

JOINT POWERS AGREEMENT

ALAMEDA COUNTY TRANSPORTATION COMMISSION

This Agreement is dated March 25, 2010 for reference purposes only.

1. PURPOSE. The purpose of this Joint Powers Agreement (“Agreement”) is to create a joint powers agency pursuant to the California Joint Exercise of Powers Act that will have all of the authority, powers and rights of the Alameda County Congestion Management Agency (“ACCMA”) and the Alameda County Transportation Improvement Authority (“ACTIA”) and certain additional powers as described in this Agreement.

2. OBJECTIVES. The objectives of this Agreement are to:

(a) Coordinate transportation planning and conduct transportation programming within Alameda County for all countywide, regional, state and federal funding programs;

(b) Position Alameda County jurisdictions, including the Transit Operators and other transportation system operators, to better compete for limited state and federal transportation dollars;

(c) Develop a consensus on future improvements to major roads, freeways and transit services in Alameda County;

(d) Carry out the projects and programs in Alameda County’s 20 Year Sales Tax Transportation Expenditure Plan, dated July 2000, as it may be amended from time to time and the responsibilities of a Local Transportation Authority pursuant to Public Utilities Code 180000 et seq., including but not limited to preparation of a new Expenditure Plan and submission of a new or extension of the existing sales tax to the voters;

(e) Complete the projects in the Alameda County Sales Tax Transportation Plan’s 1986 Expenditure Plan and carry out the responsibilities of a Local Transportation Authority pursuant to Public Utilities Code 130000;

(f) Continue and sustain a Congestion Management Agency for Alameda County and its member cities;

(g) Develop and update countywide transportation policies through the Countywide Transportation Plan and the Congestion Management Program;

(h) Implement the requirements of state legislation to maintain and administer a Congestion Management Program for the County;

(i) Designate the ACTC as the Alameda County Program Manager for the Transportation Fund for Clean Air;

(j) Use where applicable the programs and policies of the County's and Cities' General Plans, the plans of the Transit Operators in Alameda County, the Alameda Countywide Transportation Plan, and the Alameda County Transportation Improvement Authority's Strategic Plan as input to the Congestion Management Program;

(k) Prepare, maintain and update the Alameda Countywide Transportation Plan;

(l) Develop and promote Bicycle and Pedestrian Plans and programs throughout the County.

(m) Coordinate multi-modal planning throughout the County and in cooperation with the Region;

(n) Develop and promote Paratransit, Transit Oriented Development and Transportation Demand Management Plans and programs throughout the County;

(o) Foster communication among Local Agencies and Transit Operators on transportation projects and issues, and on the system of roadways and transit designated in the Congestion Management Program;

(p) Fulfill the objectives of the Global Warming Solutions Act of 2006 (AB 32) and SB 375 (Steinberg 2008) and related laws and programs regarding global warming and land use for Alameda County; and

(q) Carry out other programs and projects consistent with the goals and needs of the Cities in Alameda County and the Transit Operators.

3. DEFINITIONS. Certain words as used in this Agreement shall be defined as follows:

(a) "Local Agencies" shall mean the County of Alameda, the cities of Alameda County, the Alameda County Transportation Improvement Authority and the Alameda County Congestion Management Agency.

(b) "Transit Operators" shall mean the Bay Area Rapid Transit District ("BART"), Alameda Contra Costa Transit District ("AC Transit"), Livermore Amador Valley Transit Authority, Union City Transit, Altamont Commuter Express and the Water Emergency Transportation Authority.

(c) "Member Transit Operators" shall mean BART and AC Transit.

4. EFFECTIVE DATE. This Agreement shall become effective upon the approval by the Board of Supervisors and a majority of the cities representing a majority of the population of the cities within the county.

5. CREATION OF THE ALAMEDA COUNTY TRANSPORTATION COMMISSION. There is hereby created the Alameda County Transportation Commission

(“ACTC”), to exercise in the manner set forth in this Agreement the powers common to each of the Local Agencies and the Member Transit Operators. The ACTC shall be a public entity separate from the Local Agencies and the Member Transit Operators. No debt, liability or obligation of the ACTC shall constitute a debt, liability or obligation of any Local Agency or the Member Transit Operator, and each party’s obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement or as the parties hereto may agree.

6. SUCCESSOR AGENCY. It is intended that ACTC shall become the successor agency to the Alameda County Congestion Management Agency and the Alameda County Transportation Improvement Authority as soon as reasonably and legally possible. ACTC is the successor agency to the Alameda County Transportation Authority.

7. FUNCTIONS AND RESPONSIBILITIES. The ACTC shall have the following functions and responsibilities:

(a) All of the functions and responsibilities of the Alameda County Congestion Management Agency.

(b) All of the functions and responsibilities of the Alameda County Transportation Improvement Authority.

(c) All of the functions and responsibilities of the Alameda County Transportation Authority.

(d) Prepare, adopt, revise, amend, administer and implement the Congestion Management Program for Alameda County pursuant to Section 65088 et seq. of the Government Code.

(e) Develop, adopt and update the Alameda Countywide Transportation Plan pursuant to Section 66531 of the Government Code.

(f) Coordinate transportation planning, conduct transportation programming within Alameda County for all transportation funding programs and coordinate with contiguous counties and other Bay Area counties.

(g) Coordinate the countywide input to:

(i) The California Clean Air Act and Transportation Control Measures of the Metropolitan Transportation Commission (“MTC”) and the Bay Area Air Quality Management District (“BAAQMD”);

(ii) The California Transportation Commission (“CTC”) and Caltrans for funding programs;

(iii) MTC guidelines for County Transportation Plans pursuant to Government Code section 66531;

- (iv) MTC's Regional Transportation Plan; and
- (v) MTC's Regional Transportation Improvement Program and the CTC's State Transportation Improvement Program.
- (vi) Sustainable Communities Strategic Plans in the cities in the County, the County and the region.
- (h) Prepare, adopt, update and administer the federal surface transportation program, the federal congestion mitigation and air quality program, and other federal funding programs as appropriate or any successor federal funding programs.
- (i) Prepare, adopt, update and administer the Alameda County element of the State Transportation Improvement Program.
- (j) Act as the Alameda County Program Manager for the regional Transportation Fund for Clean Air (TFCA) program. This Agreement supersedes previous agreements relative to the TFCA program.
- (k) Prepare, adopt, update and administer all other new or existing regional and state transportation funding programs and programs regarding global warming and land use as appropriate and/or as delegated to ACTC.
- (l) Develop, construct, operate and maintain the Alameda County Express Lane system.
- (m) Design, acquire environmental clearance, and construct transportation and related projects.
- (n) Collect and administer any Vehicle Registration Fee approved by the voters to be collected by a countywide transportation planning agency in Alameda County.
- (o) Levy and collect fees and charges, including administrative and operating costs, as provided in this Agreement or by law, against all entities to which the law applies, both signatory and non-signatory to this Agreement.
- (p) Seek state and federal funding to pay for the cost of preparing, adopting, amending, administering and implementing the Congestion Management Plan, transportation projects and programs in Alameda County and other duties described in this Agreement.
- (q) As appropriate, prepare a new Transportation Expenditure Plan for a potential new or extended or expanded sales tax to be submitted to the voters for approval.
- (r) Other functions and responsibilities that are consistent with the purpose, objectives, functions and responsibilities described in this Agreement as well as any function and responsibilities that are imposed by state or federal law.

(s) Other functions and responsibilities as may be added by amendments to this Agreement pursuant to Section 19.

8. ANNUAL BUDGET. The ACTC shall adopt by June 30 of each year a budget for the succeeding fiscal year setting forth all administrative, operational and capital expenses for the ACTC, together with the apportionment of such expenses by levy against each Local Agency and Member Transit Operator. The budget shall reflect allocations to dedicated funding sources and the restrictions on salaries and benefits and on administrative expenses that apply to existing Measure B funds and any sales tax funds to be received by ACTC in the future. The fiscal year shall be July 1 to June 30. An alternative fiscal year may be established by the ACTC. The ACTC shall notify and provide a copy of the proposed budget to each Local Agency and Member Transit Operator thirty (30) days prior to the adoption of the budget.

9. BOUNDARIES. The boundaries of the ACTC shall be the boundaries of the County of Alameda.

10. ORGANIZATION.

(a) **Board.** The ACTC shall be governed by the board which shall exercise all powers and authority on behalf of the ACTC. The governing Board of the ACTC is empowered to establish its own procedures. The Board may do any and all things necessary to carry out the purposes of this Agreement.

(b) **Board membership.** The ACTC Board shall be composed as follows:

(i) Each member of the Alameda County Board of Supervisors who shall each have one vote, except that at each ACTC Board meeting, the Supervisor actually present at the meeting with the longest service on the Board of Supervisors shall have two votes;

(ii) Two members representing the City of Oakland, with the member with the longest service on ACTC (or previously on ACCMA or ACTIA) having three votes and the other member having one vote;

(iii) One member representing the City of Fremont and one member representing the City of Hayward, each of whom shall have two votes;

(iv) Eleven members each representing one of the other 11 Cities in Alameda County, each of whom shall have one vote; and

(v) One representative of BART and one representative of AC Transit, each of whom shall have one vote.

(vi) Notwithstanding the foregoing, only members of bodies who have paid or allocated the fees set by the ACTC Board shall be entitled to be members of the ACTC Board.

(c) **Members and Alternates.** All members and alternates shall be elected officials, and shall be appointed as follows:

(i) All members and alternates representing a City shall be either that City's mayor or a member of the City Council for such City. If a member representing a City has more than one vote, as set forth in subsection (b) above, his or her alternate shall carry the same number of votes as the absent member.

(ii) All members and alternates representing a Member Transit District shall represent a district or ward primarily or fully contained within Alameda County or be a director elected at-large.

(iii) All alternates and members other than the members of the Board of Supervisors will be chosen in the manner determined by their respective City Council or Board.

(iv) The alternate to each member of the Board of Supervisors shall be appointed by the respective Board member, and shall be a mayor or city council member of a City primarily or fully contained within the Supervisor's District, who is not otherwise a voting member of ACTC. Each such alternate shall have only one vote at an ACTC Board meeting, notwithstanding subsection (b)(i) above.

(v) Upon execution of this Agreement, and pursuant to subsection (c) above, the governing body of each agency other than the Board of Supervisors having representation on the ACTC Board shall appoint a member to the Board and an alternate member, and the City of Oakland shall appoint two members and one or two alternates, who shall serve on the Board in the absence of the regular member. The term of each member other than the Board of Supervisors, who shall serve so long as they are a member of the Board of Supervisors, shall be one year. Each member and alternate shall hold office from the first meeting of the ACTC Board after his or her appointment until a successor is selected, or until such member or alternate is no longer an elected official, whichever is first. Each member and alternate shall serve at the pleasure of the appointing body or person.

(d) **Chairperson and Vice-Chairperson.** The ACTC Board will annually select a chairperson and vice-chairperson from among its members, by nomination and vote.

(e) **Meetings of the ACTC Board.**

(i) **Regular Meetings.** The ACTC Board shall hold regular meeting each month, as determined by the ACTC Board; the Board may decide it is not necessary to meet in any particular month. The date, hour and place at which each such regular meeting shall be fixed by the ACTC Board.

(ii) **Special Meetings.** Special meetings of the ACTC Board may be called in accordance with applicable provisions of law.

(iii) **Notice of Meetings.** All meetings of the ACTC Board shall be held subject to the provisions of the Ralph M. Brown Act, being sections 54950 et seq. of the

(iv) **Quorum.** A majority of the members of the ACTC Board, by numbers rather than voting power, shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time.

(v) **Meeting Compensation.** The ACTC Board is authorized to fix a reasonable sum to be paid elected officials for attendance at ACTC Board and committee meetings and meetings of other agencies while on ACTC business. Such compensation shall cover mileage and other costs associated with meeting attendance.

(f) **By-Laws.** The ACTC Board shall adopt from time to time such by-laws and/or administrative codes, rules or regulations for the conduct of its affairs as may be required. At a minimum the by-laws or administrative code shall include guidelines and procedures related to the finding of non-conformance with the Congestion Management Program.

(g) **Technical Advisory Committee.** The Alameda County Transportation Advisory Committee (“ACTAC”) will function as the technical advisory committee to the ACTC. The ACTAC shall be composed of: one staff representative of ACTC, who shall serve as chair of the ACTAC; one staff representative of each city and the County; one staff representative of each Transit Operator; and one staff representative each of MTC, Caltrans and BAAQMD. The ACTC Board may add additional representatives to ACTAC. Each representative shall have one vote. A majority of the members shall constitute a quorum for the conduct of business. Staff representatives for Local Agencies are expected to be selected from the public works and planning departments. ACTAC may form subcommittees as necessary.

(h) **Citizens’ Watchdog Committee.** The Citizens’ Watchdog Committee as described in the Alameda County 2000 Transportation Expenditure Plan shall be appointed as and have the powers specified in that Plan regarding the expenditure of ACTIA funds.

(i) **Other Committees.** The ACTC Board may establish standing and special committees, which may include members of the Board, representatives of other agencies, and/or members of the public as necessary to accomplish its responsibilities under this Agreement.

11. POWERS. The ACTC is hereby authorized in its own name to perform all acts necessary for the exercise of said powers including but not limited to the following:

- (a) To make and enter into contracts;
- (b) To apply for and accept grants, advances and contributions;
- (c) To employ or contract for the services of agents, employees, consultants and such other persons or firms as it deems necessary;
- (d) To make plans and conduct studies and to review, recommend or adopt revisions or amendments thereto to the extent allowed by law;

(e) To acquire, construct, manage, maintain, operate and control any building, transportation services, public or private works or improvements necessary to perform its functions under this Agreement;

(f) To acquire, hold or dispose of property necessary to perform its functions under this Agreement, including the power to acquire property by eminent domain to the extent allowed by state law;

(g) To sue and be sued in its own name;

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

(i) To levy and collect fees and charges, including administrative and operating costs, as provided in this Agreement or by law, against all entities to which the law applies, both signatory and non-signatory to this Agreement;

(j) To adopt, as authorized by law, ordinances or resolutions necessary to carry out the purposes of this Agreement;

(k) To seek regional, state and federal funding to assist in paying the cost of carrying out the duties described in this Agreement, including but not limited to preparing, adopting, amending, administering and implementing the Congestion Management Program, the programs and projects described in the Alameda County 2000 Transportation Expenditure Plan and activities described in this Agreement; and

(l) To recommend, adopt and amend the Congestion Management Program to the extent allowed by law.

(m) To exercise any and all other powers that may be exercised by members of ACTC.

12. VOTE REQUIRED. A majority of the voting power of those present and voting shall be required for all actions of the ACTC; except that a two-thirds vote of the total voting power shall be required to amend the Alameda County 2000 Transportation Expenditure Plan.

13. STAFFING. The ACTC may appoint and retain staff as necessary to fulfill its powers, duties and responsibilities under this Agreement, including but not limited to appointment of temporary or permanent staff and contracting with any Local Agency.

14. RESTRICTION UPON EXERCISE OF POWER OF ACTC. This Agreement is entered into under the provisions of Government Code section 6500 et seq. concerning joint powers agreements. The powers to be exercised hereunder shall be subject to the restrictions set forth herein. The manner of exercising powers granted ACTC by this Agreement shall be subject to the same restrictions as imposed upon the County of Alameda.

15. FUNDS, AUDIT AND ACCOUNTING SERVICES. Pursuant to the requirements of Section 6505.5 and 6505.6 of the Government Code, and prior to taking

possession of any monetary assets from any predecessor agencies, ACTC shall appoint a finance manager, chief financial officer or similar employee of ACTC to be the depository and to have custody of all funds from whatever source, and to comply with the duties and responsibilities of the offices of treasurer and auditor as set forth in subdivisions (a) to (d), inclusive, of Section 6505.5.

There shall be strict accountability of all funds and the designated employee shall report to the ACTC Board all receipts and disbursements. In addition, the ACTC Board shall contract for an audit of the accounts and records at least annually as prescribed by section 6505 of the Government Code. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under section 26909 of the Government Code and the audit shall conform to generally accepted auditing standards.

16. DISPOSITION OF ACTC FUNDS UPON TERMINATION.

(a) In the event of termination of the ACTC where there is a successor public entity which will carry on the activities of the ACTC and assume its obligations, ACTC funds, including any interest earned on deposits, remaining upon termination of the ACTC and after payments of all obligations shall be transferred to the successor public entity.

(b) If there is no successor public entity which would carry on any of the activities of the ACTC or assume any of its obligations, ACTC funds, including any interest earned on deposits, remaining upon termination of the ACTC and after payment of all obligations, shall be returned in proportion to the contribution of each local jurisdiction during the term of this Agreement.

17. PROCEDURE FOR BECOMING A SIGNATORY TO THIS AGREEMENT. Cities incorporated and transit agencies established after the effective date of this Agreement may become signatories to this Agreement by petition to the ACTC Board.

18. SPECIAL PROVISIONS. The signatories to this Agreement desire to continue levying a fee for the purpose of defraying the cost of preparing, maintaining, administering and implementing the Congestion Management Program, the Countywide Transportation Plan and other functions of the ACCMA. Therefore, by their signatures hereon, the signatories delegate to the ACTC the power to levy such a fee upon the signatories for the purpose of defraying the costs of preparing, maintaining, administering and implementing the Congestion Management Program and other duties of the ACTC as specified in this Agreement. It is presumed that such fees will be paid from fuel tax subventions to local government, and/or any other funds available for the purpose. If a portion of all of the fees is to be paid from fuel tax subventions, the ACTC may request the State Controller to subvene those fees directly to the ACTC.

If fees are levied against Local Agencies, such fees shall be assigned based on the proportion the Local Agency's Proposition 111 fuel tax subventions bare to the total of Proposition 111 fuel tax subventions for all Local Agencies. If fees are levied against the Member Transit Operators, such fees shall be assigned to each Member Transit Operator according to an equitable formula.

Failure to provide its share of the adopted fee to the ACTC shall be deemed to constitute

non-conformance with the requirements of the Congestion Management Program for the affected Local Agency. The ACTC shall notify the State Controller of the Local Agency's non-conformance.

19. AMENDMENTS. This Agreement may be amended by the affirmative vote of the Board of Supervisors and a majority of the cities representing a majority of the population.

20. NOTICES. All notices to agencies shall be deemed to have been given when mailed to the governing body of each member agency.

IN WITNESS WHEREOF, each agency has executed approval of this Agreement and filed said approval with the Clerk of the County of Alameda. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which counterparts together shall constitute one and same instrument.