



**Alameda County Transportation Commission**  
meeting as a committee of the whole as the

**FINANCE AND ADMINISTRATION COMMITTEE**

**MEETING NOTICE**

**Monday, October 10, 2011, 1:30 P.M.**

1333 Broadway, Suite 300, Oakland, California 94612

(see map on last page of agenda)

**Commission Chair**

Mark Green, Mayor – Union City

**Commission Vice Chair**

Scott Haggerty, Supervisor – District 1

**AC Transit**

Greg Harper, Director

**Alameda County**

Supervisors

Nadia Lockyer – District 2

Wilma Chan – District 3

Nate Miley – District 4

Keith Carson – District 5

**BART**

Thomas Blalock, Director

**City of Alameda**

Rob Bonta, Vice Mayor

**City of Albany**

Farid Javandel, Mayor

**City of Berkeley**

Laurie Capitelli, Councilmember

**City of Dublin**

Tim Sbranti, Mayor

**City of Emeryville**

Ruth Atkin, Councilmember

**City of Fremont**

Suzanne Chan, Vice Mayor

**City of Hayward**

Olden Henson, Councilmember

**City of Livermore**

Marshall Kamena, Mayor

**City of Newark**

Luis Freitas, Vice Mayor

**City of Oakland**

Councilmembers

Larry Reid

Rebecca Kaplan

**City of Piedmont**

John Chiang, Vice Mayor

**City of Pleasanton**

Jennifer Hosterman, Mayor

**City of San Leandro**

Joyce R. Starosciak, Councilmember

**Chair:**

John Chiang

**Vice Chair:**

Rebecca Kaplan

**Members:**

Mark Green

Nadia Lockyer

Wilma Chan

Rob Bonta

Scott Haggerty

Tom Blalock

Laurie Capitelli

**Staff Liaisons:**

Patricia Reavey

**Executive Director:**

Arthur L. Dao

**Clerk of the Commission:**

Vanessa Lee

**AGENDA**

*Copies of Individual Agenda Items are Available on the:  
Alameda CTC Website -- [www.AlamedaCTC.org](http://www.AlamedaCTC.org)*

**1 PUBLIC COMMENT**

Members of the public may address the Committee during “Public Comment” on any item not on the agenda. Public comment on an agenda item will be heard when that item is before the Committee. Only matters within the Committee’s jurisdictions may be addressed. Anyone wishing to comment should make their desire known by filling out a speaker card and handing it to the Clerk of the Commission. Please wait until the Chair calls your name. Walk to the microphone when called; give your name, and your comments. Please be brief and limit comments to the specific subject under discussion. Please limit your comment to three minutes.

**2 CONSENT CALENDAR**

2A. Minutes of September 12, 2011- page 1

**A**

**3 FINANCIAL MATTERS**

**4 ADMINISTRATIVE MATTERS**

4A. Adoption of a Resolution of Intention to Enter into a Contract with CalPERS and a Resolution Authorizing the Employer Pick-up of Employee Contributions **-page 5**

**A**

**Executive Director**

Arthur L. Dao

<b>5</b>	<b>COMMITTEE MEMBER REPORTS</b>	<b>I</b>
<b>6</b>	<b>STAFF REPORTS</b>	<b>I</b>
<b>8</b>	<b>OTHER BUSINESS</b>	
<b>9</b>	<b>ADJOURNMENT/NEXT MEETING: NOVEMBER 7, 2011 [REVISED MEETING DATE]</b>	

**Key: A- Action Item; I – Information Item**

(#) All items on the agenda are subject to action and/or change by the Committee.

*PLEASE DO NOT WEAR SCENTED PRODUCTS SO INDIVIDUALS WITH  
ENVIRONMENTAL SENSITIVITIES MAY ATTEND*

*Alameda County Transportation Commission  
1333 Broadway, Suites 220 & 300, Oakland, CA 94612  
(510) 208-7400 (New Phone Number)  
(510) 836-2185 Fax (Suite 220)  
(510) 893-6489 Fax (Suite 300)  
[www.alamedactc.org](http://www.alamedactc.org)*

## Glossary of Acronyms

<b>ABAG</b>	Association of Bay Area Governments	<b>MTC</b>	Metropolitan Transportation Commission
<b>ACCMA</b>	Alameda County Congestion Management Agency	<b>MTS</b>	Metropolitan Transportation System
<b>ACE</b>	Altamont Commuter Express	<b>NEPA</b>	National Environmental Policy Act
<b>ACTA</b>	Alameda County Transportation Authority (1986 Measure B authority)	<b>NOP</b>	Notice of Preparation
<b>ACTAC</b>	Alameda County Technical Advisory Committee	<b>PCI</b>	Pavement Condition Index
<b>ACTC</b>	Alameda County Transportation Commission	<b>PSR</b>	Project Study Report
<b>ACTIA</b>	Alameda County Transportation Improvement Authority (2000 Measure B authority)	<b>RM 2</b>	Regional Measure 2 (Bridge toll)
<b>ADA</b>	Americans with Disabilities Act	<b>RTIP</b>	Regional Transportation Improvement Program
<b>BAAQMD</b>	Bay Area Air Quality Management District	<b>RTP</b>	Regional Transportation Plan (MTC's Transportation 2035)
<b>BART</b>	Bay Area Rapid Transit District	<b>SAFETEA-LU</b>	Safe, Accountable, Flexible, Efficient Transportation Equity Act
<b>BRT</b>	Bus Rapid Transit	<b>SCS</b>	Sustainable Community Strategy
<b>Caltrans</b>	California Department of Transportation	<b>SR</b>	State Route
<b>CEQA</b>	California Environmental Quality Act	<b>SRS</b>	Safe Routes to Schools
<b>CIP</b>	Capital Investment Program	<b>STA</b>	State Transit Assistance
<b>CMAQ</b>	Federal Congestion Mitigation and Air Quality	<b>STIP</b>	State Transportation Improvement Program
<b>CMP</b>	Congestion Management Program	<b>STP</b>	Federal Surface Transportation Program
<b>CTC</b>	California Transportation Commission	<b>TCM</b>	Transportation Control Measures
<b>CWTP</b>	Countywide Transportation Plan	<b>TCRP</b>	Transportation Congestion Relief Program
<b>EIR</b>	Environmental Impact Report	<b>TDA</b>	Transportation Development Act
<b>FHWA</b>	Federal Highway Administration	<b>TDM</b>	Travel-Demand Management
<b>FTA</b>	Federal Transit Administration	<b>TEP</b>	Transportation Expenditure Plan
<b>GHG</b>	Greenhouse Gas	<b>TFCA</b>	Transportation Fund for Clean Air
<b>HOT</b>	High occupancy toll	<b>TIP</b>	Federal Transportation Improvement Program
<b>HOV</b>	High occupancy vehicle	<b>TLC</b>	Transportation for Livable Communities
<b>ITIP</b>	State Interregional Transportation Improvement Program	<b>TMP</b>	Traffic Management Plan
<b>LATIP</b>	Local Area Transportation Improvement Program	<b>TMS</b>	Transportation Management System
<b>LAVTA</b>	Livermore-Amador Valley Transportation Authority	<b>TOD</b>	Transit-Oriented Development
<b>LOS</b>	Level of service	<b>TOS</b>	Transportation Operations Systems
		<b>TVTC</b>	Tri Valley Transportation Committee
		<b>VHD</b>	Vehicle Hours of Delay
		<b>VMT</b>	Vehicle miles traveled



1333 Broadway, Suites 220 & 300

Oakland, CA 94612

PH: (510) 208-7400

[www.AlamedaCTC.org](http://www.AlamedaCTC.org)



**Directions to the Offices of the Alameda County Transportation Commission:**

**1333 Broadway, Suite 220  
Oakland, CA 94612**

**Public Transportation Access:**

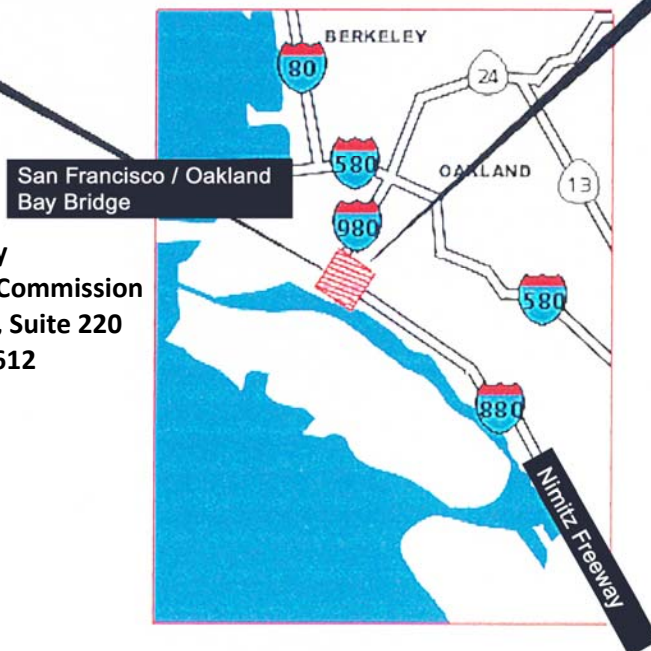
**BART:** City Center / 12<sup>th</sup> Street Station

**AC Transit:**

Lines 1,1R, 11, 12, 13, 14, 15, 18, 40, 51, 63, 72, 72M, 72R, 314, 800, 801, 802, 805, 840

**Auto Access:**

- Traveling South: Take 11<sup>th</sup> Street exit from I-980 to 11<sup>th</sup> Street
- Traveling North: Take 11<sup>th</sup> Street/Convention Center Exit from I-980 to 11<sup>th</sup> Street
- Parking: City Center Garage – Underground Parking, (Parking entrances located on 11<sup>th</sup> or 14<sup>th</sup> Street)



**Alameda County  
Transportation Commission  
1333 Broadway, Suite 220  
Oakland, CA 94612**



**FINANCE AND ADMINISTRATION COMMITTEE  
MINUTES OF SEPTEMBER 12, 2011  
OAKLAND, CA**

Chair John Chiang convened the meeting at 2:20 PM.

**1 Public Comment**

There was no public comment.

**2 Consent calendar**

A motion to approve the consent calendar was made by Supervisor Haggerty; a second was made by Councilmember Kaplan. The motion passed 9-0.

**3 Financial Matters**

**3A. FY10-11 Consolidated Year-end Investment Report**

Patricia Reavey requested that the Committee approve the Alameda CTC Consolidated fiscal year 2010-11 investment report. Ms. Reavey covered several key issues including total cash and investments held by the Alameda CTC, the decline of investment yields and current cash flow projections. She concluded by informing the Committee that while the ACTC maintains a conservative investment portfolio, we are in compliance with the investment policy and that Alameda CTC has enough cash flow to meet expenditure over the next six months.

Supervisor Haggerty motioned to approve this Item; a second was made by Councilmember Kaplan. The motion passed 9-0.

**3B. Update on the FY10-11 Annual Financial Audit**

Vice Mayor Chiang introduced this Item by informing the Committee that he and Mayor Green met with Alameda CTC auditors to discuss audit planning and fraud. Patricia Reavey added to this item by informing the Committee that staff had made several suggestions subsequent to the meeting mentioned by Vice Mayor Chiang which included auditing ACTC for the period 7/22/10 through 6/30/11 because of a lack of information to audit previous to that due to the merger and consideration of forming an audit committee.

A motion was then passed by Councilmember Kaplan to create an audit Committee comprised of Vice Mayor Chiang, Supervisor Haggerty and Mayor Green. Supervisor Haggerty seconded the motion. This motion was approved 9-0, thereby creating a newly formed audit sub-committee.

**4 Administrative Matters**

**4A. Approval of the Semi-Annual Participation Report of LBE, SBE and SLBE**

Liz Brazil recommended that the Committee approve the Semi-Annual Local Business Contract Equity Utilization Report and Contract Award Report. Ms. Brazil informed the committee that the LBCE report had been reviewed and approved by the consultant, L. Luster and Associates. She went on to highlight the program with and without recorded goals and the contract award report. She also informed the Committee that the information includes utilization on all active contracts as of June 30, 2011.

Councilmember Kaplan motioned to approve this Item. Mayor Sbranti seconded the motion. The motion passed 9-0.

## **5 Committee Member Reports**

Director Blalock informed the Committee that BART hired Grace Crunican as the new General Manager and Art Dao informed the Committee that she would be introduced at the next Commission meeting.

Councilmember Kaplan wanted to know if there would be an update to the CWTP-TEP presentations presented at the last PPLC Committee Meeting that would clarify the three- scenario land use options and requested that we included an update on the One Bay Area Grant program at the full board meeting.

## **6 Staff Reports**

Art Dao informed the Committee that the Citizens Watchdog Committee Report was released and published in several news and press outlets throughout Alameda County.

## **7. Other Business**

### **7A. Update on Joint Regional Agencies Relocation Process**

Art Dao updated the Board on the Joint Regional Agencies relocation process. Mr. Dao informed the Board that a special meeting was held in which the original approval to proceed with the transactions for the regional agencies to relocate to 390 Main Street in San Francisco was rescinded.

## **8. Closed Session**

### **8A. Pursuant to Government Code Section 54957: Public Employee Performance Evaluation: Executive Director**

The Committee went to closed session pursuant to Government Code Section 54957 to discuss Art Dao's performance evaluation.

### **8B. Report on Closed Session**

A decision was made to renew the Executive Directors employment contract and to allow a one-time vacation cash out.

## **9. Adjournment**

The meeting ended at 3:21 PM. The next FAC meeting is on October 10, 2011 at 1:30 PM.

Attest by:



Vanessa Lee  
Clerk of the Commission





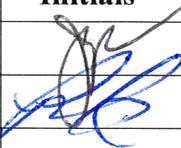

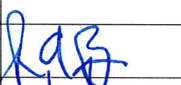
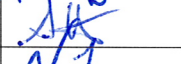



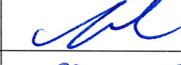
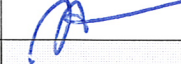
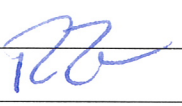


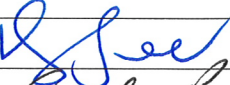
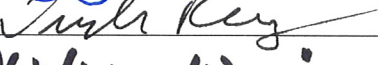

## FINANCE AND ADMINISTRATION COMMITTEE MEETING

### ROSTER OF MEETING ATTENDANCE

September 12, 2011

1:30 p.m.

1333 Broadway, Suite 300, Oakland, CA 94612

BOARD MEMBERS	Initials	ALTERNATES	Initials
<b>Chair :</b> John Chiang, – City of Piedmont		Garrett Keating – City of Piedmont	
<b>Vice Chair:</b> Rebecca Kaplan – City of Oakland		Jane Brunner – City of Oakland	
<b>Members:</b>			
Rob Bonta – City of Alameda		Beverly Johnson – City of Alameda	
Scott Haggerty – County of Alameda, District 1		Bill Harrison – City of Fremont	
Nadia Lockyer – County of Alameda, District 2			
Wilma Chan – County of Alameda, District 3		Michael Gregory – City of San Leandro	
Tom Blalock - BART		Robert Franklin - BART	
Laurie Capitelli – City of Berkeley		Kriss Worthington – City of Berkeley	
Mark Green – City of Union City		Emily Duncan – City of Union City	
<b>LEGAL COUNSEL</b>			
Zack Wasserman – WRBD			
Neal Parish – WRBD			
Geoffrey Gibbs - GLG			
<b>STAFF</b>			
Arthur L. Dao – Executive Director			
Vanessa Lee – Clerk of the Commission			
Patricia Reavey - Director of Finance			
Victoria Winn – Administrative Assistant			

STAFF	Initials	STAFF	Initials
Tess Lengyel – Deputy Director of Policy, Public Affairs and Legislation	<i>TL</i>	Yvonne Chan – Accounting Manager	
Beth Walukas – Deputy Director of Planning	<i>GAN</i>	Arun Goel – Project Controls Engineer	<i>AKG</i>
Patricia Reavey – Director of Finance	<i>PMR</i>	Linda Adams – Executive Assistant	
Matt Todd - Manager of Programming	<i>mt</i>	Lei Lam – Senior Accountant	
Ray Akkawi – Manager of Project Delivery		Sammy Ng – Senior Accountant	
Steve Haas – Senior Transportation Engineer		Patty Seu - Accountant	
John Hemiup – Senior Transportation Engineer		Jacki Taylor – Programming Analyst	
Saravana Suthanthira - Senior Transportation Planner		Laurel Poeton – Assistant Transportation Planner	
Diane Stark - Senior Transportation Planner		Frank R. Furger – Executive Director, I-680 JPA	
Vivek Bhat - Senior Transportation Engineer		James O'Brien	<i>JOB</i>
Liz Brazil – Contract Compliance & Outreach Analyst	<i>LB</i>	Stefan Garcia	
<i>GLADYS V. PARMELEE</i>	<i>gvp</i>		

	NAME	JURISDICTION/ ORGANIZATION	PHONE #	E-MAIL
1.	<i>Betty Mushakhal</i>	<i>PAPCO</i>	<i>510-325-0703</i>	
2.	<i>Glenn NG</i>	<i>ACTC</i>	<i>510-208-7437</i>	<i>Glenn.ng@alamedaack.org</i>
3.	<i>Chris Wiley</i>	<i>Ala Co.</i>	<i>510-272-6676</i>	
4.				
5.				
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**Memorandum**

**DATE:** October 03, 2011

**TO:** Finance and Administration Committee

**FROM:** Arthur L. Dao, Executive Director  
Patricia Reavey, Director of Finance

**SUBJECT: Adoption of a Resolution of Intention to Enter Into a Contract with CalPERS and a Resolution Authorizing the Employer “Pick-up” of Employee Contributions**

**Recommendation:**

It is recommended that the Commission approve:

- The adoption of a resolution of intention to enter into a contract with CalPERS which would combine the pension plans for the Alameda County Congestion Management Agency (ACCMA) and the Alameda County Transportation Improvement Authority (ACTIA) providing benefits at the 2.5 percent @ 55 formula, limiting prior service to members employed on the contract conversion date, and using the one year final compensation calculation with 100 percent prior service; and
- The adoption of a resolution authorizing the employer “pick-up” of employee contributions which allows these funds to be treated as employer contributions for tax purposes per Internal Revenue Code Section 414(h)(2).

**Summary:**

In October 2010, the Commission approved a comprehensive benefit program for transitioning and new employees of the Alameda County Transportation Commission (Alameda CTC). For CalPERS retirement benefits, the Commission approved the Retirement Formula of 2.5% @ 55, the 3 year average formula as the basis for Final Compensation and a decrease of 2 percent (from 7 percent to 5 percent) in the amount of employee required contribution picked-up by the Alameda CTC. This approval allowed for staff to start the process with CalPERS to execute a contract. The content of the contract to which the Alameda CTC will enter into with CalPERS will be based on the benefit level of 2.5 percent @ 55 formula with an increase in the amount of the employee required contribution level going from 1 percent to 3 percent as approved by the Commission in October, 2010.

As the first step in the process of combining the two agencies, ACCMA and ACTIA, staff requested an actuarial study be performed by CalPERS to determine changes that may be required to combine the pension and other benefit plans. Staff has received the results of the actuarial study performed by CalPERS as of June 30, 2009 which outlines changes in the initial, required employer contribution rate. The study was based on the desire to provide benefits at the 2.5 percent @ 55 formula, limiting prior service to members employed on the contract conversion date and the one year final

compensation calculation with 100 percent prior service. Staff originally requested the calculation be performed based on the three year average compensation formula. The study arrived based on the one year final compensation calculation. Since the cost difference to the Alameda CTC related to the one year versus average three year calculation is immaterial to the total cost of the pension plan and it would delay the merger by several months to request a new actuarial study, staff recommends moving forward in the process utilizing the study as received.

Per the CalPERS actuarial study, the required employer contribution rate for fiscal year 2011-12 will be 14.002 percent and for FY2012-13 will be 14.4 percent with an 8.0 percent employee contribution of which the Alameda CTC intends to pick-up 5.0 percent as previously approved by the Commission. This is a decrease of 2.0% in the amount the employers currently pick-up. The contract will also include the Fourth Level of 1959 Survivor Benefit as the current plans do today. ACTIA's current required contribution rate is 13.353 percent and the ACCMA's is 14.256 percent. The change in the required contribution rate is the only material change resulting from the actuarial study.

The annual cost for the first year of the new contract is expected to be \$569,980 which is a savings of \$58,323 from the annual cost of the current plans mostly due to changing the employer pick-up rate from 7.0 percent to 5.0 percent.

**Discussion:**

The Internal Revenue Code Section 414(h)(2) allows public agencies to designate required employee contributions as being "picked-up" by the employer and treated as employer contributions for tax purposes. In essence, tax on the contribution will be deferred until the employee receives retirement benefits from the plan. The Internal Revenue Service Revenue Ruling 2006-43 requires the employer to specify in writing that the contributions, although designated as employee contributions, are being paid by the employer. The resolution to this effect contains approved language from the Internal Revenue Service and cannot be changed. In the fifth bullet, it states that the employer will pick-up the entire employee required contribution. For tax purposes, this is a reference to the amount of the required employee contribution that is deducted from the employee's salary (see bullet number one in the resolution). The Commission must approve a different resolution to allow the Alameda CTC to actually pay for a portion of the employee's required member contributions (called Employer-Paid Member Contributions). This resolution will come before the Commission in December in conjunction with the final resolution to approve the contract with CalPERS. It will state the percentage of the employer-paid member contribution that will be approved; a reduced rate of 5.0 percent.

Once the Resolution of Intention is adopted, staff will hold an election which will allow employees to vote, by secret ballot, their approval or disapproval of the retirement proposal. Current employees also will be required to make an individual election as to whether or not to participate in the Fourth Level 1959 Survivor Benefit. Going forward, participation will be required of all future employees.

Staff plans to return to the Commission for the adoption of the final resolution to enter into a contract with CalPERS at the December 1 Commission meeting with an expected contract effective date of January 1, 2012.

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**Fiscal Impacts:**

The new combined rate for FY2011-12 of 14.002 percent results in a \$28,253 or 4.5 percent savings of annual pension costs for FY2011-12 on a consolidated basis with a contract effective date of January 1, 2012.

**Attachments**

- |               |                                                                                   |
|---------------|-----------------------------------------------------------------------------------|
| Attachment A: | Resolution of Intention to Approve a Contract Between CalPERS and the Alameda CTC |
| Attachment B: | California Public Employees' Retirement System Contract (Exhibit Only)            |
| Attachment C: | Summary of Major Provisions                                                       |
| Attachment D: | Resolution Authorizing the Employer "Pick-up" of Employee Contributions           |

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**Commission Chair**  
Mark Green, Mayor - Union City

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Councilmembers  
Larry Reid  
Rebecca Kaplan

**City of Piedmont**  
John Chiang, Vice Mayor

**City of Pleasanton**  
Jennifer Hosterman, Mayor

**City of San Leandro**  
Joyce R. Starosciak, Councilmember

**Executive Director**  
Arthur L. Dao

## ALAMEDA COUNTY TRANSPORTATION COMMISSION

### RESOLUTION 11-014

#### To Approve a Contract between the Board of Administration of the California Public Employees' Retirement System and the Alameda County Transportation Commission

Whereas, the Public Employee' Retirement Law permits the participation of public agencies in the Public Employee' Retirement System, making their employees members of said system, and sets forth the procedure by which participation may be accomplished; and

Whereas, one of the steps required in the procedure is the adoption by the governing body of the public agency of a resolution giving notice of intention to approve a contract for such participation of said agency in the Public Employees' Retirement System, which resolution shall contain a summary of the major provisions of the proposed retirement plan; and

Whereas, attached is a summary of the major provisions of the proposed plan.

Resolved, that the governing body of the Alameda County Transportation Commission does hereby give notice of intention to approve a contract between the Alameda County Transportation Commission and the Board of Administration of the Public Employees' Retirement System, providing for participation of said agency in said retirement system, a copy of said contract and a copy of the summary of the major provisions of the proposed plan being attached hereto, as an Exhibit, and by this reference made a part thereof.

Duly passed and adopted by the Alameda County Transportation Commission at the regular meeting of the Board held on Thursday, October 27, 2011 in Oakland, California by the following votes:

AYES:                      NOES:                      ABSTAIN:                      ABSENT:

SIGNED:

\_\_\_\_\_  
Mark Green, Chairperson

ATTEST:

\_\_\_\_\_  
Vanessa Lee, Commission Secretary

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## EXHIBIT

California  
Public Employees' Retirement System



# CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
Board of Directors  
Alameda County Transportation Commission



In consideration of the covenants and agreement hereafter contained and on the part of both parties to be kept and performed, the governing body of above public agency, hereafter referred to as "Public Agency", and the Board of Administration, Public Employees' Retirement System, hereafter referred to as "Board", hereby agree as follows:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members.
2. Public Agency shall participate in the Public Employees' Retirement System from and after \_\_\_\_\_ making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
- (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
  - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
  - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
  - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
  - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
  - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

- (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
- 4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
  - a. Employees other than local safety members (herein referred to as local miscellaneous members).
- 5. Any exclusion(s) shall remain in effect until such time as the Public Employees' Retirement System determines that continuing said exclusion(s) would risk a finding of non-compliance with any federal tax laws or regulations. If such a determination is contemplated, the Public Employees' Retirement System will meet with the Public Agency to discuss the matter and coordinate any required changes or amendments to the contract.

In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

  - a. **SAFETY EMPLOYEES.**
- 6. This contract shall be a continuation of the contract of the Alameda County Transportation Improvement Authority, ER #1906, and the Alameda County Congestion Management Agency, ER #1624, hereinafter referred to as "Former Agencies". The accumulated contributions, assets and liability for prior and current service under the Former Agency's contract shall be merged pursuant to Section 20508 of the Government Code. Such merger occurred July 22, 2010.
- 7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member shall be determined in accordance with Section 21354.4 of said Retirement Law (2.5% at age 55 Full).

8. Public Agency elects to be subject to the following optional provisions:
  - a. Section 20938 (Limit Prior Service to Members Employed on Contract Date).
  - b. Section 20042 (One-Year Final Compensation).
  - c. Section 21574 (Fourth Level of 1959 Survivor Benefits).
9. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members of said Retirement System.
10. Public Agency shall also contribute to said Retirement System as follows:
  - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members.
  - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
11. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

12. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
DARRYL WATSON, CHIEF  
CUSTOMER ACCOUNT SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF DIRECTORS  
ALAMEDA COUNTY  
TRANSPORTATION COMMISSION

BY \_\_\_\_\_  
PRESIDENT OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk

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**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Actuarial and Employer Services Branch  
Public Agency Contract Services  
(888) CalPERS (225-7377)

**SUMMARY OF MAJOR PROVISIONS**

2.5% @ 55 Formula (Section 21354.4)  
Local Miscellaneous Members

**SERVICE RETIREMENT**

To be eligible for service retirement, a member must be at least age 50 and have five years of CalPERS credited service. There is no compulsory retirement age.

The monthly retirement allowance is determined by age at retirement, years of service credit and final compensation. The basic benefit is 2.5% of final compensation for each year of credited service upon retirement at age 55. If retirement is earlier than age 55, the percentage of final compensation decreases for each quarter year of attained age to 2% at age 50.

Final compensation is the average monthly pay rate during the last consecutive 36 months of employment, or 12 months if provided by the employer's contract, unless the member designates a different period of 36 or 12 consecutive months when the average pay rate was higher.

**DISABILITY RETIREMENT**

Members substantially incapacitated from performing the usual duties for the position for his/her current employer, and from performing the usual duties of the position for other CalPERS covered employers (including State agencies, schools, and local public agencies), and where similar positions with these other employers with reasonably comparable in pay, benefits, and promotional opportunities are not available, would be eligible for disability retirement provided they have at least five years of service credit. The monthly retirement allowance is 1.8% of final compensation for each year of service. The maximum percentage for members who have between 10.000 and 18.518 years of service credit is one-third of their final compensation. If the member is eligible for service retirement the member will receive the highest allowance payable, service or disability. If provided by the employer's contract, the benefit would be a minimum of 30% of final compensation for the first five years of service credit, plus 1% for each additional year of service to a maximum benefit of 50% of final compensation.

**INDUSTRIAL DISABILITY RETIREMENT**

If provided by the employer's contract, members permanently incapacitated from performing their duties, as defined above under Disability Retirement, and the disability is a result of a job-related injury or illness may receive an Industrial Disability Retirement benefit equal to 50% of their final compensation. If provided in the employer's contract and the member is totally disabled, the disability retirement allowance would equal 75% of final compensation in lieu of the disability retirement allowance otherwise provided. If the member is eligible for service retirement, the service retirement allowance is payable. The total allowance cannot exceed 90% of final compensation.

**PRE-RETIREMENT DEATH BENEFITS**

Basic Death Benefit: This benefit is a refund of the member's contributions plus interest and up to six months' pay (one month's salary rate for each year of current service to a maximum of six months).

1957 Survivor Benefit: An eligible beneficiary may elect to receive either the Basic Death Benefit or the 1957 Survivor Benefit. The 1957 Survivor Benefit provides a monthly allowance equal to one-half of the highest service retirement allowance the member would have received had he/she retired on the date of death. The 1957 Survivor Benefit is payable to the surviving spouse or registered domestic partner until death or to eligible unmarried children until age 18.

1959 Survivor Benefit: (If provided by the employer's contract and the member is not covered under social security.) A surviving spouse or registered domestic partner and eligible children may receive a monthly allowance as determined by the level of coverage. This benefit is payable in addition to the Basic Death Benefit or 1957 Survivor Benefit. Children are eligible if under age 22 and unmarried.

Pre-Retirement Optional Settlement 2 Death Benefit: (If provided by the employer's contract.) The spouse or registered domestic partner of a deceased member, who was eligible to retire for service at the time of death, may elect to receive the Pre-Retirement Optional Settlement 2 Death Benefit in lieu of the lump sum Basic Death Benefit. The benefit is a monthly allowance equal to the amount the member would have received if he/she had retired for service on the date of death and elected Optional Settlement 2, the highest monthly allowance a member can leave a spouse or registered domestic partner.

#### COST-OF-LIVING ADJUSTMENTS

The cost of living allowance increases are limited to a maximum of 2% compounded annually unless the employer's contract provides a 3, 4, or 5% increase.

#### DEATH AFTER RETIREMENT

The lump sum death benefit is \$500 (or \$600, \$2,000, \$3,000, \$4,000 or \$5,000 if provided by the employer's contract) regardless of the retirement plan chosen by the member at the time of retirement.

#### TERMINATION OF EMPLOYMENT

Members who have separated from employment may elect to leave their contributions on deposit or request a refund of contributions and interest. Those who leave their contributions on deposit may apply at a later date for a monthly retirement allowance if the minimum service and age requirements are met. Members who request a refund of their contributions terminate their membership and are not eligible for any future benefits unless they return to CalPERS membership.

#### EMPLOYEE CONTRIBUTIONS

Miscellaneous members covered by the 2.5% @ 55 formula contribute 8% of reportable earnings. Those covered under a modified formula (coordinated with Social Security) do not contribute on the first \$133.33 earned.

The employer also contributes toward the cost of the benefits. The amount contributed by the employer for current service retirement benefits generally exceeds the cost to the employee. In addition, the employer bears the entire cost of prior service benefits (the period of time before the employer provided retirement coverage under CalPERS). All employer contribution rates are subject to adjustment by the CalPERS Board of Administration.



**Commission Chair**  
Mark Green, Mayor - Union City

**Commission Vice Chair**  
Scott Haggerty, Supervisor - District 1

**AC Transit**  
Greg Harper, Director

**Alameda County**  
Supervisors  
Nadia Lockyer - District 2  
Wilma Chan - District 3  
Nate Miley - District 4  
Keith Carson - District 5

**BART**  
Thomas Blalock, Director

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Rob Bonta, Vice Mayor

**City of Albany**  
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**City of Berkeley**  
Laurie Capitelli, Councilmember

**City of Dublin**  
Tim Sbranti, Mayor

**City of Emeryville**  
Ruth Aldin, Councilmember

**City of Fremont**  
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**City of Hayward**  
Olden Henson, Councilmember

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**City of Piedmont**  
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**City of San Leandro**  
Joyce R. Starosciak, Councilmember

**Executive Director**  
Arthur L. Dao

## ALAMEDA COUNTY TRANSPORTATION COMMISSION

### RESOLUTION 11-013

#### To Tax Defer Member Paid Contributions – IRC 414(h)(2) Employer Pick-up

Whereas, the governing body of the Alameda County Transportation Commission has the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code (IRC); and

Whereas, the Alameda County Transportation Commission has determined that although the implementation of the provision of section 414(h)(2) IRC is not required by law, the tax benefit offered by section 414(h)(2) IRC should be provided to All Employees (All Employees, or All Employees In A Recognized Group or Class of Employment) who are members of the California Public Employees' Retirement System.

Now, Therefore, Be It Resolved:

1. That the Alameda County Transportation Commission will implement the provisions of section 414(h)(2) Internal Revenue Code by making employee contributions pursuant to California Government Code Section 20691 to the California Public Employees' Retirement System on behalf of all its employees or all its employees in a recognized group or class who are members of the California Public Employees Retirement System. "Employee contributions" shall mean those contributions to the Public Employees' Retirement System which are deducted from the salary of employees and are credited to individual employee's accounts pursuant to California Government Code Section 20691.

2. That the contributions made by the Alameda County Transportation Commission to the California Public Employees' Retirement System, although designated as employee contributions, are being paid by the Alameda County Transportation Commission in lieu of contributions by the employees who are members of the California Public Employees' Retirement System.

3. That employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the Alameda County Transportation Commission to the California Public Employees' Retirement System.

4. That the Alameda County Transportation Commission shall pay to the California Public Employees' Retirement System the contributions designated as employee contributions from the same source of funds as used in paying salary.

5. That the amount of the contributions designated as employee contributions and paid by the Alameda County Transportation Commission to the California Public Employees' Retirement System on behalf of an employee shall be the entire

contribution required of the employee by the California Public Employee' Retirement Law (California Government Code Sections 20000, et seq.).

6. That the contributions designated as employee contributions made by the Alameda County Transportation Commission to the California Public Employees' Retirement System shall be treated for all purposes, other than taxation, in the same way that member contributions are treated by the California Public Employees' Retirement System.

Duly passed and adopted by the Alameda County Transportation Commission at the regular meeting of the Board held on Thursday, October 27, 2011 in Oakland, California by the following votes:

**AYES: NOES: ABSTAIN: ABSENT:**

**SIGNED:**

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Mark Green, Chairperson

**ATTEST:**

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Vanessa Lee, Commission Secretary

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