax for a period of thirty years to fund the transportation improvements set forth in the Expenditure Plan, and authorizes the public entities designated in the Expenditure Plan to issue notes, bonds, certificates of participation, or other forms of indebtedness served by said tax. Measure “X” funds may only be used for the transportation projects and programs outlined in the Expenditure Plan, including the administration of this Chapter, and legal actions related thereto, and the construction, capital, acquisition, maintenance, and operation of streets, roads, highways, including state highways and public transit systems, and for related purposes including financing costs and costs of issuance of any debt relating thereto. These purposes include expenditures for planning, environmental reviews, engineering and design costs, and related right-of-way acquisition. Expenditures for administration are subject to the limitations specified in Section 4.22.180 and in the Expenditure Plan.

4.22.040 Imposition of transactions and use tax.

This Chapter is enacted to achieve the following, among other, purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes.

A. To impose a one-half of one percent transactions and use tax for a thirty (30) year period in accordance with the provisions of Revenue and Taxation Code Section 7285.5;

B. To adopt a one-half of one percent transactions and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California, insofar as those provisions are not inconsistent with the requirements and limitations set forth in Part 1.6 (commencing with Section 7251 and following) of Division 2 of the Revenue and Taxation Code;

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C. To adopt a one-half of one percent transactions and use tax ordinance which imposes a tax that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting sales and use taxes;

D. To adopt a one-half of one percent transactions and use tax ordinance which can be administered in a manner which will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code (commencing with Section 7251 and following), minimize the cost of collecting this transactions and use tax and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this Chapter; and

E. Consistent with the amendment process specified in Section 4.22.240, the tax to be imposed by this Chapter may be retired earlier than the full 30-year term if funds are no longer needed for debt service and if all projects and commitments in the Expenditure Plan have been fulfilled.

4.22.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the District at the rate of one-half of one percent (0.50%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of the tax established by this Chapter.

4.22.060 Place of sale.

For the purposes of this Chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

4.22.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the District of tangible personal property purchased from any retailer on and after the operative date of the tax established by this Chapter for storage, use or other consumption in said territory at the rate of one-half of one percent (0.50 %) of the sales price of the property. The sales price shall include delivery

charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

4.22.080 Adoption of provisions of state law.

Except as otherwise provided in this Chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this Chapter as though fully set forth herein.

4.22.090 Limitations on adoption of state law and collection of use tax.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this County shall be substituted therefore. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this County or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

4.22.100 Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this Chapter.

4.22.110 Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and

directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the county which is shipped to a point outside the District, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the District shall be satisfied:

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a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

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b. With respect to commercial vehicles, by registration to a place of business out-of-County and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this Chapter, the storage, use or other consumption in this District of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Chapter.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Chapter.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

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6. Except as provided in subparagraph (7), a retailer engaged in business in the District shall not be required to collect use tax from the purchaser of tangible personal property, unless the

retailer ships or delivers the property into the District or participates within the District in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the District or through any representative, agent, canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer.

7. "A retailer engaged in business in the District " shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the District.

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D. Any person subject to use tax under this Chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

4.22.120 Conformance with statutory amendments.

All amendments subsequent to the effective date of this Chapter, to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter.

4.22.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the County, or against any officer of the State or the County, to prevent or enjoin the collection under this Chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

4.22.140 Bonding authority.

Upon voter approval of Measure "X", the designated public entities shall have the power to sell, issue or incur, from time to time, on or before the collection of taxes, notes, bonds, certificates of participation, or other evidence of indebtedness, including, but not limited to, capital appreciation bonds, and to secure such indebtedness solely by way of a pledge of the present and future collection of taxes, for financing capital outlay expenditures described in the Expenditure Plan and this Chapter. Pursuant to this Chapter, the maximum bonded indebtedness which may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax as determined by the Expenditure Plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds or bond anticipation notes for which funds necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.

4.22.150 Maintenance of effort.

By the enactment of this Chapter, it is intended that the additional funds to be provided to from the imposition of this transactions (sales) and use tax shall be used to supplement statutory commitments and required developer fees being used for transportation purposes.

4.22.160 Matching funds.

Notwithstanding the maintenance of effort requirements of Section 4.22.150, funds from Measure “X” may and are expected to be used as matching funds in order to leverage other federal, state, local or private transportation or other funds for applicable transportation projects and programs.

4.22.170 Collection and administration of funds.

The County shall impose and collect Measure “X” funds, and the Auditor-Controller shall establish and maintain a Regional Transportation Fund and allocate revenues derived from Measure “X” consistent with the Expenditure Plan authority cited herein. The Commission will administer the Expenditure Plan except for those funds allocated to the Highway Authority or local jurisdictions pursuant to the Expenditure Plan.

4.22.180 Administrative costs.

The Auditor-Controller shall be authorized to expend up to one percent (1%) of the annual net amount of revenue raised by Measure “X” for administrative expenses, audits, programming processes, reporting, financing costs, and other implementation and oversight responsibilities as may be necessary to administer the Expenditure Plan. The Commission shall be authorized to annually invoice the Auditor-Controller for the cost of compiling and publishing an annual report, providing public information concerning Measure “X” and other administrative responsibilities.

4.22.190 Effective and operative dates.

The Ordinance enacting this Chapter shall become effective according to law only if at least two-thirds of the electors voting on the Measure at the election on November 2, 2004, vote to approve its enactment. Pursuant to Revenue and Taxation Code Section 7265, this Chapter shall become operative on the first day of the first calendar quarter, commencing more than 110 days after the enactment of the Ordinance or as soon thereafter as applicable law permits.

4.22.200 Election.

The County shall call an election for voter approval of Measure “X”, which election shall be held on November 2, 2004. The election shall be called and conducted in the same manner as provided by law for the conduct of elections by a county. Approval of Measure “X”, and the imposition of the Measure “X” transactions and use tax described herein, shall require the affirmative vote of at least two-thirds of the electors voting on the Measure.

4.22.210 Implementing policies and regulations.

Upon approval of Measure “X” by two-thirds of the electors voting on the Measure, the Commission, the Highway Authority, and the local jurisdictions may each adopt policies and procedures and take such other action as may be necessary for the implementation of the Expenditure Plan authorized by this Chapter.

4.22.220 Independent audit committee.

A. An independent audit committee shall be established to oversee annual financial audits of the Fund, allocations, and expenditures of revenues from the Fund. Annual audits shall be

published in at least two local newspapers of general circulation and shall otherwise be made fully available to the public.

B. The independent audit committee shall consist of five members. The following named entities, its successor entity, or if the entity ceases to exist, a comparable entity designated by the Commission, shall each appoint one person as follows:

1. A person appointed by the League of Women Voters.
2. A person appointed by the Santa Cruz County Grand Jury sitting at the time a vacancy arises. This person shall not be a current member of the Grand Jury.
3. A person appointed by the Presiding Judge of the Santa Cruz County courts.
4. A person appointed by the local chapter of the Society of Certified Public Accountants (CPAs)
5. A person appointed by the Cabrillo College Board of Trustees.

C. Each committee member appointed shall serve a four year term, and may serve for more than one term.

D. Appointees do not need to be members of their appointing entities. No elected officials or Board members or alternates of any agency that is a recipient of Measure "X" funds shall be appointed to the Independent Audit Committee.

E. The committee shall adopt a conflict of interest code in accordance with the Political Reform Act of 1974.

4.22.230 Contact with state.

Prior to the operative date, the County shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the County shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

4.22.240 Expenditure plan amendments.

Amendments to this Chapter or the Expenditure Plan for Measure "X", may only be made by an affirmative vote of the electors voting on the amendment. Until any such amendments are approved, the then existing Expenditure Plan shall remain in full force and effect.

4.22.250 Termination date.

This Chapter shall terminate and shall be of no further force and effect on that date that is thirty years after the operative date provided in Section 4.22.190.

SECTION II

In accordance with the requirements of Revenue and Taxation Code § 7285.5, the following expenditure plan describes those specific projects for which the revenues from the transactions and use tax established by Chapter 4.22 of the Santa Cruz County may be expended:

SANTA CRUZ COUNTY LOCAL TRANSPORTATION EXPENDITURE PLAN

1. INTRODUCTION

1A. SUMMARY

The Santa Cruz County Local Transportation Expenditure Plan (“Expenditure Plan” or “Plan”), presented by the Santa Cruz County Regional Transportation Commission (“Commission”), identifies transportation improvements to be funded from a new ~~one-half~~ of one percent transactions and use tax, if two-thirds of the electors voting on November 2, 2004 approve Measure “X”.

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The major projects to be funded by the Expenditure Plan are:

- Highway 1 Widening to add new carpool/bus lanes between Santa Cruz and Aptos
 - New Bicycle/Pedestrian crossings over Highway 1
 - Highway 1 Express Buses
 - Highway 1 Park and Ride Lots and Carpool Programs
- Local Transportation Improvements for Streets/Roads/Bicycles/Pedestrians/Transit
- Highway 17 Safety Programs
- Senior and Disabled Transportation Services
- A Coastal Bicycle and Pedestrian Trail next to the rail line between Santa Cruz and Watsonville
- A Train Station at the Watsonville-Pajaro Junction in Monterey County that links with trains to the Bay Area and the rest of California

The projects and programs included in the Expenditure Plan are designed to be implemented over the next 30 years. This Expenditure Plan is presented to the voters of Santa Cruz County as a means to fill the funding shortfall to: implement necessary highway, local street and road, transit, rail, bicycle, and pedestrian projects; provide adequate maintenance and improvements on the local street and road system; accommodate and promote economic growth throughout the county; and provide specialized programs to meet the needs of commuters, youth and the growing senior and disabled population.

1B. GOALS AND OBJECTIVES

The purpose of the Expenditure Plan is to implement the goals and priorities of the *2001 Santa Cruz County Regional Transportation Plan* through investment in a set of projects and programs contained in the *Regional Transportation Plan* that include planning, maintenance and rehabilitation of, and improvements to the county’s multi-modal transportation system.

1C. STRUCTURE

This Expenditure Plan is organized into six sections:

Section 1: Introduction provides a summary of the purpose and goals of the Plan.

Section 2: General Provisions provides further context on the Plan's policies and administration.

Section 3: Plan Summary provides the Plan's investment detail by category.

Section 4: Description of Projects and Programs contains detailed descriptions of the projects and programs (by category and subcategory), and the types of items that are eligible for funding under each of them.

Section 5: Implementation Provisions describes the process for prioritizing and allocating funds following adoption of the Plan.

Section 6: Severance Provisions

2. GENERAL PROVISIONS

2A. BASIS FOR REVENUE AND COST ESTIMATES

2A1. SALES TAX REVENUES:

Revenues are estimated using economic projections that real growth in taxable sales will be 1.5% over the 30-year period of the Plan. The projection estimates the total revenue level at \$577 million (in 2003 dollars). This estimate is based on historical trends in sales and use tax receipts in Santa Cruz County, and was developed by the County of Santa Cruz ("County") in collaboration with the Regional Transportation Commission.

Measure "X" revenue estimates have not been adjusted to reflect inflation. It is assumed that inflation revenue increases will be offset by inflation costs to deliver the projects.

2A2. OTHER REVENUES

Based on historical trends, Federal and State participation in highway, transit, and non-highway roadway improvements in Santa Cruz County is assumed to be an average of \$5 million per year, programmed biannually by the California Transportation Commission through the State Transportation Improvement Program (STIP) process. An additional \$4 million in federal funds are allocated to the region annually through the Federal Surface Transportation Act (currently TEA-21). The Santa Cruz County Regional Transportation Commission currently programs all of these funds on a discretionary basis consistent with state and federal law and regional and local policy. Additional revenues are allocated directly to cities and counties for transportation projects.

Revenues generated through the transactions (sales) and use tax measure will supplement the traditional transportation revenue sources identified above to complete implementation of the projects and programs identified in this Expenditure Plan. It is expected that the availability of locally-generated transportation revenues through the transactions (sales) and use tax measure will increase the potential to attract additional state and federal discretionary funds.

2A3. BASIS FOR COST ESTIMATES

All cost estimates used in this plan are based on preliminary engineering studies or program needs and expressed in 2003 dollars. Future costs may increase due to inflation or other factors. The 2003 cost estimates are to be used to determine the proportionate distribution of funds to the categories of projects and programs identified in the Plan.

2B. ADMINISTRATION OF THE SALES AND USE TAX MEASURE

All sales and use tax measure funds shall be collected by and distributed through the County Auditor Controller. The Auditor-Controller shall establish a new fund in the County Treasury entitled "Measure "X" Regional Transportation Fund". The Auditor-Controller shall allocate Measure "X" funds consistent with Section 4 of this Plan to the Highway 1 Construction Authority ("Highway Authority"), to local jurisdictions, and to the Commission. In order to maximize efficient and cost-effective use of Measure "X" funds and reduce debt service, the Auditor-Controller is authorized, upon request of the Commission and Highway Authority and in consultation with other fund recipients, to modify annual allocations consistent with Section 5B, as long as overall Plan allocation levels are met.

The Commission, which currently allocates, administers and oversees the expenditure of federal and state funding for local and regional transportation projects and programs, shall allocate, administer and oversee the expenditure of all Measure "X" funds which are not directly allocated to the Highway Authority or to local jurisdictions.

2C. RESTRICTION OF FUNDS

Sales and use tax revenues shall be spent on capital projects rather than to fund administration, operations and maintenance of existing transportation services, unless otherwise explicitly specified in the Plan Description in Section 4 as eligible non-capital expenses. In accordance with enabling legislation and adopted principles, transactions (sales) and use tax revenues generated pursuant to this plan shall be subject to the following restrictions:

- a. Sales and use tax revenues shall be used to supplement and under no circumstances replace existing local revenues used for transportation purposes.
- b. Proceeds from the sale or liquidation of capital assets funded with transactions (sales) and use tax revenues shall be returned to the Auditor-Controller (in proportion to the contribution of transactions (sales) and use tax revenues to the total original cost of the asset), for re-allocation to eligible expenses within the categories from which funds were originally expended
- c. Measure "X" funds may be used as matching funds to leverage other funding sources.
- d. Upon joint request by the Commission and Highway Authority, the Auditor Controller may make loans to other transportation projects from the Measure "X" Regional Transportation Fund if allowed for by cash flow, debt service, and prudent management of other demands on the fund by Plan projects. This will not affect the funding percentage to the local jurisdictions.

2D. BONDING AUTHORITY

The Highway Authority and the Commission shall be authorized to request the County and its related entities to issue, from time to time, limited notes, bonds, certificates of participation, or other forms of indebtedness, payable from Measure “X” sales and use tax revenues.

It shall be the priority of this Plan that the issuance of bonds, certificates of participation, or other form of indebtedness for the Highway 1 Widening/Carpool Lane project, as necessary, shall take precedence over the issuance of bonds, certificates of participation, or other forms of indebtedness for other Plan projects. Debt Service on any Highway 1 Widening/Carpool Lane project financing shall have priority over other distributions.

2E. ENVIRONMENTAL REVIEW

Environmental reporting, review and approval procedures as provided for under the California Environmental Quality Act (CEQA), and/or the National Environmental Policy Act (NEPA), and other applicable laws shall be carried out as a prerequisite to the construction of any project to be funded partially or entirely with Measure “X” funds. Final design and alignment of specific projects may change in order to mitigate environmental impacts.

Program-level environmental review of the projects included in this Expenditure Plan has been conducted as part of adoption of the *2001 Santa Cruz County Regional Transportation Plan* and an addendum to that plan has been prepared which specifically addresses this ordinance and Expenditure Plan.

3. PLAN SUMMARY

Table 1 summarizes the one-half of one percent transactions (sales) and use tax revenue allocations by project category and subcategory in constant 2003 dollars. The Local Transportation Expenditure Plan is fiscally constrained to the total funding expected to be available for each category.

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Adoption of an ordinance to implement a new one-half of one percent transactions (sales) and use tax is necessary in order to fund the projects and programs listed in Table 1; this Plan is included as part of that ordinance. The tax shall be continued for the period of implementation of the Expenditure Plan and its updates, which is 30 years.

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TABLE 1: Santa Cruz County Expenditure Plan Summary
(\$ millions, shown in 2003 dollars -
assumes 1.5% real growth in taxable sales)

Highway 1 Projects:

	<u>Percentage</u>	<u>Total Est. Revenues</u>
Highway 1 Widening/Carpool Lane Project	63.0%	\$363M
Highway 1 Bicycle/Pedestrian Crossings	1.0%	\$6M
Highway 1 Express Buses	1.0%	\$6M
Highway 1 Park and Ride Lots and Carpool Programs	1.5%	\$9M

Subtotal 66.5% \$384M

Allocation of Remaining Revenues to Other Projects:

Local City & County Transportation Improvements - Street/Road/Bicycle/Pedestrian/Transit	19.5%	\$112M
Highway 17 Safety Programs	1.0%	\$6M
Senior & Disabled Transportation Services	4.0%	\$23M
Watsonville-Pajaro Junction Rail Station	1.0%	\$6M
Coastal Bicycle/Pedestrian Trail, adjacent to Rail Line	4.0%	\$23M
Contingency/Reserve	3.0%	\$17M
Administration	1.0%	\$6M

Subtotal 33.5% \$193M

TOTAL: 100% \$577 million

NOTE: Measure “X” estimates have not been adjusted to reflect inflation. It is assumed that inflation revenue increases will be offset by inflation costs to deliver the projects. All dollar amounts are approximate and have been rounded to the nearest million; see text for allocation instruction details.

4. DESCRIPTION OF PROJECTS AND PROGRAMS TO BE FUNDED

This section contains general descriptions of the projects, categories and subcategories in the Plan, the types of projects or programs that are eligible for funding under each category, and allocation procedures. The final scope, cost, and project limits of all improvements will be determined through noticed public hearings, and environmental review processes.

4A. HIGHWAY 1 PROJECTS

State highways provide essential regional and local mobility for Santa Cruz County residents, businesses, and visitors. State highway improvement projects are needed to address local congestion and safety problems beyond those which can be funded with existing state and federal revenues. Projected state and federal formula funds are inadequate to fund most major highway improvements in Santa Cruz County. Measure “X” funds will supplement those funding sources and will cover the remaining costs estimated to accomplish the following highway improvements:

4A1. HIGHWAY 1 WIDENING/CARPOOL LANES PROJECT - 63% per year (\$363 million)

- x Widen Highway 1 from Morrissey Boulevard south to Aptos with one additional High Occupancy Vehicle (HOV) lane in each direction, ~~for~~ use by carpools, buses, and emergency vehicles
- x Add auxiliary lanes to improve merging of traffic at specific freeway interchanges
- x Add metering lights at on-ramps where appropriate/feasible

Deleted: to encourage maximum person-throughput by allowing exclusive
Deleted: during peak periods

- x Add soundwalls and landscaping where appropriate
- x Modify interchanges and over-crossings as needed and improve bicycle/pedestrian facilities on those over-crossings
- x Use notes, bonds, certificates of finance, or other forms of indebtedness to finance construction of the project as soon as possible.

Allocation Instructions: Sixty-three percent (63%) of annual Measure “X” revenues shall be allocated by the Auditor-Controller to the Highway Authority for the Highway 1 Widening/Carpool Lane project. The total anticipated cost is \$491 million (including bicycle/pedestrian crossings listed below and anticipated interest payments on bonds). It is anticipated that a portion (\$101 million) of the total project cost will be funded from federal and state funding sources, as well as interest earned on the Measure “X” funds.

4A2. HIGHWAY 1 BICYCLE/PEDESTRIAN CROSSINGS - 1% per year (\$6 million)

In order to improve bicycle and pedestrian movement between communities on either side of Highway 1, funds will be used to construct bicycle/pedestrian bridges crossing over Highway 1 generally in the areas of Live Oak, and Aptos, and improve bicycle and pedestrian facilities on existing crossings. Exact locations will be determined during the project development phase of the Highway 1 Widening/Carpool Lane project.

Allocation Instructions: One percent (1%) of annual Measure “X” revenues shall be allocated by the Auditor-Controller to the Highway Authority for construction of the crossings as part of the Highway 1 Widening/Carpool Lane project.

4A3. HIGHWAY 1 EXPRESS BUSES - 1% per year (\$6 million)

Provide additional express bus service on Highway 1 between Santa Cruz and Watsonville, and major destinations within the county, including UCSC and Cabrillo College, in order to provide a reasonable alternative to the automobile for daily commuters who travel within the region. Measure “X” funds will be made available for operation of these services (eligible non-capital expense) and to match federal funds for capital bus purchases.

Public transportation offers communities many benefits – reduced traffic congestion and lower emissions, reduced wear and tear on roads, reduced parking demand, and essential access for non-drivers and those unable to afford automobiles. By providing access to schools, jobs, visitor attractions, and shopping, public transportation is a vital force in the local economy.

Allocation Instructions: One percent (1%) of annual Measure “X” revenues shall be allocated by the Auditor-Controller to the Commission for Highway 1 Express Buses.

4A4. HIGHWAY 1 PARK AND RIDE LOTS and CARPOOL/ALTERNATIVE TRANSPORTATION PROGRAMS - 1.5% per year (\$9 million)

Commuter traffic created by Santa Cruz County residents traveling between, north, mid, and south County and traveling to jobs in neighboring Santa Clara and Monterey counties adds

significantly to the peak hour congestion on the local streets and the highway system. A number of programs have been implemented to maximize the number of people using the transportation network by encouraging commuters to share rides, reduce congestion, and take advantage of travel in the “carpool” lanes proposed in the Highway 1 Widening project. These programs may include: rideshare matching services; incentive programs; vanpool “seed money”; buspool subsidies; and park and ride lot leases. These programs will encourage maximum use of new highway lanes and will become even more essential in the future as traffic growth increases (eligible non-capital expense).

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Allocation Instructions: One and one-half of one percent (1.5%) of annual Measure “X” revenues shall be allocated by the Auditor-Controller to the Commission for Highway 1 park and ride lots and carpool/alternative transportation programs.

4B. LOCAL CITY AND COUNTY TRANSPORTATION IMPROVEMENTS – STREET RESURFACING/MAINTENANCE, BICYCLE, PEDESTRIAN, AND TRANSIT - 19.5% per year (\$112 M)

The existing local street/road, bicycle, and pedestrian systems are critical to the every day movement of people within the county. Much of the local street system has reached its expected life-cycle and years of deferred maintenance have resulted in an accelerated rate of pavement deterioration. Continued deferred maintenance will result in an exponential increase in the cost of roadway rehabilitation and reconstruction. Additionally, many sections of the county currently have inadequate bicycle and pedestrian facilities and programs. Current resources, without generation of new transactions (sales) and use tax revenues for transportation cannot provide adequate funding to maintain the local street and road system nor expand the bicycle and pedestrian system at the level necessary to adequately serve the public.

Projects that could be funded using revenues from Measure “X” may include:

- Fixing pot holes on local streets and roads, roadway repairs, rehabilitation and reconstruction
- Improvements to the Highway 1/9 intersection in the City of Santa Cruz
- New and improved sidewalks, especially near schools
- New and improved bicycle facilities, consistent with local agency bicycle plans
- Crossing guards (eligible non-capital expense)
- Improvements to transit facilities/service/park and ride lots

These funds will supplement existing federal, state, and local funds. Local transportation improvements adjacent to new residential and business developments will continue to be funded by local development fees. In order to be eligible for these funds, each agency will be required to adopt a Five-Year Capital Improvement Program, updated annually and adopted following a public hearing.

Allocation Instructions: Nineteen and one-half of a percent (19.5%) of annual Measure “X” revenues shall be allocated by the Auditor-Controller to the Cities of Capitola, Santa Cruz, Scotts Valley, and Watsonville and to the County for local street and road maintenance and improvements by a formula calculated annually based on proportionate population as reported annually by the State Department of Finance (DOF).

4C. HIGHWAY 17 SAFETY PROGRAMS - 1% (\$6 million)

- x Continue extra California Highway Patrol (CHP) enforcement (eligible non-capital expense)
- x Widen shoulders where feasible
- x Install traffic message signs and automated traffic monitoring stations
- x Other Safety measures

Allocation Instructions: One percent (1%) of the annual Measure “X” revenues shall be allocated by the Auditor-Controller to the Commission for Highway 17 safety projects.

4D. TRANSPORTATION FOR SENIORS AND PERSONS WITH DISABILITIES – 4% per year (\$23 million)

4D1. Expanded Transportation Services for Seniors and Persons with Disabilities

Seniors and disabled persons are becoming an increasing percentage of the population each year. For seniors (age 60 and older) and persons with disabilities, access to healthcare, social services, shopping, and recreation is a key to quality of life. In addition, a number of specialized transportation programs have been implemented which meet specialized needs for transportation to medical services, social service agencies and programs, shopping and other purposes that cannot be met by conventional transit. An aging population will require expanded and enhanced specialized transportation services for the elderly and disabled in the future (eligible non-capital expense). To allow transit access, construction of new wheelchair curb ramps, reconstruction of existing ramps, and related roadway work will permit ease of movement for the mobility impaired, with an emphasis on areas near fixed route transit.

Allocation Instructions: Four percent (4%) of annual Measure “X” revenues shall be allocated by the Auditor-Controller to the Commission for transportation projects and services for seniors and persons with disabilities.

4E. WATSONVILLE-PAJARO JUNCTION RAIL STATION FOR PASSENGER RAIL SERVICE TO THE BAY AREA AND THE REST OF CALIFORNIA - 1% (\$6 million)

In order to enhance regional access for local residents and visitors, funds will be used to build a passenger rail station just south of Watsonville in Monterey County at Pajaro Station. This station will be served by Caltrain and Amtrak service to the San Francisco Bay Area and the rest of California. It is projected that 90% of the users of this station will be Santa Cruz County residents.

Allocation Instructions: One percent (1%) of the annual Measure “X” revenues shall be allocated by the Auditor-Controller to the Commission for the Watsonville-Pajaro Rail Station project. The project will be implemented by the Transportation Agency for Monterey County in coordination with the Commission.

4F. COASTAL BICYCLE/PEDESTRIAN TRAIL - 4% (\$23 million)

The Coastal Bicycle/Pedestrian Trail, a path or “Rail Trail” adjacent to (not in place of) the Santa Cruz Branch Rail Line, will extend between Davenport and Watsonville. The rail corridor offers spectacular views of the Monterey Bay, historic trestles, and a flat surface free of automobile traffic. This trail will offer both commuter and recreational bicyclists and walkers a safe and enjoyable way to travel. Due to limited right-of-way in some sections of the rail right-of-way, portions of the trail may be designated on adjacent streets and roads.

Allocation Instructions: Four percent of the annual Measure “X” revenues shall be allocated by the Auditor-Controller to the Commission for the Coastal Bicycle/Pedestrian Trail.

4G. CONTINGENCY RESERVE - 3% per year (\$17 million)

In anticipation of possible cost overruns or project modifications that may arise for any of the specific projects listed herein, a 3% contingency is included in the Plan.

Allocation Instructions: Three percent (3%) of annual Measure “X” revenues shall be retained by the Auditor-Controller for this purpose, to be allocated by agreement of the Commission, the Highway Authority and the local jurisdictions for projects identified in the Plan as deemed to be necessary. If there are any funds remaining in the Contingency Reserve at the end of the term of the tax, those funds shall be allocated by the Auditor-Controller to the projects by the relative percentages in the Expenditure Plan.

4H. ADMINISTRATION - 1% per year (\$6 million)

Annual funds are needed by the Auditor-Controller and the Commission to administer and oversee implementation of this Plan (eligible non-capital expense).

Allocation Instructions: The Auditor-Controller shall be authorized to collect up to one percent (1%) of the annual net amount of revenue raised by Measure “X” for administrative expenses, audits, programming processes, reporting, financial costs, and other implementation and oversight responsibilities as may be necessary to administer the Expenditure Plan. The Commission shall be authorized to annually invoice the Auditor-Controller for the cost of compiling and publishing an annual report, providing public information concerning Measure “X” and other administrative responsibilities. Any excess administration funds may be redistributed by the Auditor-Controller according to the percentages for projects included in this Expenditure Plan.

5. IMPLEMENTATION PROVISIONS

5A. TAXPAYER ACCOUNTABILITY SAFEGUARDS

5A1. Legal Dedication of Funds

Measure "X" funds may only be used for transportation purposes and as described in the Ordinance and Plan governing this program, including the construction, environmental mitigation of transportation projects, capital activities, acquisition, maintenance, and

operation of streets, roads, highways, including state highways and public transit systems and for related purposes. These purposes include but are not limited to expenditures for planning, environmental reviews, engineering and design, related right-of-way acquisition, construction, and payment of principal and interest on notes, bonds, certificates of participation, or other forms of indebtedness.

5A2. Independent Audit Committee

An Independent Audit Committee shall be established to oversee annual independent fiscal audits of the expenditure of tax revenues raised by Measure “X”. The audits, which shall be published in local newspapers, posted on the web, and otherwise made available to the public, shall include the Independent Audit Committee’s conclusions as to whether the expenditure of Measure “X” tax revenues is or is not in accordance with the Santa Cruz County Local Transportation Expenditure Plan as adopted by the voters in approving the transactions (sales) and use tax measure on November 2, 2004, and as may be amended consistent with the Ordinance and Plan. The audits shall report on whether requirements of this Ordinance and Plan have been met and that no more than one percent (1%) of total transactions (sales) and use tax revenues are used to administer this Plan, consistent with Section 4H.

The Independent Audit Committee shall be appointed as set forth in Section 4.22.220.

5B. FUNDING FLEXIBILITY AND BONDING TO EXPEDITE PROJECTS

The Auditor-Controller and Commission are authorized to make maximum use of available funds by temporarily shifting allocations between projects and programs which are included in the Plan, so long as no project included herein is deprived of needed funding. However, the proportionate shares for areas and purposes over the 30-year period may not be changed without an amendment of the Plan, as approved by the voters.

Designated entities may also use bonds to speed implementation of some projects.

5C. INFORMING THE PUBLIC OF MEASURE “X” FUNDING SUPPORT

All state highway, transit, and local arterial projects and programs using Measure “X” transactions (sales) and use tax revenues shall be signed or otherwise noted to inform the public that voter approved Measure “X” revenues are being used to support the project.

5D. TERMINATION OF THE TAX

The transactions (sales) and use tax authorized to be collected by the voters shall terminate on that date that is thirty years after the operative date provided in Section 4.22.190 of the Santa Cruz County Code. This tax may be retired early if funds are no longer needed for debt service and if all projects and commitments in the Expenditure Plan have been fulfilled.

SECTION III

If any provision of this Ordinance, including, but not limited to, any tax or other matter contained in the Santa Cruz County Local Transportation Expenditure Plan or Chapter 4.22 of the Santa Cruz County Code, is for any reason held invalid or unenforceable by a court of competent jurisdiction, that holding shall not affect the validity or enforceability of the remaining provisions of this Ordinance, and the people of the County of Santa Cruz declare that it would have passed each part of this Ordinance irrespective of the validity of any other part.

*Suggested amendments identified since the June 17, 2004 SCCRTC meeting are shown in underline/
strikeout format.*

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