



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

FINANCE AND ADMINISTRATION COMMITTEE

MEETING NOTICE

Monday, January 09, 2012, 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

John Marchand, 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

Executive Director

Arthur L. Dao

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*

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 November 07, 2011- **page 1**

A

3 FINANCIAL MATTERS

3A. Acceptance of ACTIA FY2010-11 Draft Audited Basic Financial Statements – **page 5**

A

3B. Acceptance of ACCMA FY2010-11 Draft Audited Basic Financial Statements – **page 65**

A

4 ADMINISTRATIVE MATTERS

- 4A. Approval of the Alameda CTC Salaries and Benefits Resolution for the period February 1, 2012 through December 31, 2012 – **page 123** **A**
- 4B. Approval and Adoption of a Cafeteria Plan for Active Employees and a Health Reimbursement Arrangement for Retirees of the Alameda County Transportation Commission – **page 135** **A**
- 4C. Approval of Modification to the Organizational Structure Upgrading One Senior Accountant Position to an Accounting Manager Position – **page 201** **A**

5 CONTRACTS AND AGREEMENTS

- 5A. Approval of the Annually Renewed Contracts Plan for Administrative Services for Fiscal Year 2012-13 – **page 203** **A**

6 COMMITTEE MEMBER REPORTS (VERBAL)**I****7 STAFF REPORTS (VERBAL)****I****8 OTHER BUSINESS****9 ADJOURNMENT/NEXT MEETING: JANUARY 9, 2012**

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*

Glossary of Acronyms

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



1333 Broadway, Suites 220 & 300

Oakland, CA 94612

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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 / 12th 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 11th Street exit from I-980 to 11th Street
- Traveling North: Take 11th Street/Convention Center Exit from I-980 to 11th Street
- Parking:
City Center Garage –
Underground Parking,
(Parking entrances located on 11th or 14th Street)

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





**FINANCE AND ADMINISTRATION COMMITTEE
MINUTES OF NOVEMBER 07, 2011
OAKLAND, CA**

Chair John Chiang convened the meeting at 1:30 PM.

1 Public Comment

There was no public comment.

2 Consent calendar

2A. Minutes of October 10, 2011

Mayor Green motioned to approve the Consent Calendar. Supervisor Haggerty seconded the motion. The motion passed 5-0.

3 Financial Matters

3A. Consolidated FY11-12 First Quarter Investment Report

Patricia Reavey recommended that the Committee accept the Alameda CTC Consolidated FY2011-12 First Quarter Investment Report. Ms. Reavey reported that as of September 30, 2011, the ACTA portfolio managed by investment advisors consisted of approximately 12.0% US Treasury Securities, 18.5% FDIC insured Corporate Bonds, 65.5% Federal Agency Securities and 4.0% Corporate Notes. The ACTIA portfolio managed by investment advisors consisted of approximately 35.7% US Treasury Securities, 14.7% FDIC insured Corporate Bonds and 49.6% Federal Agency Securities. Alameda CTC continues to see a decline in investment returns even as the economy slowly begins to recover due to the strategy developed by the investment advisors to match investments to ACTIA's and ACTA's cash flow needs. This strategy ensures the ability to fund capital project cash flow requirements without the need to sell an investment short of its maturity date which can increase risk in a portfolio.

Councilmember Atkin motioned to approve this Item. Supervisor Haggerty seconded the motion. The motion passed 7-0.

3B. Consolidated FY11-12 First Quarter Financial Report

Patricia Reavey recommended that the Committee accept the Alameda CTC Consolidated FY2011-12 First Quarter Financial Report. Ms. Reavey informed the board that the financial report has been prepared on a consolidated basis by governmental fund type including the General Funds, Special Revenue Funds, the Exchange Fund and the Capital Projects Funds to give an overview of the Alameda CTC's revenues and expenditures in comparison to the adopted budget. The report covered the General Fund, Special Revenue Funds, Exchange Fund, Capital Projects Funds, and ACTIA Limitations Calculations.

Councilmember Atkin motioned to approve this Item. Director Blalock seconded the motion. The motion passed 7-0.

4 Administrative Matters

4A. Approval of the Issuance of a Request for Proposals (RFP) for Financial Audit Services and Authorization to Negotiate and Execute a Contract

Patricia Reavey recommended that the Committee authorize staff to prepare an RFP and proceed with the contract procurement process to obtain a consultant to provide financial audit services for the Alameda CTC. She informed the Board that the financial audit services contracts provide the required independent audits of ACTIA's and ACCMA's financial statements, issuance of separate audit reports, completion of the Federal Single Audit report, if applicable, and a report on ACTIA's Limitations Worksheet. Ms. Reavey concluded by stating that since the contract for Financial Audit Services is considered a professional services contract, the consultant would be selected based on their professional qualifications. The contract budget would be negotiated and staff will provide an update to the Committee in March, 2012.

Director Blalock motioned to approve this Item. Councilmember Atkin seconded the motion. The motion passed 7-0.

4B. Adoption of Final Resolution to Approve a Contract with CalPERS and a Resolution Authorizing Employer Paid Member Contributions

Patricia Reavey recommended that the Commission approve the following resolutions: a final resolution to enter into a contract with CalPERS; a resolution authorizing Employer Paid Member Contributions (EPMC); and a resolution electing to be subject to Public Employee's Medical and Hospital Care Act (PEMHCA).

Councilmember Atkin motioned to approve this Item. Supervisor Haggerty seconded the motion. The motion passed 7-0.

5 Committee Member Reports

There were no Committee Reports.

6 Staff Reports

There were no Staff Reports.

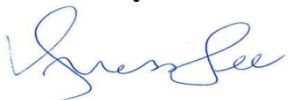
7. Other Business

Chair Chiang requested that staff set up a meeting with the Audit Committee before the next Committee Meeting.

8. Adjournment

The meeting ended at 2:00 PM. The next FAC meeting is on January 09, 2012 at 1:30 PM.

Attest by:



Vanessa Lee
Clerk of the Commission






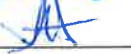
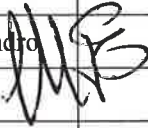




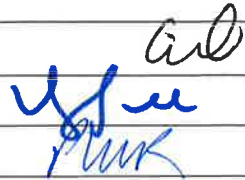
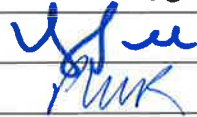


FINANCE AND ADMINISTRATION COMMITTEE MEETING






ROSTER OF MEETING ATTENDANCE

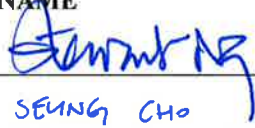

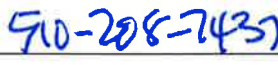
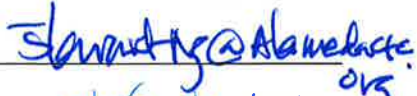




November 07, 2011

1:30 p.m.

1333 Broadway, Suite 300, Oakland, CA 94612

BOARD MEMBERS	Initials	ALTERNATES	Initials
Chair : John Chiang, – City of Piedmont		Garrett Keating – City of Piedmont	
Vice Chair: Rebecca Kaplan – City of Oakland		Jane Brunner – City of Oakland	
Members:			
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	
LEGAL COUNSEL			
Zack Wasserman – WRBD			
Neal Parish – WRBD			
Geoffrey Gibbs - GLG			
STAFF			
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		Yvonne Chan – Accounting Manager	
Beth Walukas – Deputy Director of Planning		Arun Goel – Project Controls Engineer	
Patricia Reavey – Director of Finance		Linda Adams – Executive Assistant	
Matt Todd - Manager of Programming		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	
Liz Brazil – Contract Compliance & Outreach Analyst		Stefan Garcia	
Claudia Leyva - Admin Asst.			

	NAME	JURISDICTION/ ORGANIZATION	PHONE #	E-MAIL
1.				
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Memorandum

DATE: December 28, 2011

TO: Finance and Administration Committee

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

SUBJECT: **Acceptance of ACTIA Fiscal Year 2010-2011 Draft Audited Basic Financial Statements, Memorandum on Internal Control and Required Communications and the Limitation Worksheet**

Recommendation

It is recommended that the Commission accept and enter into the record ACTIA's draft Audited Basic Financial Statements for FY 2010-2011, the Memorandum on Internal Control and Required Communications for the Fiscal Year Ended June 30, 2011 and the required Limitation Worksheet as audited by the certified public accounting firm of Maze and Associates.

The audited financial statements and support documents were reviewed in detail by the Alameda County Transportation Commission (Alameda CTC) audit committee on December 12, 2011.

Summary

Pursuant to California Public Utilities Code Section 180105, an independent audit was conducted for fiscal year 2010-2011 by Maze and Associates. While all financial statements are the responsibility of management, the auditor's responsibility is to express an opinion on the financial statements based on their audit. As demonstrated in the Independent Auditor's Report on page 3 of the Draft Audited Basic Financial Statements, ACTIA's auditors have reported what is considered to be an unqualified or clean audit.

"In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and each major fund of ACTIA as of June 30, 2011, and the respective changes in the financial position, and the respective budgetary comparisons included as part of the basic financial statements, for the year then ended in conformity with accounting principles generally accepted in the United States of America."

Financial Highlights:

- Total Assets decreased by \$19.2 million or 5.8% from \$330.9 million to \$311.7 million as of June 30, 2011 compared to June 30, 2010. Cash and investments comprised \$274.2 million or 88.0% of the total FY 2011 year-end amount.

- Sales Tax Revenue for all funds was \$105.4 million during FY 2011, an increase of \$10.9 million or 11.6% over FY 2010.
- Total Expenses were \$168.1 million during FY 2011, an increase of \$14.6 million or 9.5% over FY 2010. This amount included \$6.4 million for administration, \$78.6 million for highways and streets, \$54.4 million for public transit and \$28.7 million for local transportation.
- Total Liabilities increased \$30.2 million or 107.4% from \$28.1 million to \$58.3 million as of June 30, 2011 compared to June 30, 2010 due to a change in methodology used for capital project accruals.
- Total Net Assets decreased by \$49.4 million or 16.3% to \$253.3 million as of June 30, 2011 compared to June 30, 2010 mostly due to construction on ACTA capital projects.

Discussion

As part of the audit process, Maze and Associates considered ACTIA's internal controls over financial reporting in order to design audit procedures. They have not expressed an opinion on the effectiveness of ACTIA's internal controls; however Maze and Associates' report states that they did not identify any deficiencies in internal controls that would be considered a material weakness. Maze and Associates also does not have any findings of deficiencies or weaknesses in ACTIA's organizational structure or recommendations that would be required to be reported in a management letter as a result of this audit.

In addition, Maze and Associates audited the calculation of the limitation ratios required by the Transportation Expenditure Plan which requires that the total cost for salaries and benefits for administrative employees not exceed 1% of sales tax revenues and expenditures for administration, in total, do not exceed 4.5% of sales tax revenues. The ratios for FY 2010-2011 are 0.61% for salaries and benefits as a percent of sales tax revenues and 3.34% for total administration costs as a percent of sales tax revenues which are in compliance with the requirements set forth in the Transportation Expenditure Plan.

Maze and Associates did not perform a Single Audit for FY 2010-2011. Per the Office of Management and Budget (OMB) Circular A-133, a single audit is required when a grantee spends \$500,000 or more in Federal funds in the fiscal year to provide assurance to the federal government as to the management and use of these funds. ACTIA's federal expenditures were less than the \$500,000 threshold in FY 2010-2011 therefore a Single Audit was not required.

The newly formed Audit Committee met on December 12 to review the Draft Audited Basic Financial Statements, the Limitations Worksheet and to discuss internal control procedures.

Attachments

- | | |
|----------------|---|
| Attachment A - | ACTIA Basic Financial Statements for the Year Ended June 30, 2011 |
| Attachment B - | ACTIA Memorandum on Internal Control and Required Communications for the Year Ended June 30, 2011 |
| Attachment C - | ACTIA Limitations Worksheet for the Year Ended June 30, 2011 |

**ALAMEDA COUNTY TRANSPORTATION
IMPROVEMENT
AUTHORITY**

**BASIC FINANCIAL STATEMENTS
FOR THE YEAR ENDED
JUNE 30, 2011**

**PREPARED BY THE
FINANCE AND ADMINISTRATION
DEPARTMENT**

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

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June 30, 2011

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INDEPENDENT AUDITORS' REPORT

The Governing Board of the
Alameda County Transportation Improvement Authority
Oakland, California

We have audited the accompanying financial statements of the governmental activities and each major fund of the Alameda County Transportation Improvement Authority (ACTIA) as of and for the year ended June 30, 2011, which collectively comprise ACTIA's basic financial statements as listed in the table of contents. These financial statements are the responsibility of ACTIA's management. Our responsibility is to express opinions on these financial statements based on our audit. The prior year summarized comparative information has been derived from ACTIA's and Alameda County Transportation Authority's (ACTA's) June 30, 2010 financial statements and in our prior reports dated September 15, 2010, we expressed an unqualified opinion on those financial statements.

We conducted our audit in accordance with generally accepted auditing standards in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and each major fund of ACTIA as of June 30, 2011, and the respective changes in the financial position, and the respective budgetary comparisons included as part of the basic financial statements, for the year then ended in conformity with accounting principles generally accepted in the United States of America.

As of July 1, 2010, ACTIA adopted the provision of Governmental Accounting Standards Board Statement Number 54 (GASB 54), *Fund Balance Reporting and Governmental Fund Type Definitions*. As discussed in Note 10 to the financial statements, the provisions of this statement affect the classification of fund balances reported in the financial statements.

In accordance with *Government Auditing Standards*, we have also issued our report dated October 24, 2011, on our consideration of ACTIA's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

The required supplementary information such as the Management's Discussion and Analysis and budgetary comparison information is not a required part of the basic financial statements but is supplementary information required by the Governmental Accounting Standards Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise ACTIA's basic financial statements. The supplemental section listed in the Table of Contents is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

The Schedule of Direct and Indirect Expenditures as listed on the table of contents has not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinions on it.

October 24, 2011

MANAGEMENT'S DISCUSSION AND ANALYSIS

The following discussion and analysis of the Alameda County Transportation Improvement Authority's (ACTIA) financial position addresses ACTIA's activities for the Fiscal Year Ended June 30, 2011 with comparisons to the two prior fiscal years as restated to include financial information for the Alameda County Transportation Authority (ACTA) for which ACTIA assumed all responsibility of functions, assets and liabilities effective July 1, 2010. We encourage readers to consider the information presented here in conjunction with ACTIA's financial statements and related notes contained in the Basic Financial Statement section.

The voters of Alameda County, pursuant to the provisions of the Bay Area County Traffic and Transportation Funding Act, Public Utilities Code Section 131000, et seq., approved Measure B at the General Election held in November 1986, authorizing the collection of a one-half cent transaction and use tax over a 15 year period to address major transportation needs and congestion in Alameda County and giving ACTA the responsibility for the administration of the proceeds of the tax. Although the 1986 tax expired in 2002, a few capital projects are not expected to be completed until 2013 or later.

The voters of Alameda County, pursuant to the provisions of the Local Transportation Authority and Improvement Act, Public Utilities Code Section 180000, et seq., approved the reauthorization of Measure B at the General Election held on November 7, 2000, authorizing the collection of a one-half cent transaction and use tax that will be collected for 20 years beginning April 1, 2002 and giving ACTIA responsibility for the administration of the proceeds of the tax.

FINANCIAL HIGHLIGHTS

- Total Assets decreased by \$19.2 million or 5.8% from \$330.9 million to \$311.7 million as of June 30, 2011 compared to June 30, 2010. Cash and investments comprised \$274.2 million or 88.0% of the total FY 2011 year-end amount.
- Sales tax revenue for all funds was \$105.4 million during FY 2011, an increase of \$10.9 million or 11.6% over FY 2010.
- ACTIA's total expenses were \$168.1 million during FY 2011, an increase of \$14.6 million or 9.5% over FY 2010. This amount included \$6.4 million for administration, \$78.6 million for highways and streets, \$54.4 million for public transit and \$28.7 million for local transportation.
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- Total net asset decreased by \$49.4 million or 16.3% to \$253.3 million as of June 30, 2011 compared to June 30, 2010 mostly due to construction on ACTA capital projects.

OVERVIEW OF THE FINANCIAL STATEMENTS

The annual financial report consists of the management's discussion and analysis and the basic financial statements. Basic financial statements include the government-wide financial statements, fund financial statements and notes to the financial statements. The basic financial statements show the consolidated presentation of governmental funds along with the required adjustments and the resulting government-wide statements.

- The government-wide statements are comprised of the statement of net assets and the statement of activities that are to include all of the primary government's governmental activities, business-type activities and component units.
- The fund financial statements are comprised of a balance sheet, a statement of revenues and expenditures and changes in fund balances by governmental fund type.
- The financial statements include note disclosures in order to present a complete picture of the financial position.

Figure A-1 demonstrates the relationship of the required components of the annual financial report.

Figure A-1

**The Alameda County Transportation Improvement Authority
Required Components of the Annual Financial Report**

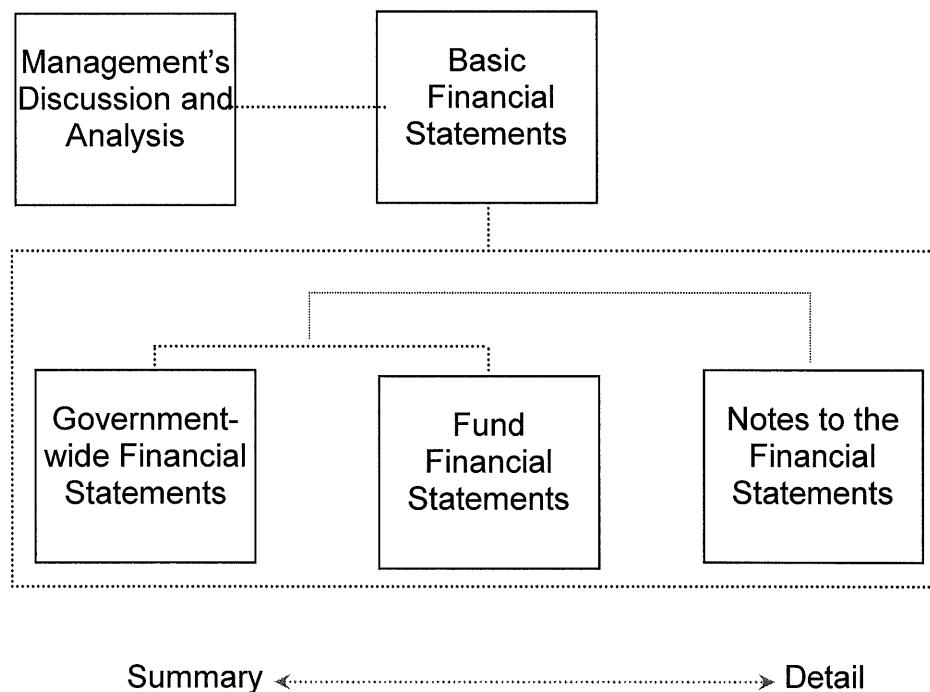


Figure A-2 summarizes the major components of ACTIA's financial statements.

Figure A-2
The Alameda County Transportation Improvement Authority
Major Components of the Government-Wide and Fund Financial Statements

	Government-Wide Financial Statements	Fund Financial Statements	
		Governmental Funds Financial Statements	Fiduciary Funds Financial Statements
Scope	Includes all governmental and business-type activities and non-fiduciary component units	Includes tax supported activities	Includes assets held in a trust for others
Required Financial Statements	Statement of Net Assets and Statement of Activities	Balance Sheet and Statement of Revenues, Expenditures and Changes in Fund Balance	Statement of Net Assets and Statement of Changes in Fiduciary Net Assets
Accounting Basis and Measurement Focus	Accrual accounting with focus on economic resources	Modified accrual accounting with focus on current financial resources	Accrual accounting with focus on economic resources
Assets/Liabilities	All assets and liabilities, both financial and capital and long and short-term	Assets available and liabilities payable during the fiscal year or soon thereafter; does not include capital assets	All assets and liabilities, both financial and capital and long and short-term
Changes in Net Assets	Reported when underlying events occur, regardless of the timing of related cash flows	Reported as related cash flows in or out during the fiscal year or soon thereafter	Reported when underlying events occur, regardless of the timing of related cash flows

Government-Wide Statements

The *government-wide financial statements* report information using the same measurement focus and basis of accounting as private-sector business enterprises. The *Statement of Net Assets* includes total assets and total liabilities with the difference between them reported as net assets. Over time, increases or decreases in net assets can indicate whether the financial health is improving or deteriorating. Total revenues, total expenditures and changes in net assets are accounted for in the *Statement of Activities*, regardless of the timing of related cash flows.

ACTIA's government-wide financial statements include one category, governmental activities, which includes all activities related to accomplishing the goals established in its transportation expenditure plans approved by the voters in 1986 and 2000.

Fund Financial Statements

The *fund financial statements* provide more detailed information by fund. A fund is a set of accounts used to control resources segregated for specific activities or purposes. ACTIA has established funds to ensure resources are utilized for the particular purposes defined in the transportation expenditure plans. Funds classified as major are reported individually on the financial statements and funds classified as non-major are grouped and reported in a single column.

ACTIA has five major funds, the General fund, ACTIA Capital Projects fund, ACTA Capital Projects fund, Special Revenue fund and Fiduciary fund. The Special Revenue fund is made up of several non-major funds, the Express Bus fund, Service Gap fund, Regional Bike and Pedestrian fund, Transit-oriented Development fund and Programs Distribution fund. In the supplemental section of this report, *Combining Statements* report data for each of the non-major funds. ACTIA also has a fiduciary fund which is used to accumulate funds towards retiree benefits.

Notes to the Financial Statements

The *notes to the financial statements* provide additional information that is vital to the understanding of the financial statements. These notes can be found directly following the financial statements in this annual financial report.

GOVERNMENT-WIDE FINANCIAL ANALYSIS

As of June 30, 2011, total assets were \$311.7 million, a decrease of \$19.2 million or 5.8% from June 30, 2010 and a decrease of \$57.0 million or 15.5% from June 30, 2009, with cash and investments accounting for \$274.2 million or 88.0% of this amount. This might indicate a deterioration of ACTIA's financial position, however the goal and intent of ACTIA is to spend sales tax revenues down towards the purpose of improving transportation programs and infrastructure in Alameda County throughout the life of the 2000 Measure B. This also reflects the continued effort to wind down the original 1986 Measure B.

Total liabilities were \$58.3 million as of June 30, 2011, an increase of \$30.2 million or 107.4% over June 30, 2010 and an increase of \$33.9 million or 139.1% over June 30, 2009 due to a change in the methodology used for capital project accruals. The significant disparity of cash over liabilities demonstrates that ACTIA is well able to meet its obligations as they become due. At the end of the fiscal year, ACTIA had encumbered \$49.8 million towards engineering contracts and \$111.2 million towards project sponsor contracts with terms ranging up to seven years.

ACTIA does not record capital assets created by the projects it finances on its own financial statements since these assets are of value only to the local government in which they are located.

Net assets were \$253.3 million at June 30, 2011, a decrease of \$49.4 million or 16.3% from June 30, 2010 and a decrease of \$90.9 million or 26.4% from June 30, 2009. Of the total \$253.3 million in net assets at June 30, 2011, less than 0.1% is invested in capital assets, the same as in the prior year, with the balance restricted for use towards programs and projects authorized in the transportation expenditure plans.

Table A-1
The Alameda County Transportation Improvement Authority
Net Assets
June 30, 2011, 2010 and 2009

	Governmental Activities		
	2011	2010	2009
Cash and investments	\$ 274,159,657	\$ 301,110,321	\$ 331,683,686
Receivables			
Sales tax receivables	17,546,199	15,131,509	14,742,710
Interest	88,283	96,890	162,285
Other governmental		1,302,444	1,083,761
Other	10,512,765	1,960,599	1,706,058
Due from fiduciary	14,724	22,767	12,218
Capital assets			
Furniture and equipment (net of accumulated depreciation)	43,075	53,426	70,687
Land held for resale	4,243,000	4,068,000	4,068,000
Advances to other governments	5,000,000	7,040,370	15,086,398
Other assets	79,043	64,264	26,836
Total assets	\$ 311,686,746	\$ 330,850,590	\$ 368,642,639
Accounts payable	\$ 58,196,383	\$ 26,702,377	\$ 24,182,250
Due to other governments		1,302,441	106,472
Compensated absences	69,270	70,804	73,761
Net OPEB Obligation	75,863	55,204	37,351
Total current liabilities	58,341,516	28,130,826	24,399,834
Net assets:			
Invested in capital assets	43,075	53,426	70,687
Restricted for:			
Transportation Projects/Programs	253,302,155	302,666,338	344,172,118
Total net assets	253,345,230	302,719,764	344,242,805
Total liabilities and net assets	\$ 311,686,746	\$ 330,850,590	\$ 368,642,639

Total revenues in FY 2011 were \$118.7 million, an increase of \$6.7 million or 6.0% over FY 2010 and a decrease of \$8.0 million or 6.3% from FY 2009, with sales tax accounting for \$105.4 million or 88.8% of this amount. Total expenses in FY 2011 were \$168.1 million, an increase of \$14.6 million or 9.5% over FY 2010 and an increase of \$31.3 million or 22.9% over FY 2009. The following are the changes in the key activities:

- Sales tax revenues in FY 2011 were \$105.4 million, an increase of \$10.9 million or 11.6% over FY 2010 and an increase of \$4.1 million 4.0% over FY 2009. These increases reflect an improvement in the economy as we slowly return to historical sales tax levels.
- Capital grants and contributions in FY2011 were \$10.0 million, an increase of \$0.8 million or 8.7% over FY 2010 and an increase of \$3.5 million or 53.1% over FY 2009.
- Investment income in FY 2011 was \$3.2 million, a decrease of \$4.9 million or 60.6% from FY 2010 and a decrease of \$15.4 million or 82.8% from FY 2009.
- Operating grants and contributions in FY2011 were \$0.1 million, a decrease of \$0.1 million or 55.4% from FY 2010 and a decrease of \$0.2 million or 69.6% from FY 2009.
- Administration expenses in FY 2011 were \$6.4 million, a decrease of \$0.3 million or 4.3% from FY 2010 and a decrease of \$0.5 million or 7.3% from FY 2009.
- Highways and streets expenses in FY 2011 were \$78.6 million, an increase of \$21.0 million or 36.6% over FY 2010 and an increase of \$16.3 million or 26.1% over FY 2009.
- Public transit expenses in FY 2011 were \$54.4 million, a decrease of \$8.8 million or 13.9% from FY 2010 and an increase of \$14.0 million or 34.6% over FY 2009.
- Local transportation expenses in FY 2011 were \$28.7 million, an increase of \$2.6 million or 10.0% over FY 2010 and an increase of \$1.5 million or 5.7% over FY 2009.

In FY 2011, expenses exceeded revenues by \$49.4 million, resulting in a decrease to net assets which were \$253.3 million at year-end. In FY 2010, expenses exceeded revenues by \$41.5 million, resulting in a decrease to net assets which were \$302.7 million at year-end. In FY 2009, expenses exceeded revenues by \$10.1 million, resulting in a decrease to net assets which were \$344.2 million at year-end.

Table A-2
The Alameda County Transportation Improvement Authority
Changes in Net Assets
June 30, 2011, 2010 and 2009

	Governmental Activities		
	2011	2010	2009
Revenues			
Program revenues:			
Operating grants and contributions	\$ 81,012	\$ 181,784	\$ 266,608
Capital grants and contributions	10,014,870	9,212,246	6,542,499
General revenues:			
Sales taxes	105,393,804	94,453,574	101,321,423
Investment Income	3,194,050	8,102,075	18,557,728
Total revenues	<u>118,683,736</u>	<u>111,949,679</u>	<u>126,688,258</u>
Expenses			
Administration	6,375,468	6,661,460	6,877,600
Highways and Streets	78,582,322	57,533,049	62,322,910
Public Transit	54,389,098	63,176,467	40,400,461
Local Transportation	28,711,382	26,101,744	27,166,706
Total expenses	<u>168,058,270</u>	<u>153,472,720</u>	<u>136,767,677</u>
Change in net assets	(49,374,534)	(41,523,041)	(10,079,419)
Net assets, beginning of year	302,719,764	344,242,805	354,322,224
Net assets, end of year	<u><u>\$ 253,345,230</u></u>	<u><u>\$ 302,719,764</u></u>	<u><u>\$ 344,242,805</u></u>

Figure A-3
The Alameda County Transportation Improvement Authority
Sources of Revenue for Fiscal Year 2011

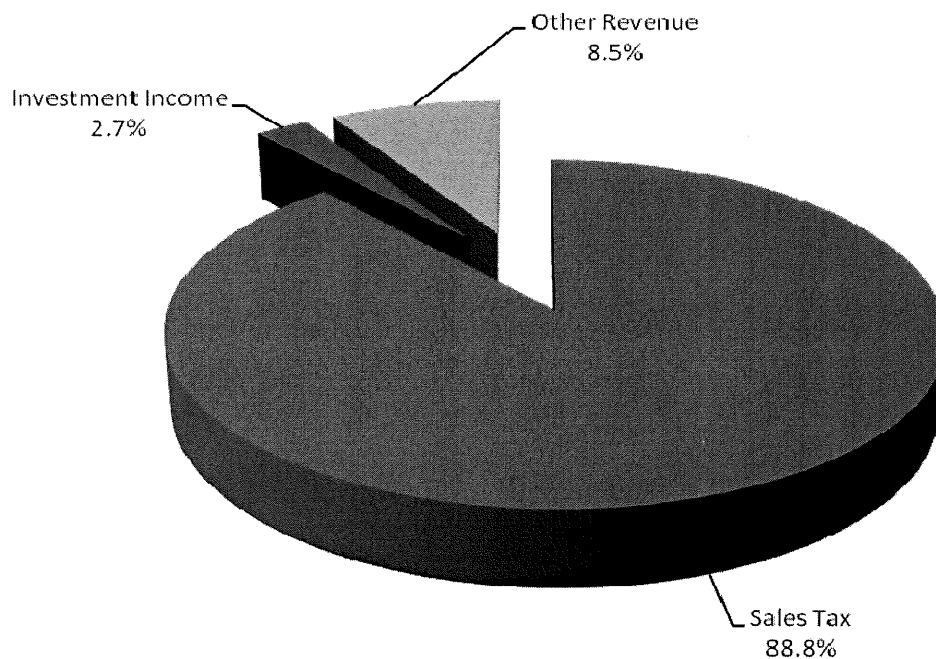
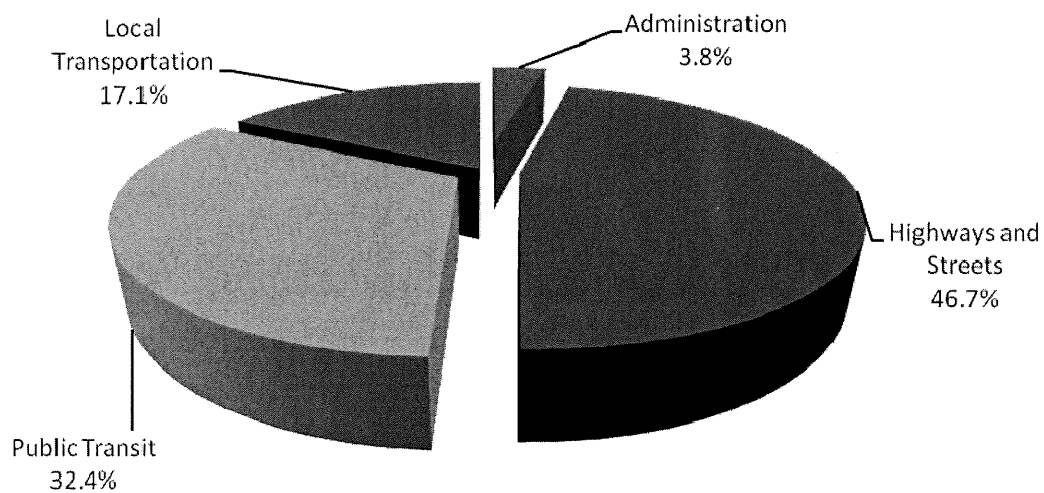


Figure A-4
The Alameda County Transportation Improvement Authority
Functional Expenses for Fiscal Year 2011



Financial Analysis of ACTIA's Funds

Governmental Funds

ACTIA uses fund accounting to ensure compliance with finance-related legal requirements. The governmental funds in this case include the general fund, ACTIA capital projects fund, ACTA capital projects fund and special revenue funds.

ACTIA works with project sponsors to deliver Highways and Streets projects, Public Transit and various other programs including Paratransit programs. Local Transportation sales tax funds are passed directly through to Alameda County cities and Alameda County to administer transportation related projects of their choosing. ACTIA's activities also include the administration of sales tax revenues which consists of projects and programs management, financial oversight and other administrative functions.

As of June 30, 2011, ACTIA had \$276.9 million of fund balance in the governmental funds: \$16.0 million in the general fund, \$86.5 million in the ACTIA capital projects fund, \$164.5 million in the ACTA capital projects fund and \$9.9 million in the special revenue funds. This is a decrease from June 30, 2010 of \$21.8 million or 7.3%. The decrease is mostly due to the activities of highways and streets projects in the ACTA capital projects fund. Construction on ACTA capital projects will continue until finished however as of March 31, 2002 when the 1986 Measure B expired, this fund no longer receives sales tax revenues.

As of June 30, 2011, ACTIA had \$108.7 million of revenues in the governmental funds: \$4.9 million in the general fund, \$40.8 million in the ACTIA capital projects fund, \$2.6 million in the ACTA capital projects fund and \$60.4 million in the special revenue funds. This is a decrease from June 30, 2010 of \$4.5 million or 3.9%.

As of June 30, 2011, ACTIA had \$134.5 million of expenditures in the governmental funds: \$3.6 million in the general fund, \$41.6 million in the ACTIA capital projects fund, \$27.3 million in the ACTA capital projects fund and \$62.1 million in the special revenue funds. This is a decrease from June 30, 2010 of \$20.1 million or 13.0%.

As of June 30, 2011, ACTIA had \$308.7 million of assets in the governmental funds: \$16.6 million in the general fund, \$87.2 million in the ACTIA capital projects fund, \$178.9 million in the ACTA capital projects fund and \$25.9 million in the special revenue funds. This is a decrease from June 30, 2010 of \$18.1 million or 5.5%.

As of June 30, 2011, ACTIA had \$31.7 million of liabilities in the governmental funds: \$0.6 million in the general fund, \$0.7 million in the ACTIA capital projects fund, \$14.4 million in the ACTA capital projects fund and \$16.0 million in the special revenue funds. This is an increase from June 30, 2010 of \$3.7 million or 13.3%.

Fiduciary Fund

ACTIA has a fiduciary fund which is a trust designed to accumulate assets to fund retiree benefits. These funds are excluded from the government-wide financial statements because they do not represent resources of ACTIA. As of June 30, 2011, net assets in the trust were \$0.9 million as they were at June 30, 2010 showing no material change.

CAPITAL ASSET AND DEBT ADMINISTRATION

Capital Assets

As of June 30, 2011, ACTIA had invested \$43,075 in capital assets, including furniture and equipment and leasehold improvements.

Table A-3
The Alameda County Transportation Improvement Authority
Capital Assets
(net of accumulated depreciation and amortization)
June 30, 2011, 2010 and 2009

	2011	2010	2009
	<hr/>	<hr/>	<hr/>
Furniture and equipment (net of accumulated depreciation)	\$ 18,423	\$ 30,987	\$ 42,265
Leasehold improvements (net of accumulated amortization)	24,652	22,439	28,422
Total	<hr/> <hr/> \$ 43,075	<hr/> <hr/> \$ 53,426	<hr/> <hr/> \$ 70,687

The one capital asset addition in FY 2011 was a leasehold improvement to install audio visual equipment in the board room.

Long-Term Debt

As of June 30, 2011, 2010 and 2009, ACTIA had no outstanding debt.

COMPARISON OF BUDGETED TO ACTUAL

Prior to each fiscal year, ACTIA adopts a budget for the year. This budget may be modified at quarterly intervals resulting in subsequent legally adopted budgets. These modifications are made primarily to adjust revenues when projections change due to changes in the economic climate and to adjust expenses to reflect changes in capital project costs.

In the General Fund, ACTIA began FY 2011 with an adopted revenue budget of \$4.3 million and expenditures budget of \$4.1 million resulting in a surplus in the general fund balance of \$0.2 million. In the final adopted budget, the revenue budget was revised to \$4.8 million resulting in a surplus in the general fund of \$0.7 million. Actual revenues from the sales tax and other revenues were \$4.9 million and actual indirect administrative costs totaled \$3.5 million, resulting in a surplus in the general fund of \$1.3 million. The improvement to budgeted and actual revenues was due to a projected and actual increase in sales tax revenues.

In the Special Revenue Fund, ACTIA began FY 2011 with an adopted revenue budget of \$51.6 million and expenditure budget of \$59.1 million. In the final adopted budget, the revenue budget was revised to \$58.5 million and the expenditure budget was revised to \$65.5 million resulting in the reduction of the Special Revenue fund balance of \$7.0 million. Actual revenues were \$60.4 million and actual expenditures were \$62.1 million, with \$33.4 million for Public Transit, \$27.7 million for Local Transportation and \$0.9 million for Administration, resulting in a reduction in fund balance of \$1.7 million. Additional details of the special revenue funds are provided under supplemental information.

OTHER SIGNIFICANT MATTERS

On July 22, 2010, ACTIA officially became a part of the Alameda County Transportation Commission (Alameda CTC), a joint powers agency, along with the County of Alameda, the 14 cities of Alameda County, AC Transit, BART and the Alameda County Congestion Management Agency (ACCMA). This new JPA has all of the powers of the ACCMA and ACTIA. For the fiscal year 2012, ACTIA will operate as part of the Alameda CTC for which a consolidated budget was adopted by the Commission in June, 2011. It is expected that all steps necessary to have Alameda CTC be the operating entity will be completed in early 2012 and that prior to the end of FY 2012, ACCMA and ACTIA will be terminated and Alameda CTC will be named the successor agency for each.

REQUESTS FOR INFORMATION

This financial report is designed to provide a general overview of ACTIA's finances to the tax payers of Alameda County and to demonstrate accountability for sales tax revenues received. Questions concerning information provided in this report or requests for additional financial information should be addressed to Arthur Dao or Patricia Reavey of the Alameda County Transportation Improvement Authority at 1333 Broadway, Suite 220, Oakland, California 94612.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY
GOVERNMENTAL FUNDS - BALANCE SHEETS / STATEMENT OF NET ASSETS
JUNE 30, 2011
(WITH SUMMARIZED COMPARATIVE AMOUNTS FOR JUNE 30, 2010)

	General	ACTIA Capital Projects	ACTA Capital Projects
Assets			
Cash and investments	\$15,461,728	\$73,040,308	\$169,760,525
Receivables			
Sales tax	789,579	6,719,413	
Accrued interest		62,222	26,061
Other governments			
Other	176,518	254,550	80,867
Advances to other governments			5,000,000
Due from other funds	79,494	6,944,618	
Due from employee benefits trust	14,724		
Land held for resale		175,000	4,068,000
Other assets	73,287		5,757
Capital assets, depreciable, net of accumulated depreciation			
Total assets	<u>\$16,595,330</u>	<u>\$87,196,111</u>	<u>\$178,941,210</u>
Liabilities and Fund Balances			
Liabilities			
Accounts payable	\$587,591	\$719,618	\$7,394,607
Due to other funds	3,308		7,015,369
Due to other governments			
Compensated absences			
Net OPEB obligations - due in more than one year			
Total liabilities	<u>590,899</u>	<u>719,618</u>	<u>14,409,976</u>
Fund balances:			
Restricted		86,476,493	164,531,234
Unassigned	16,004,431		
Total fund balances	<u>16,004,431</u>	<u>86,476,493</u>	<u>164,531,234</u>
Total liabilities and fund balances	<u>\$16,595,330</u>	<u>\$87,196,111</u>	<u>\$178,941,210</u>

Net Assets:

Invested in capital assets
Restricted

Total net assets

Amounts reported for governmental activities in the statement of net assets are different because:

- (1) - Capital assets used in governmental activities are not financial resources and therefore are not reported in the funds.
- (2) - Compensated absences are considered long term and therefore are not recorded in the governmental funds.
- (3) - OPEB obligations are considered long term and therefore are not recorded in the governmental funds.
- (4) - At the fund level, expenditures are recorded when due, while at the entity wide level, expenses are recorded when incurred.
- (5) - Revenues are not currently available at the fund level and therefore not recorded in the governmental funds level.

See accompanying notes to financial statements

Statement of Net Assets				
Special Revenue	2011 Total		2011 Total	2010 Total
\$15,897,097	\$274,159,658		\$274,159,658	\$301,110,321
10,037,209	17,546,201		17,546,201	15,131,509
	88,283		88,283	96,890
				1,302,444
830	512,765	(5)	10,000,000	1,960,599
	5,000,000		5,000,000	7,040,370
	7,024,112		(7,024,112)	
	14,724		14,724	22,767
	4,243,000		4,243,000	4,068,000
	79,044		79,044	64,264
		(1)	\$43,076	53,426
<u>\$25,935,136</u>	<u>\$308,667,787</u>		<u>\$311,686,751</u>	<u>\$330,850,590</u>
\$16,003,059	\$24,704,875	(4)	33,491,509	58,196,384
\$5,435	7,024,112		(7,024,112)	\$26,702,377
				\$1,302,441
		(2)	69,270	70,804
		(3)	75,863	55,204
<u>16,008,494</u>	<u>31,728,987</u>		<u>26,612,530</u>	<u>28,130,826</u>
9,926,642	260,934,369		(260,934,369)	
	16,004,431		(16,004,431)	
<u>9,926,642</u>	<u>276,938,800</u>		<u>(276,938,800)</u>	
<u>\$25,935,136</u>	<u>\$308,667,787</u>			
			43,076	53,426
			253,302,158	302,666,338
			<u>\$253,345,234</u>	<u>\$302,719,764</u>

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY
STATEMENT OF GOVERNMENTAL FUND REVENUES, EXPENDITURES, AND CHANGES
IN FUND BALANCE / STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2011
(WITH SUMMARIZED COMPARATIVE AMOUNTS FOR THE YEAR ENDED JUNE 30, 2010)

	General	ACTIA Capital Projects	ACTA Capital Projects
Revenues:			
Sales tax	\$4,742,726	\$40,361,087	
Investment income	124,287	459,946	\$2,512,048
Federal, state and local funds (Note 1 l)		(1,311,761)	80,867
Other income	81,013	1,245,764	
Total revenues	4,948,026	40,755,036	2,592,915
Expenditures\expenses:			
Current:			
Administration	3,566,133	758,402	1,138,161
Highways and streets		18,941,313	26,149,504
Public transit		20,954,332	
Local transportation		975,374	
Total expenditures\expenses	3,566,133	41,629,421	27,287,665
Excess of revenues over expenditures	1,381,893	(874,385)	(24,694,750)
Net change in fund balances \ net assets	1,381,893	(874,385)	(24,694,750)
Fund balances/ net assets:			
Beginning of year (restated fund balance), (Note 1k)	14,622,538	87,350,878	189,225,984
End of year	\$16,004,431	\$86,476,493	\$164,531,234

- (1) - Amounts reported for governmental activities in the statement of activities are different because:
- Governmental funds report capital outlays as expenditures. However, in the statement of activities the cost of those assets is allocated over their useful lives and reported as depreciation expense. This is the amount by which capital outlays were exceeded by depreciation in the period.
 - Changes in compensated absences.
 - Changes in post-employment benefits other than pensions.
- (2) - At the fund level, expenditures are recorded when due, while at the entity wide level, expenses are recorded when incurred.
- (3) - At the fund level, revenue that are not available currently, are not recorded when earned.

See accompanying notes to financial statements

Statement of Activities				
Special Revenue	Total	Adjustments	2011 Total	2010 Total
\$60,289,998	\$105,393,811		\$105,393,811	\$94,453,574
97,766	3,194,047		3,194,047	8,102,075
	(1,230,894) (3)	\$10,000,000	8,769,106	5,154,382
	1,326,777		1,326,777	4,239,648
60,387,764	108,683,741	10,000,000	118,683,741	111,949,679
883,298	6,345,994 (1)	29,475	6,375,469	6,661,460
	45,090,817 (2)	33,491,509	78,582,326	57,533,049
33,434,763	54,389,095		54,389,095	63,176,467
27,736,007	28,711,381		28,711,381	26,101,744
62,054,068	134,537,287	33,520,984	168,058,271	153,472,720
(1,666,304)	(25,853,546)	(23,520,984)	(49,374,530)	(41,523,041)
(1,666,304)	(25,853,546)	(23,520,984)	(49,374,530)	(41,523,041)
11,592,946	302,792,346	(72,582)	302,719,764	344,242,805
\$9,926,642	\$276,938,800	(\$23,593,566)	\$253,345,234	\$302,719,764
		(10,350)		
		1,534		
		(20,659)		
		(33,491,509)		
		10,000,000		
		(\$23,520,984)		

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY
FIDUCIARY FUNDS
STATEMENT OF NET ASSETS
JUNE 30, 2011

	Retiree Benefits Trust Fund
ASSETS	
Deposits and investments	\$909,507
Total Assets	<u>909,507</u>
LIABILITIES	
Due to ACTIA General Fund	14,724
Total Liabilities	<u>14,724</u>
NET ASSETS	
Held in trust for OPEB benefits	894,783
Total Net Assets	<u><u>\$894,783</u></u>

See accompanying notes to financial statements

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY
FIDUCIARY FUNDS
STATEMENT OF CHANGES IN FIDUCIARY NET ASSETS
FOR THE YEAR ENDED JUNE 30, 2011

	Retiree Benefits Trust Fund
ADDITIONS:	
Investment earnings	\$1,065
Total Additions	<u>1,065</u>
DEDUCTIONS:	
Benefits	14,724
Penalty for early withdrawal	<u>919</u>
Total Deductions	<u>15,643</u>
Change in Net Assets	(14,578)
Net Assets - Beginning	<u>909,361</u>
Net Assets - Ending	<u><u>\$894,783</u></u>

See accompanying notes to financial statements

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(1) Summary of Significant Accounting Policies

(a) Reporting Entity

The Alameda County Transportation Improvement Authority (ACTIA) was created by the Alameda County Board of Supervisors in 1998, to place a ballot measure to authorize the imposition of a one half of one percent sales and use tax (the sales tax) in Alameda County before Alameda County voters in June 1998. This measure did not receive two-thirds voter support. A subsequent ballot measure was placed on the November 2000 ballot, and was approved by over two-thirds of the voters. The proceeds from the sales tax are principally reserved for highway infrastructure, mass transit, local transportation, and administrative costs. The sales tax commenced April 1, 2002 and will expire on March 31, 2022.

The basic financial statements of ACTIA include all of its financial activities. ACTIA is the sole independent agency responsible for receiving and allocating funds necessary to complete the programs and was governed by an eleven-member board of elected officials from the County and local cities.

On March 25, 2010, ACTIA, the Alameda County Congestion Management Agency (ACCMA), the County of Alameda, the fourteen cities within Alameda County, the Bay Area Rapid Transit District and the Alameda-Contra Costa Transit District entered into a Joint Powers Agreement (JPA). On June 24, 2010, the Boards of ACTIA and ACCMA gave the final approval which created a joint powers agency, pursuant to the California Joint Exercise of Powers Act, known as the Alameda County Transportation Commission (Alameda CTC).

The Alameda CTC is the successor agency of ACCMA, ACTIA and ACTA, and has all the functions and responsibilities of such agencies along with certain additional powers as described in the JPA. On June 24, 2010, the Alameda County Transportation Authority (ACTA) Board adopted the resolution to transfer all of ACTA's assets, responsibilities, functions and liabilities to ACTIA, effective on July 1, 2010. The ACTA Board also adopted the resolution that ACTA be dissolved, terminated and extinguished effective July 1, 2010, following the transfer. Effective on July 1, 2010, ACTA transferred to ACTIA net assets in the amount of \$189, 243,754.

The Alameda County Transportation Authority (ACTA) was created by the approval of Measure B by Alameda County, California (the County) voters in November 1986. Measure B authorized the imposition of a one-half of one percent sales and use tax (the sales tax) in the County, the proceeds of which are principally reserved for highway improvements, local transportation improvements, and transit funding (collectively, the programs) in the County. The sales tax commenced April 1, 1987 and expired on March 31, 2002. ACTA was responsible for completing all of the projects in the expenditure plan adopted by voters, or to delegate this responsibility. Revenues from interest on the fund balance are estimated to cover all future administrative costs. ACTA was the sole independent Authority responsible for receiving and allocating funds from the 1986 Measure B necessary to complete the program.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

Summary of Significant Accounting Policies (Continued)

The prior year summarized comparative information presented in the *Balance Sheets / Statement Of Net Assets* and *Statement Of Governmental Fund Revenues, Expenditures, And Changes In Fund Balance / Statement Of Activities* included Alameda County Transportation Authority's (ACTA's) June 30, 2010 financial statements.

(b) Government-Wide and Fund Financial Statements

The fund financial statements (i.e., balance sheet and statement of governmental fund revenues, expenditures, and changes in fund balance) and government-wide financial statements (i.e., statement of net assets and the statement of activities) have been combined, as prescribed in Governmental Accounting Standards Board (GASB) statement number 34, as it applies to special purpose entities. ACTIA meets the definition of a special purpose entity. These statements report information on all of the non-fiduciary activities of ACTIA.

(c) Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The government-wide financial statements are reported using the *economics resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Sales tax revenues are recorded when the tax is due to the State Board of Equalization. Grants and similar items recognized as revenue as soon as all eligibility requirements have been met.

Governmental fund financial statements are reported using the current *financial resources measurement focus* and the *modified accrual basis of accounting*. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectable within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, ACTIA considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting.

Sales taxes, local matching revenue, and investment income (including the change in the fair value of investments) associated with the current year fiscal period are all considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period using the modified accrual basis of accounting as described above.

Fiduciary funds are accounted for using the flow of economic resources measurement focus and the accrual basis of accounting. Fiduciary funds are excluded from the government-wide financial statements because they do not represent resources of ACTIA.

ACTIA reports the following major governmental funds:

The *general fund* is ACTIA's primary operating fund. It accounts for all financial resources of ACTIA, except those required to be accounted for in another fund. A total of 4.5% net revenues has been allocated for administration of this Measure B sales tax program. Administration costs include salaries, benefits, professional fees, rent expense, office supplies and equipment, utilities and other cost that cannot be specifically identified with another fund. The salaries and benefits of ACTIA's staff are limited by Measure B to 1% of sales tax revenue. Revenues in excess of administrative expenditures in any one year are reserved for future administrative costs.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(1) Summary of Significant Accounting Policies (Continued)

The *ACTIA capital projects fund* accounts for resources accumulated and payments made for the acquisition or construction of major capital improvements in accordance with the Alameda County 20-Year Transportation Expenditure Plan. ACTIA does not retain ownership of these improvements. They are transferred to the sponsor or managing jurisdiction after completion.

The *ACTA capital projects fund* accounts for the construction of major capital improvements in accordance with the November 1986 Measure B program. ACTIA does not retain ownership of these capital improvements. They are transferred to the sponsor or managing jurisdiction after completion.

(c) Measurement Focus, Basis of Accounting, and Financial Statement Presentation (Continued)

The *special revenue fund* accounts for resources accumulated as required by Measure B for restricted allocation to local cities and the County of local transportation improvements, including streets and roads, and to transit agencies for operations and maintenance.

The *fiduciary fund* reporting focuses on net assets and changes in net assets. Trust funds are used to account for the assets held by ACTIA under a trust agreement for individuals, private organizations, or other governments and are therefore, not available to support ACTIA's own programs. ACTIA's fiduciary fund is a trust fund which accounts for the Retiree Medical Benefits and allocated sources to provide medical benefits for retirees.

The effect of interfund balances has been eliminated from the government-wide financial statements.

When both restricted and unrestricted resources are available for use, it is ACTIA's policy to use restricted resources first, then unrestricted resources as they are needed.

(d) Budgetary Data

Following a public meeting, ACTIA adopts an annual budget for all governmental fund types to be effective July 1 for the ensuing fiscal year. From the effective date of the budget, which is adopted and controlled at the program level, the amounts stated therein as proposed expenditures become appropriations to the various programs. ACTIA approves all transfers between expenditure objects and overall budget modifications during the year as needed. For the capital projects fund, ACTIA annually approves individual project budgets (strategic plan), detailed by component functions. The Executive Director or designee approves reimbursements to the project sponsors, and reimbursements are not to exceed contract and strategic plan limits. Annual budgets are adopted on a basis consistent with generally accepted accounting principles.

(e) Deposits and Investments

ACTIA's cash and investments are maintained in custodial investment accounts managed by independent investment advisors, and the California State Treasurers. ACTIA generally holds investments until maturity. All cash and investments of ACTIA are restricted as to the investment options as specified in the State government code and investment policy.

ACTIA's investments are stated at fair value. Fair value has been obtained by using market quotes as of June 30, 2011 and reflects the values as if ACTIA were to liquidate the securities on that date. Money market investments are valued at amortized cost, which approximates market value.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(1) Summary of Significant Accounting Policies (Continued)

(f) Capital Assets

Capital assets, which include leasehold improvements and office furniture and equipment, are reported in the government-wide financial statements. Capital assets are defined by ACTIA as assets with an initial, individual cost of \$5,000 or more and an estimated useful life in excess of one year. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at the estimated fair market value at the date of donation. The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend assets lives are not capitalized.

Capital assets of ACTIA are depreciated using the straight-line method over the following estimated useful lives:

	<u>Years</u>
Office Furniture and Equipment	5
Computer Equipment	3
Leasehold Improvements	7

(g) Land Held for Resale

Land held for resale is stated at the lower of historical cost or net realizable value.

(h) Compensated Absences

It is ACTIA's policy to permit employees to accumulate earned but unused vacation and sick pay benefits. Unused vacation and sick leave may be accumulated up to a specific maximum. ACTIA is not obligated to pay for unused sick leave if an employee terminates employment prior to retirement or prior to when ACTIA ceases operations.

Compensated absences activity was as follows for the year ended June 30, 2011:

Beginning Balance	\$70,804
Additions	60,465
Payments	<u>(61,999)</u>
Ending Balance	<u>\$69,270</u>

(i) Interfund Transfers

Interfund transfers are generally recorded as transfers in (out) except for reimbursements for services performed, which are recorded as a reduction of expenditures in the performing fund and an expenditure of the receiving fund.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(1) Summary of Significant Accounting Policies (Continued)

(j) *Estimates and Assumptions*

The preparation of financial statements in conformity with generally accepted accounting principles (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(k) *Restatement of Beginning Fund Balance*

During the current fiscal year, ACTIA determined that a land parcel in the amount of \$4,068,000 that was previously recorded as a capital asset should have been recorded as a land held for resale in the ACTA Capital Projects Fund. As required by generally accepted accounting principles, ACTIA increased ACTA Capital Projects Fund beginning fund balance by \$4,068,000; and reduced beginning capital assets by the same amount. This restatement had no beginning net assets effect.

(l) *ACTIA Capital Projects Fund Revenue*

The ACTIA Capital Projects Fund negative Federal, State and Local funds revenue amount of \$1.3 million is the result of adjustments in the amount of \$0.9 million for fiscal 2009 and \$1.0 million for fiscal 2010. These amounts were originally booked as federal and state revenues in the respective fiscal years, however they were received in relation to an exchange agreement with the Alameda County Congestion Management Agency's (ACCMA) Exchange Program and the equivalent amount in Local funds was intended to be returned to the ACCMA. These funds were paid to the ACCMA per the agreement in FY 2011.

(2) Deposits and Investments

Summary of Deposits and Investments

Deposits and investments as of June 30, 2011, are classified in the accompanying financial statements as follows:

Governmental Activities	\$274,159,658
Fiduciary Funds	<u>909,507</u>
Total Deposits	<u>\$275,069,165</u>

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS JUNE 30, 2011

(2) Deposits and Investments (Continued)

Deposits and investments as of June 30, 2011, consist of the following:

Cash on hand and in banks	\$6,798,784
Cash in bank - Fiduciary Fund	909,507
Investments	<u>267,360,874</u>
Total Deposits and Investments	<u>\$275,069,165</u>

Policies and Practices

ACTIA is authorized under California Government Code or the Entity's investment policy, when more restrictive, to make direct investments in local agency bonds, notes, or warrants within the State; U.S. Treasury instruments; registered State warrants or treasury notes; securities of the U.S. Government, or its agencies; bankers acceptances; commercial paper; certificates of deposit placed with commercial banks and/or savings and loan companies; repurchase or reverse repurchase agreements; medium term corporate notes; shares of beneficial interest issued by diversified management companies, certificates of participation, obligations with first priority security; and collateralized mortgage obligations.

General Authorizations

Limitations as they relate to interest rate risk, credit risk, and concentration of credit risk are indicated in the schedules below:

Authorized Investment Type	Maximum Remaining Maturity	Maximum Percentage of Portfolio	Maximum Investment In One Issuer	Minimum Credit Quality
Local Agency Bonds, Notes, Warrants	5 years	10%	5%	Aa
Registered State Bonds, Notes, Warrants	5 years	10%	5%	Aa
U.S. Treasury Obligations	5 years	None	None	None
U.S. Agency Securities	5 years	None	35%	Aaa
Banker's Acceptance	180 days	40%	5%	A1
Commercial Paper	270 days	25%	5%	A1
Negotiable Certificates of Deposit	3 years	30%	5%	Aa
Repurchase Agreements	90 days	20%	None	None
Medium-Term Notes	5 years	30%	5%	Aa
Money Markets	N/A	20%	5%	Aaa
County Pooled Investment Funds	N/A	None	None	None
Local Agency Investment Fund (LAIF)	N/A	None	None	None

Policy also dictates that a maximum of 5% of total portfolio can be deposited with the California Asset Management Program (CAMP)

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(2) Deposits and Investments (Continued)

Interest Rate Risk

Interest rate risk is the risk that changes in market interest rates will adversely affect the fair value of an investment. Generally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates. ACTIA manages its exposure to interest rate risk by purchasing a combination of shorter term and longer term investments and by timing cash flows from maturities so that a portion of the portfolio is maturing or coming close to maturity evenly over time as necessary to provide the cash flow and liquidity needed for operations.

Information about the sensitivity of the fair values of ACTIA's investments to market interest rate fluctuation is provided by the following schedule that shows the distribution of ACTIA's investment by maturity.

Investment Type	12 Months or less	13 to 24 Months	25 to 60 Months	Total
U.S. Agency Securities:				
Non-Callable	\$49,033,163	\$54,289,324	\$13,662,609	\$116,985,096
Callable	1,759,073			1,759,073
U.S. Treasury Bonds	31,365,163	2,802,468		34,167,631
Corporate Notes	28,476,535	8,924,059		37,400,594
Money Market Mutual Funds	4,327,008			4,327,008
California Local Agency Investment Fund	72,721,472			72,721,472
Total Investments	187,682,414	66,015,851	13,662,609	267,360,874
Cash in Bank	7,708,291			7,708,291
Total Cash and Investments	\$195,390,705	\$66,015,851	\$13,662,609	\$275,069,165

ACTIA is a participant in the Local Agency Investment Fund (LAIF) that is regulated by California Government Code Section 16429 under the oversight of the Treasurer of the State of California. ACTIA reports its investment in LAIF at the fair value amount provided by LAIF, which is the same as the value of the pool share. The balance is available for withdrawal on demand, and is based on the accounting records maintained by LAIF, which are recorded on an amortized cost basis. Included in LAIF's investment portfolio are collateralized mortgage obligations, mortgage-backed securities, other asset-backed securities, loans to certain state funds, and floating rate securities issued by federal agencies, government-sponsored enterprises, United States Treasury Notes and Bills, and corporations. At June 30, 2011, these investments matured in an average of 237 days.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(2) Deposits and Investment (Continued)

Credit Risk

Credit risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measure by the assignment of a rating by a nationally recognized statistical rating organization. Presented below is the minimum rating required by the California Government Code, ACTIA's investment policy and the actual S & P rating as of the year-end for each investment type.

Investment Type	AAA	AA+	AA-	A+	Not Rated	Total
U.S. Agency Securities:						
Non-Callable	\$103,155,581			\$13,829,515		\$116,985,096
Callable	1,759,073					1,759,073
U.S. Treasury Bonds	\$34,167,631					34,167,631
Corporate Notes	32,454,744	\$2,276,166	\$2,669,684			37,400,594
Money Market Mutual Funds	4,327,008					4,327,008
California Local Agency Investment					\$72,721,472	72,721,472
Totals Investments	<u>175,864,037</u>	<u>2,276,166</u>	<u>2,669,684</u>	<u>13,829,515</u>	<u>72,721,472</u>	<u>267,360,874</u>
Cash in Bank					7,708,291	7,708,291
Total Cash and Investments					<u>\$80,429,763</u>	<u>\$275,069,165</u>

Concentration of Credit Risk

The investment policy of ACTIA contains limitations on the amount that can be invested in any one issuer beyond the amount stipulated by the California Government code. Investments in any one issuer (other than U.S Treasury securities, mutual funds and external investment pools) that represent five percent (5%) or more of the total investments are as follows:

Issuer	Investment Type	Reported Amount
Federal Home Loan Bank	Federal Agency Securities	\$41,655,301
Federal Home Loan Mortgage Corp	Federal Agency Securities	33,420,264
Federal National Mortgage Assoc	Federal Agency Securities	18,917,023
Federal Farm Credit Bank	Federal Agency Securities	13,641,740

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(2) Deposits and Investment (Continued)

Custodial Credit Risk - Deposits

Custodial credit risk for deposits is the risk that, in the event of a bank failure, ACTIA may not be able to recover its deposits. ACTIA's policy, as well as the California Government Code, requires that a financial institution secure deposits made by state or local governmental units by pledging securities in an undivided collateral pool held by a depository regulated under state law (unless so waived by the governmental unit). The market value of the pledged securities in the collateral pool must equal at least 110% of the total amount deposited by the public agency. California law also allows financial institutions to secure public deposits by pledging first trust deed mortgage notes having a value of 150% of the secured public deposits and letters of credit issued by the Federal Home Loan Bank of San Francisco having a value of 105% of the secured deposits. As of June 30, 2011, ACTIA's bank balance of \$1,614,846 with a reported balance of \$6,798,534 is collateralized with securities held by the pledging financial institution's trust department or agent, but not in the name of ACTIA.

Custodial Credit Risk Deposits – Retiree's Health Benefit Trust Fund Deposits with Financial Institutions

Custodial credit risk for deposits with financial institutions is the risk that in the event of a bank failure, the Retiree Health Benefit Trust Fund may not be able to recover its deposits. Although the Retiree Health Insurance Trust Fund does not have its own investment policy, there are securities available as pledged collateral for the retirement fund for the Retiree Health Insurance Trust Fund's Deposits of \$909,508 with a financial institution.

Custodial Credit Risk – Investments

This is the risk that, in the event of the failure of the counterparty (e.g., broker-dealer) to a transaction, ACTIA will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. It is ACTIA's policy that all securities held, be secured through third-party custody and safekeeping.

Local Agency Investment Fund

ACTIA is a voluntary participant in the Local Agency Investment Fund (LAIF) which is regulated by California government code Section 16429 under the oversight of the Treasurer of the State of California. The fair value of ACTIA's investment in the pool is reported in the accompanying financial statement at amounts based upon ACTIA's pro-rata share of the fair value provided by LAIF for the entire LAIF portfolio (in relation to the amortized cost of that portfolio). The balance available for withdrawal is based on the accounting records maintained by LAIF, which is recorded on the amortized cost basis.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(2) Deposits and Investment (Continued)

S&P Downgrade

On August 5, 2011, Standard & Poor's Ratings Services (S&P) lowered its long-term credit rating on the United States of America from AAA to AA+. At the same time, S&P affirmed its A-1+ short-term rating on the United States of America.

On August 8, 2011, S&P lowered its issuer credit ratings and related issue ratings on ten of twelve Federal Home Loan Banks (FHLBs) and the senior debt issued by the FHLB System from AAA to AA+. S&P also lowered the ratings on the senior debt issued by the Federal Farm Credit Banks (FFCB) from AAA to AA+, and lowered the senior issue ratings on Fannie Mae (FNMA) and Freddie Mac (FHLMC) from AAA to AA+. The A subordinated debt rating and the C rating on the preferred stock of these entities remained unchanged. Finally, S&P affirmed the short-term issue ratings for these entities at A-1+. As of June 30, 2011, ACTIA investments in these agencies that were subject to the downgrade were as follows:

	Amount
FFCB	\$13,641,740
FHLB	41,655,301
FHLMC	33,420,264
FNMA	18,917,023

On August 8, 2011, S&P also lowered the ratings on 126 Federal Deposit Insurance Corporation-guaranteed debt issues from thirty financial institutions that are under the Temporary Liquidity Guarantee Program (TLGP), and four National Credit Union Association-guaranteed debt issues from two corporate credit unions under the Temporary Corporate Credit Union Guarantee Program (TCCUGP) from AAA to AA+. As of June 30, 2011, ACTIA investments in these institutions that were subject to the downgrade were as follows:

	Amount
American Express Bank	\$735,648
Bank of America Corp	4,012,050
GE Capital Corporation	5,244,614
Goldman Sachs	2,882,621
HSBC Bank	735,697
JP Morgan Chase	4,347,874
Morgan Stanley	1,010,713
US Bank Corporation	4,528,117
Wells Fargo & Company	2,669,685
Citibank NA	3,017,915
Sovereign Bank	1,025,713
John Deere	2,104,067
PNC Funding Corporation	2,398,690

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS JUNE 30, 2011

(3) Advances to Other Governments

ACTIA advanced \$25 million of public transit program funds to Alameda-Contra Costa Transit Agency (AC Transit) in 2006. The advance had a variable interest rate, which was adjusted monthly, based on LAIF plus one percent. During the fiscal year ended on June 30, 2009, the loan agreement was amended where \$10 million of loan was paid down. The amended loan carries an interest rate of 6% and another 1% for administrative fees. The loan was due on or before December 31, 2010. The balance of \$7,026,908.74 was paid in full on August 8, 2010.

(4) Capital Assets

(a) Capital Assets – Governmental Activities

A summary of changes in capital assets recorded in governmental activities follows:

	June 30, 2010 (as restated)	Additions	June 30, 2011
Capital assets being depreciated:			
Furniture, equipment and leasehold improvement	\$189,007	\$10,000	\$199,007
Less accumulated depreciation for:			
Furniture, equipment and leasehold improvement	(135,581)	(20,350)	(155,931)
Governmental activities capital assets, net	<u>\$53,426</u>	<u>(\$10,350)</u>	<u>\$43,076</u>

(b) Depreciation Expense

Depreciation expense of \$20,350 was charged to the Administrative function of ACTIA during the year ended June 30, 2011.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS JUNE 30, 2011

(5) Commitments and Contingent Liabilities

(a) *Agreements with Engineering Firms*

ACTIA has entered into contracts with various private engineering firms to provide scoping/planning, engineering, environmental, design, right-of-way engineering and acquisition, and construction management services. As of June 30, 2011, the total outstanding commitments (not paid or accrued) are \$49.794 million. The terms range from June 30, 2011 to up to five years (or acceptance of the phase of work, whichever is earlier).

(b) *Agreements with Project Sponsors*

ACTIA has entered into contracts with various project sponsors to provide scoping/planning, engineering, environmental, design, right-of-way engineering and acquisition, construction management and equipment purchase services. As of June 30, 2011, the total outstanding commitments (not paid or accrued) are \$111.189 million. The terms range from June 30, 2011 to seven (or acceptance of the phase of work, whichever is earlier).

(c) *Operating Lease Commitments*

ACTIA has entered into an operating lease agreement with CIM/Oakland 1333 Broadway LP for rental of facilities with commitments through November 2013. Future minimum rental payments are as follows:

Year Ending June 30	Lease Payments
2012	\$371,325
2013	382,593
2014	161,370
Total	<u>\$915,288</u>

ACTIA has entered into sublease agreements for rental of facilities with Acumen Building Enterprise, Inc. (\$1,070.00 per month), Nelson\Nygaard Consulting Associates (\$745.00 per month), Rochelle Wheeler (\$417.00 per month), and L. Luster and Associates (\$274.00 per month) effective from July 1, 2011. Under a new sublease agreement with Moffatt & Nichol, entered into on July 1, 2011, ACTIA will receive a monthly rent of \$3,500.00. These sublease agreements are month-to-month tenancy and are terminable for any reason whatsoever on 30 days written notice given at any time by either party.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(5) Commitments and Contingent Liabilities (Continued)

(d) Insurance, Claims and Litigation

ACTIA is exposed to various risks of loss related to torts: thereof, damage to, and destruction of assets; errors and omissions; and natural disasters. ACTIA has purchased commercial insurance coverage for general liability, worker's compensation, directors and officers liability, automobile liability, and property coverage. The amounts of settlements for the past three fiscal years have not exceeded insurance coverage.

Type of Claim	Coverage Limits	Deductible
General Liability - Aggregate	\$2,000,000	\$1,000
Workers' Compensation	1,000,000	0
Directors & Officers	2,000,000	25,000
Automobile	1,000,000	1,000
Business Personal Property	200,000	1,000
Excess Liability	4,000,000	10,000
Commercial Crime	10,000,000	75,000

(6) Retirement Plan

Plan Description – ACTIA is part of the miscellaneous 2.5% at 55 risk pool, a cost-sharing multiple-employer defined benefit plan. All employees are eligible to participate in the Public Employees' Retirement Fund (the Fund) of the California Public Employees' Retirement System (CalPERS). The Fund is an agent multiple-employer defined benefit retirement plan that acts as a common investment and administrative agent for various local and state governmental agencies within the State of California. The Fund provides retirement, disability, and death benefits based on the employee's years of service, age and final compensation. Employees vest after five years of service and may receive retirement benefits at age 50. These benefit provisions and all other requirements are established by State statute. CalPERS issues a publicly available financial statement report. The CalPERS Comprehensive Annual Financial Report may be obtained by writing the State of California's Public Employees' Retirement System at P.O. Box 942709, Sacramento, California 94229-2709.

Funding Policy – The total payroll for ACTIA for the fiscal year ended June 30, 2011 was \$968,105 which approximates covered payroll for employees participating in the Fund. ACTIA, due to a benefits resolution, has an obligation to contribute 7% for covered employees and employees contribute 1%, which represent the employee's required contribution. ACTIA is required to contribute at an actuarially determined rate. The average rate for the year ended June 30, 2011 was 10.263% of covered payroll.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS JUNE 30, 2011

(6) Retirement Plan (Continued)

Annual Pension Cost – ACTIA’s annual pension costs was equal to the required contribution, which was determined as part of an actuarial valuation performed as of June 30, 2009, using the entry age normal cost method. The significant actuarial assumptions used in the valuation were an assumed rate of return on investment assets of 7.75%, projected salary increases ranging from 3.25% to 14.45%, annual payroll growth of 3.25% and inflation of 3.0%. The actuarial value of assets was determined using techniques that smooth the effects of short-term market value fluctuations over a fifteen-year period.

Three Year Trend Information - The following table shows ACTIA’s required contributions and percentage contributed, for the current year and each of the preceding two years.

Valuation Date	Annual Pension Cost (APC)	Percentage of APC Contributions	Net Pension Obligation
06/30/09	\$178,821	100%	\$0
06/30/10	176,843	100%	0
06/30/11	163,942	100%	0

As required by new State law, effective July 1, 2005, ACTIA’s Miscellaneous Plan was terminated, and the employees in the plan were required by CALPERs to join a new State-wide pool. One of the conditions of entry to these pools was that ACTIA true-up any unfunded liability in the former Plan, either by paying cash or by increasing its future contribution rates through a Side Fund offered by CALPERs.

Three-year historical trend information is presented below:

State-wide Pool Miscellaneous Plan:

Valuation Date	Entry Age Accrued Liability	Actuarial Value of Assets	Unfunded (Overfunded) Liability	Funded Ratio	Annual Covered Payroll	Unfunded (Overfunded) Liability as % of Payroll
2007	1,315,454,361	1,149,247,298	166,207,063	87.4%	289,090,187	57.5%
2008	1,537,909,933	1,337,707,835	200,202,098	87.0%	333,307,600	60.1%
2009	1,834,424,640	1,493,430,831	340,993,809	81.4%	355,150,151	96.0%

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(7) Other Postemployment Benefits (OPEB)

Plan Description

Employees hired prior to November 1, 2004 - Employees who retire from ACTIA and are eligible to immediately receive a pension from CalPERS are eligible to receive a portion of the cost of the monthly premium for health coverage through the CalPERS medical program. The benefit provided by ACTIA is for the retiree only. It continues until the retiree dies. ACTIA will contribute the lesser of the premium rate for the plan selected by the retiree and the Kaiser Employee only/Early Retiree premium rate. Retirees must contribute the entire cost of spousal and dependent child coverage.

Employees hired November 1, 2004 and later - Eligibility for postretirement health coverage through ACTIA will be determined by a vesting schedule. An employee will vest 50% after five years of service with ACTIA. After five years of service with ACTIA, credit will be given for any prior years of PERS service that the employee may have earned with another employer. The employee will vest an additional 5% for each year of service thereafter, up to a maximum of 100%. The benefit provided by ACTIA is for the retiree only. It continues until the retiree dies. ACTIA will contribute the lesser of the premium rate for the plan selected by the retiree and the vested percentage of the weighted average Employee only premium rate based on the enrollment of all active employees.

Employees will be considered 100% vested after 15 years of service with ACTIA, regardless of the number of days after separation from employment.

Retirees must contribute the entire cost of spousal and dependent child coverage

The plan is authorized under the Board Resolution 04-0054. ACTIA reports the financial activity of the Plan as a trust/ agency fund, and no separate financial report is prepared. Membership of the Plan consisted of the following:

Retirees receiving benefits	5
Active plan members	<u>6</u>
Total	<u><u>11</u></u>

Funding Policy - The contribution requirements of ACTIA and the plan members are established and may be amended by the Governing Board. The required contribution is based on the single party Kaiser premium available through the California PERS medical program. During the year ended June 30, 2011, ACTIA contributed \$0. ACTIA's Retiree Benefit Trust Fund is overfunded as of June 30, 2011, based on the last actuarial valuation.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(7) Other Postemployment Benefits (OPEB) (Continued)

Annual Post Retirement Benefit Costs and Net Post Retirement Benefit Obligations - ACTIA's annual other post retirement benefit (OPEB) obligation cost is calculated based on the annual required contribution (ARC) of the employer, an amount actuarially determined in accordance with the parameters of GASB Statement No. 45. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities over a period not to exceed thirty years. The following tables show the ARC of ACTIA, the components of ACTIA's annual OPEB costs for the year, the amount actually contributed to the Plan, and the changes in ACTIA's net post retirement benefit cost obligation to the Plan.

Normal Cost at Year End	\$37,762
Amortization of UAAL	(16,093)
Annual required contribution (ARC)	21,669
Interest on Prior Year Net OPEB Obligation	2,760
Adjustment to ARC	(3,770)
Annual OPEB Cost	20,659
Contributions made	0
Increase (Decrease) in Net OPEB Obligation	20,659
Net OPEB Obligation - Beginning of Year	55,204
Net OPEB Obligation - End of Year	\$75,863

The annual OPEB cost, the percentage of annual OPEB cost contributed to the Plan, and the net OPEB obligation for 2011 were as follows:

Fiscal Year	Annual OPEB Cost	Actual Contribution	Percentage of ARC Contributed	Net OPEB Obligation (Asset)
6/30/09	\$19,572	\$0	0%	\$37,351
6/30/10	17,853	\$0	0%	55,204
6/30/11	20,659	\$0	0%	75,863

Funded Status and Funding Progress

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the profitability of occurrence of events far into the future. Examples include assumptions about future employment, mortality and the healthcare cost trend. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimated are made about the future. The schedules of funding progress and employer's contributions are presented as required supplementary information following the notes to the financial statements. The schedule of funding progress presents information on the actuarial value of plan assets relative to the actuarial accrued liabilities for benefits. The schedule provides multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for the benefits.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(7) Other Postemployment Benefits (OPEB) (Continued)

Funded Status and Funding Progress (Continued)

Actuarial Method and Assumptions - Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and plan members) and include the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefits costs between the employer and the plan members to that point. The actuarial methods and assumptions used included techniques that are designed to reduce the effects of short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long term perspective of the calculations.

The actuarial cost method used for determining the benefit obligations is the Projected Unit Credit Actuarial Cost Method. Under the PUC cost method the actuarial present value of projected benefits is allocated ratably over the service of individuals between entry age and the assumed exit age(s). In this valuation each individual's attribution period extends from hire date to estimated retirement date. The actuarial assumptions included a 5% discount rate and 5% investment rate of return. The retirement, mortality and termination rates used in this valuation are used in California PERS pension valuations. The actuarial valuation assumed that the annual health care cost trend rates will decrease gradually from the relatively high rate of annual increase in the past, depending on the age of the employee and the year being projected. See table below for medical trend rates assumptions. The health care cost long-term annual expected rate of increase is in the 5% to 6% range, leading to 5.5% long term rate.

<u>Calendar Year</u> <u>Beginning January</u>	<u>Estimated</u> <u>Increase</u>
2011	7.9%
2012	7.6%
2013	7.3%
2014	7.0%
2015	6.7%
2016	6.4%
2017	6.1%
2018	5.8%
2019 & thereafter	5.5%

The UAAL is being amortized as a level dollar method on a closed basis over 30 years. Any administrative fees other than those included in the monthly premium rates are not included in the actuarial valuation. The actuarial valuation also does not include any liability estimates for future hires.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(7) Other Postemployment Benefits (OPEB) (Continued)

OPEB Schedule of Funding Progress

The table below presents multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability for benefits.

Actuarial	Actuarial	Unfunded	Annual	UAAL As a
Valuation Date	Liability (AAL)	Value of Assets	Accrued	Percentage of
	(a)	(b)	UAAL	Covered Payroll
		(a) - (b)	Status	[(a)-(b)]/(c)
		(b)/(a)	(c)	
6/30/2008	\$610,469	\$921,678	(\$311,209)	151.0%
6/30/2009	665,583	923,339	(257,756)	138.7%
6/30/2010	718,209	953,857	(235,648)	132.8%

(8) Related Party Loan Receivable

On March 24, 2011, the Alameda County Transportation Commission (CTC) Board agreed to loan \$5 million of ACTA funds to address Alameda County Congestion Management Agency's (ACCMA) current funding needs. The Alameda CTC Board further authorized ACCMA to borrow up to an additional \$20 million of ACTA funds, on an as needed basis, pursuant to the terms and conditions stated in the loan agreement. No interest is due on the loan amounts.

(9) Net Assets and Fund Balances

Net Assets

Net Assets is the excess of all ACTIA's assets over all its liabilities, regardless of fund. Net Assets are divided into three captions. These captions apply only to Net Assets, which is determined only at the Government-wide level, and are described below:

Invested in Capital Assets describes the portion of Net Assets which is represented by the current net book value of ACTIA's capital assets.

Restricted describes the portion of Net Assets which is restricted as to use by the terms and conditions of agreements with outside parties, governmental regulations, laws, or other restrictions which ACTIA cannot unilaterally alter.

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS JUNE 30, 2011

(9) Net Assets and Fund Balances (Continued)

Detailed classifications of ACTIA's Fund Balances, as of June 30, 2010, are below:

	General Fund	ACTIA Capital Projects Fund	ACTA Capital Projects Fund	Special Revenue Fund	Total
Fund balances:					
Restricted for:					
ACTIA Capital Projects		\$86,476,493			\$86,476,493
ACTA Capital Projects			\$164,531,234		164,531,234
Express Bus				\$1,960,829	1,960,829
Service Gap				2,342,131	2,342,131
Regional Bike and Pedestrian				4,389,966	4,389,966
Transit-Oriented Development				1,233,451	1,233,451
Program Distributions				265	265
Unassigned	\$16,004,431				16,004,431
Total fund balances	<u>\$16,004,431</u>	<u>\$86,476,493</u>	<u>\$164,531,234</u>	<u>\$9,926,642</u>	<u>\$276,938,800</u>

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY

NOTES TO FINANCIAL STATEMENTS

JUNE 30, 2011

(9) Net Assets and Fund Balances (Continued)

Unrestricted describes the portion of Net Assets which is not restricted as to use.

Fund Balances

Governmental fund balances represent the net current assets of each fund. Net current assets generally represent a fund's cash and receivables, less its liabilities.

ACTIA's fund balances are classified in accordance with Governmental Accounting Standards Board Statement Number 54 (GASB 54), *Fund Balance Reporting and Governmental Fund Type Definitions*, which requires ACTIA to classify its fund balances based on spending constraints imposed on the use of resources. For programs with multiple funding sources, ACTIA prioritizes and expends funds in the following order: Restricted, Committed, Assigned, and Unassigned. Each category in the following hierarchy is ranked according to the degree of spending constraint:

Nonspendable represents balances set aside to indicate items do not represent available, spendable resources even though they are a component of assets. Fund balances required to be maintained intact, such as Permanent Funds, and assets not expected to be converted to cash, such as prepaids, notes receivable, and land held for redevelopment are included. However, if proceeds realized from the sale or collection of nonspendable assets are restricted, committed or assigned, then nonspendable amounts are required to be presented as a component of the applicable category.

Restricted fund balances have external restrictions imposed by creditors, grantors, contributors, laws, regulations, or enabling legislation which requires the resources to be used only for a specific purpose. Encumbrances and nonspendable amounts subject to restrictions are included along with spendable resources.

Committed fund balances have constraints imposed by formal action of the ACTIA Board which may be altered only by formal action of ACTIA's Board. Encumbrances and nonspendable amounts subject to council commitments are included along with spendable resources.

Assigned fund balances are amounts constrained by ACTIA's intent to be used for a specific purpose, but are neither restricted nor committed. Intent is expressed by the ACTIA Board or its designee and may be changed at the discretion of the ACTIA Board or its designee. This category includes encumbrances; Nonspendables, when it is ACTIA's intent to use proceeds or collections for a specific purpose, and residual fund balances, if any, of Special Revenue and Capital Projects Funds which have not been restricted or committed.

Unassigned fund balance represents residual amounts that have not been restricted, committed, or assigned. This includes the residual general fund balance and residual fund deficits, if any, of other governmental funds.

REQUIRED SUPPLEMENTARY INFORMATION

**ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY
SCHEDULE OF REVENUES, EXPENDITURES AND CHANGE
IN FUND BALANCES - BUDGET AND ACTUAL - GENERAL FUND
FOR THE YEAR ENDED JUNE 30, 2011**

	Budgeted Amounts		Actual Amounts	Variance with Final Budget- Positive (Negative)
	Original	Final		
Revenues:				
Sales tax	\$4,050,000	\$4,590,000	\$4,742,726	\$152,726
Investment income	125,196	125,196	124,287	(909)
Other	112,253	112,253	81,013	(31,240)
Total revenues	<u>4,287,449</u>	<u>4,827,449</u>	<u>4,948,026</u>	<u>120,577</u>
Expenditures:				
Current:				
Administration	<u>4,124,602</u>	<u>4,144,602</u>	<u>3,566,133</u>	<u>578,469</u>
Total expenditures	<u>4,124,602</u>	<u>4,144,602</u>	<u>3,566,133</u>	<u>578,469</u>
Excess of revenues over expenditures	<u>162,847</u>	<u>682,847</u>	<u>1,381,893</u>	<u>699,046</u>
Net change in fund balances	<u>\$162,847</u>	<u>\$682,847</u>	<u>1,381,893</u>	<u>\$699,046</u>
Beginning Fund balance			<u>14,622,538</u>	
Ending Fund balance			<u>\$16,004,431</u>	

**ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY
SCHEDULE OF REVENUES, EXPENDITURES AND CHANGE
IN FUND BALANCES - BUDGET AND ACTUAL - SPECIAL REVENUE FUND
FOR THE YEAR ENDED JUNE 30, 2011**

	Budgeted Amounts		Actual amounts	Variance with Final Budget- Positive (Negative)
	Original	Final		
Revenues:				
Sales tax	\$51,484,050	\$58,348,584	\$60,289,998	\$1,941,414
Investment income	154,092	154,092	97,766	(56,326)
Other				
Total revenues	<u>51,638,142</u>	<u>58,502,676</u>	<u>60,387,764</u>	<u>1,885,088</u>
Expenditures:				
Current:				
Administration	2,241,911	2,241,911	883,298	1,358,613
Public transit	30,388,937	33,854,128	33,434,763	419,365
Local Transportation	<u>26,424,331</u>	<u>29,414,242</u>	<u>27,736,007</u>	<u>1,678,235</u>
Total expenditures	<u>59,055,179</u>	<u>65,510,281</u>	<u>62,054,068</u>	<u>3,456,213</u>
Net change in fund balances	<u>(\$7,417,037)</u>	<u>(\$7,007,605)</u>	(1,666,304)	<u>\$5,341,301</u>
Beginning Fund balance			<u>11,592,946</u>	
Ending Fund balance			<u>\$9,926,642</u>	

OTHER SUPPLEMENTARY INFORMATION

**ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY
SCHEDULE OF SPECIAL REVENUE FUND PROJECTS AND PROGRAMS
COMBINING BALANCE SHEET**

**FOR THE YEAR ENDED JUNE 30, 2011
(WITH SUMMARIZED COMPARATIVE AMOUNTS FOR JUNE 30, 2010)**

Assets	Express Bus	Service Gap	Regional Bike and Pedestrian	Transit- Oriented Development	Program Distributions	Total	
						2011	2010
Cash and investments	\$2,208,229	\$2,403,004	\$4,949,245	\$1,222,575	\$5,114,044	\$15,897,097	\$13,069,299
Receivables							
Sales tax	117,758	239,620	209,458	31,838	9,438,535	10,037,209	8,655,898
Other receivables		830				830	1,400
Due from other governments							6,489
Total assets	2,325,987	2,643,454	5,158,703	1,254,413	14,552,579	25,935,136	21,733,086
Liabilities and Fund Balances							
Liabilities:							
Accounts payable	\$364,832	\$299,364	\$765,804	\$20,745	\$14,552,314	\$16,003,059	\$10,123,113
Due to other governments							17,027
Due to other funds	326	1,959	2,933	217		5,435	
Total liabilities	365,158	301,323	768,737	20,962	14,552,314	16,008,494	10,140,140
Fund balances:							
Restricted for:							
Transportation projects	1,960,829	2,342,131	4,389,966	1,233,451	265	9,926,642	11,592,946
Total fund balances	1,960,829	2,342,131	4,389,966	1,233,451	265	9,926,642	11,592,946
Total liabilities and fund balances	\$2,325,987	\$2,643,454	\$5,158,703	\$1,254,413	\$14,552,579	\$25,935,136	\$21,733,086

**ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY
COMBINING SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN
FUND BALANCE BY SPECIAL REVENUE FUND PROJECTS AND PROGRAMS
FOR THE YEAR ENDED JUNE 30, 2011**

	Express Bus	Service Gap	Regional Bike and Pedestrian	Transit- Oriented Development	Program Distributions	Total 2011	2010
Revenues:							
Sales tax	\$707,331	\$1,439,311	\$1,258,139	\$191,237	\$56,693,980	\$60,289,998	54,031,694
Investment income	20,301	23,725	42,965	10,775		97,766	249,554
Other governments							2,030
Total revenues	727,632	1,463,036	1,301,104	202,012	56,693,980	60,387,764	54,283,278
Expenditures:							
Administration	21,059	433,866	420,376	7,997		883,298	850,048
Public transit	1,449,441	1,315,853		235,351	30,434,118	33,434,763	32,356,795
Local transportation			1,476,188		26,259,819	27,736,007	24,576,408
Total expenditures	1,470,500	1,749,719	1,896,564	243,348	56,693,937	62,034,068	57,783,251
Excess of revenues over expenditures	(742,868)	(286,683)	(595,460)	(41,336)	43	(1,666,304)	(3,499,973)
Net change in fund balances	(742,868)	(286,683)	(595,460)	(41,336)	43	(1,666,304)	(3,499,973)
Fund balances, beginning of year	2,703,697	2,628,814	4,985,426	1,274,787	222	11,592,946	15,092,919
Fund balances, end of year	\$1,960,829	\$2,342,131	\$4,389,966	\$1,233,451	\$265	\$9,926,642	\$11,592,946

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**ALAMEDA COUNTY
TRANSPORTATION IMPROVEMENT AUTHORITY**

**MEMORANDUM ON INTERNAL CONTROL
AND
REQUIRED COMMUNICATIONS**

**FOR THE YEAR ENDED
JUNE 30, 2011**

**ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY
MEMORANDUM ON INTERNAL CONTROL
AND
REQUIRED COMMUNICATIONS**

For the Year Ended June 30, 2011

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MEMORANDUM ON INTERNAL CONTROL

October 24, 2011

To the Governing Board of
the Alameda County Transportation Improvement Authority

In planning and performing our audit of the financial statements of the Alameda County Transportation Improvement Authority (ACTIA) as of and for the year ended June 30, 2011, in accordance with auditing standards generally accepted in the United States of America, we considered ACTIA's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of ACTIA's internal control. Accordingly, we do not express an opinion on the effectiveness of ACTIA's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of ACTIA's financial statements will not be prevented, or detected and corrected on a timely basis.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weaknesses and, therefore, there can be no assurance that all such deficiencies have been identified. In addition, because of inherent limitations in internal control, including the possibility of management override of controls, misstatements due to error or fraud may occur and not be detected by such controls. We did not identify any deficiencies in internal control that we consider to be material weaknesses.

This communication is intended solely for the information and use of management, Governing Board, others within the organization, and agencies and pass-through entities requiring compliance with generally accepted government auditing standards, and is not intended to be and should not be used by anyone other than these specified parties.

REQUIRED COMMUNICATIONS

To the Governing Board of
the Alameda County Transportation Improvement Authority
Oakland, California

We have audited the financial statements of the Alameda County Transportation Improvement Authority (ACTIA) as of and for the year ended June 30, 2011 and have issued our report thereon dated October 24, 2011. Professional standards require that we advise you of the following matters relating to our audit.

Financial Statement Audit Assurance: Our responsibility, as prescribed by professional standards, is to plan and perform our audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit in accordance with generally accepted auditing standards does not provide absolute assurance about, or guarantee the accuracy of, the financial statements. Because of the concept of reasonable assurance and because we did not perform a detailed examination of all transactions, there is an inherent risk that material errors, fraud, or illegal acts may exist and not be detected by us.

Other Information Included with the Audited Financial Statements: Pursuant to professional standards, our responsibility as auditors for other information in documents containing ACTIA's audited financial statements does not extend beyond the financial information identified in the audit report, and we are not required to perform any procedures to corroborate such other information. Our responsibility also includes communicating to you any information that we believe is a material misstatement of fact. Nothing came to our attention that caused us to believe that such information, or its manner of presentation, is materially inconsistent with the information, or manner of its presentation, appearing in the financial statements. This other information and the extent of our procedures are explained in our audit report.

Accounting Policies: Management has the responsibility to select and use appropriate accounting policies. A summary of the significant accounting policies adopted by ACTIA is included in Note 1 to the financial statements. There have been no initial selections of accounting policies and no changes in significant accounting policies or their application during 2011, except noted as follows:

- **Governmental Accounting Standard Board (GASB) Statement No. 54 - Governmental Fund Balance Reporting and Governmental Fund Type Definitions**

During the year, as described in *Note 9 of the Notes to Basic Financial Statements*, ACTIA implemented GASB Statement No. 54. This Statement establishes fund balance classifications that comprise a hierarchy based primarily on the extent to which a government

is bound to observe constraints imposed upon the use of the resources reported in governmental funds.

Disclosure of the policies in the notes to the financial statements is required.

The definitions of the general fund, special revenue fund type, capital projects fund type, debt service fund type, and permanent fund type are clarified by the provisions in this Statement. Interpretations of certain terms within the definition of the special revenue fund type have been provided and, for some governments, those interpretations may affect the activities they choose to report in those funds. The capital projects fund type definition also was clarified for better alignment with the needs of preparers and users. Definitions of other governmental fund types also have been modified for clarity and consistency.

- **Governmental Accounting Standard Board (GASB) Statement No. 59 - Financial Instruments Omnibus**

The objective of this Statement is to update and improve existing standards regarding financial reporting and disclosure requirements of certain financial instruments and external investment pools for which significant issues have been identified in practice. This is a technical clean up pronouncement that had no material impact to the financial statements.

Unusual Transactions, Controversial or Emerging Areas: No matters have come to our attention that would require us, under professional standards, to inform you about (1) the methods used to account for significant unusual transactions and (2) the effect of significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

Estimates: Accounting estimates are an integral part of the financial statements prepared by management and are based on management's current judgments. Those judgments are normally based on knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ markedly from management's current judgments.

- *Estimated Fair Value of Investments:* (Note 2 to the financial statements) - As of June 30, 2011, the ACTIA held approximately \$274 million of cash and investments as measured by fair value. Fair value is essentially market pricing in effect as of June 30, 2011. These fair values are not required to be adjusted for changes in general market conditions occurring subsequent to that date.

Disagreements with Management: For purposes of this letter, professional standards define a disagreement with management as a matter, whether or not resolved to our satisfaction, concerning a financial accounting, reporting, or auditing matter that could be significant to ACTIA's financial statements or the auditor's report. No such disagreements arose during the course of the audit.

Management informed us that, and to our knowledge, there were no consultations with other accountants regarding auditing and accounting matters.

Retention Issues: We did not discuss any major issues with management regarding the application of accounting principles and auditing standards that resulted in a condition to our retention as ACTIA's auditors.

Difficulties: We encountered no serious difficulties in dealing with management relating to the performance of the audit.

Audit Adjustments: For purposes of this communication, professional standards define an audit adjustment, whether or not recorded by ACTIA, as a proposed correction of the financial statements that, in our judgment, may not have been detected except through the audit procedures performed. These adjustments may include those proposed by us but not recorded by ACTIA that could potentially cause future financial statements to be materially misstated, even though we have concluded that the adjustments are not material to the current financial statements.

We did not propose any audit adjustments that, in our judgment, could have a significant effect, either individually or in the aggregate, on the entity's financial reporting process.

Uncorrected Misstatements: Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. We have no such misstatements to report to management.

This report is intended solely for the information and use of the finance committee, Governing Board, and management and is not intended to be and should not be used by anyone other than these specified parties.

October 24, 2011

**ALAMEDA COUNTY
TRANSPORTATION IMPROVEMENT AUTHORITY
LIMITATIONS WORKSHEET
FOR THE YEAR ENDED
JUNE 30, 2011**

To the Governing Board of the
Alameda County Transportation Improvement Authority
Oakland, California

We have audited the basic financial statements of the Alameda County Transportation Improvement Authority (Authority) as of and for the year ended June 30, 2011, and have issued our report thereon dated October 24, 2011. We have also audited the accompanying Alameda County Transportation Improvement Authority Limitations Worksheet (Limitations Worksheet) for the year ended June 30, 2011. The Worksheet is the responsibility of the Authority's management. Our responsibility is to express an opinion on this Limitations Worksheet based on our audit.

We conducted our audit of the Limitations Worksheet in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Limitations Worksheet is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the Limitations Worksheet. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall Worksheet presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the Limitations Worksheet referred to above, presents fairly, in all material respects, the administrative cost and related percentages of the Authority for the year ended June 30, 2011, in conformity with the accounting principles generally accepted in the United States of America.

October 24, 2011

Alameda County Transportation Improvement Authority

Limitations Worksheet

Basis for Salary and Benefits Limitation and the Administrative Cost Limitation

FY 2010-11

Revenues

Net Sales Tax Proceeds	\$105,393,811
Investments & Other Income - Net of Related Costs	3,246,320
Funds Generated	\$108,640,131

Expenditures

Gross Salaries and Benefits	\$641,124
Other Administration Costs	2,881,394
Total Administration Costs	\$3,522,518

Transportation Expenditure Plan Requirements

Compliance on Salary and Benefits Cost Limitation (Maximum Allowed is 1%)

Ratio of Gross Salaries and Benefits to Net Sales Tax Revenues	0.6083%
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Compliance on Administration Costs Limitation (Maximum Allowed is 4.5%)

Ratio of Total Administration Costs to Net Sales Tax Proceeds	3.3422%
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Public Utilities Commission 180109 Requirement

Compliance on Salary and Benefits Cost Limitation (Maximum Allowed is 1%)

Ratio of Gross Salaries and Benefits to Funds Generated	0.5901%
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Memorandum

DATE: December 29, 2011

TO: Finance and Administration Committee

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

SUBJECT: **Acceptance of the ACCMA Fiscal Year 2010-2011 Draft Audited Basic Financial Statements, Report on Internal Control over Financial Reporting and on Compliance and other Matters, Independent Auditors' Report on Compliance in Accordance with OMB Circular A-133 and Management Letter**

Recommendation

It is recommended that the Commission accept and enter into the record:

1. The ACCMA's draft Audited Basic Financial Statements for FY 2010-2011
2. The Report on Internal Control over Financial Reporting and on Compliance and other Matters (Included in Basic Financial Statements Page 38)
3. The Independent Auditors' Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control over Compliance in Accordance with OMB Circular A-133 for the Fiscal Year Ended June 30, 2011 (Included in Basic Financial Statements Page 40), and
4. The ACCMA's Management Letter with responses

as audited by the certified public accounting firm of Kevin W. Harper CPA & Associates.

The audited financial statements and support documents were reviewed in detail by the Alameda County Transportation Commission (Alameda CTC) audit committee on December 12, 2011.

Summary

Pursuant to the Joint Powers Agreement Alameda County Congestion Management Program and the California Government Code Section 6505, an independent audit was conducted for FY 2010-2011 by Kevin W. Harper CPA & Associates. While all financial statements are the responsibility of management, the auditor's responsibility is to express an opinion on the financial statements based on their audit. As demonstrated in the Independent Auditor's Report on page 1 of the Draft Audited Basic Financial Statements, the ACCMA's auditors have reported what is considered to be an unqualified or clean audit.

"In our opinion, the basic financial statements referred to above present fairly, in all material respects, the financial position of the Agency as of June 30, 2011, and the respective changes

in financial position and the respective budgetary comparisons for the year then ended in conformity with accounting principles generally accepted in the United States of America.”

Financial Highlights:

- Total Net Assets were \$9.9 million, an increase of \$0.7 million or 7.3% over the prior fiscal year.
- Total Revenues decreased by 20.3% from \$55.4 million for fiscal year 2009-10 to \$44.2 million for fiscal year 2010-11. Similarly, the ACCMA’s expenditures decreased by 20.7% from \$54.9 million in fiscal year 2009-10 to \$43.5 million in fiscal year 2010-11. These decreases can be attributed to a decrease in project activity related to funding availability.
- Cash and Investments totaled \$24.0 million, an increase of \$0.7 million or 3.0% over the prior fiscal year.
- The General Fund reported a net increase in fund balance at June 30, 2011 of \$0.1 million over the fund balance at June 30, 2010.

Discussion

As part of the audit process, Kevin W. Harper CPA & Associates considered ACCMA’s internal controls over financial reporting in order to design audit procedures. They have not expressed an opinion on the effectiveness of the ACCMA’s internal controls; however Kevin W. Harper CPA & Associates’ Report on Internal Control over Financial Reporting and on Compliance and other Matters states that they did not identify any deficiencies in internal controls over financial reporting that they consider to be a material weakness.

Kevin W. Harper CPA & Associates also performed a Single Audit for FY 2010-2011. Per the Office of Management and Budget (OMB) Circular A-133, a single audit is required when a grantee spends \$500,000 or more in Federal funds in the fiscal year to provide assurance to the federal government as to the management and use of these funds. ACCMA’s federal expenditures were well over the threshold at \$6.8 million in FY 2010-2011 therefore a Single Audit was required. As demonstrated in the Independent Auditor’s Report on page 40 of the Draft Audited Basic Financial Statements, the ACCMA’s auditors have reported the following:

“In our opinion, the Agency complied, in all material respects, with the requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended June 30, 2011.”

The newly formed Audit Committee met on December 12 to review the Draft Audited Basic Financial Statements, the Report on Internal Control over Financial Reporting and on Compliance and other Matters, the Independent Auditors’ Report on Compliance with Requirements Applicable to Each Major Program and on Internal Control over Compliance in Accordance with OMB Circular A-133 for the Fiscal Year Ended June 30, 2011 and to discuss internal control procedures.

Attachments

Attachment A: ACCMA Basic Financial Statements for the Year Ended June 30, 2011, Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*, and Independent Auditors Report on Compliance with Requirements Applicable to

Each Major Program and on Internal Control Over Compliance in Accordance
with *OMB Circular A-133*

Attachment B:

ACCMA Management Letter for the Year Ended June 30, 2011

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**ALAMEDA COUNTY CONGESTION
MANAGEMENT AGENCY**

BASIC FINANCIAL STATEMENTS

YEAR ENDED JUNE 30, 2011

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY

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INDEPENDENT AUDITORS' REPORT

The Board of Directors

Alameda County Congestion Management Agency:

We have audited the accompanying basic financial statements of the Alameda County Congestion Management Agency (the "ACCMA") as of and for the year ended June 30, 2011, listed in the foregoing table of contents. These basic financial statements are the responsibility of the ACCMA's management. Our responsibility is to express an opinion on these basic financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the basic financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall basic financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the basic financial statements referred to above present fairly, in all material respects, the financial position of the ACCMA as of June 30, 2011, and the respective changes in financial position and the respective budgetary comparisons for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated November 21, 2011 on our consideration of the ACCMA's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Governmental Auditing Standards* and should be considered in assessing the results of our audit.

INDEPENDENT AUDITORS' REPORT (Continued)

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis information on pages 3 through 11 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The introductory section and combining statements on pages 36 and 37 are presented for purposes of additional analysis and are not a required part of the basic financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organization*, and is also not a required part of the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

As discussed in Note 1, on July 22, 2010, the ACCMA became part of the Alameda County Transportation Commission Joint Powers Authority ("Alameda CTC"). Management intends to dissolve the ACCMA during the year ending June 30, 2012 with Alameda CTC being assigned all powers and responsibilities of the ACCMA.

November 21, 2011

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
MANAGEMENT'S DISCUSSION AND ANALYSIS (Unaudited)
YEAR ENDED JUNE 30, 2011**

This section of the Alameda County Congestion Management Agency (the "ACCMA") annual financial report presents a discussion and analysis of the ACCMA's financial performance during the fiscal year ended June 30, 2011. Please read it in conjunction with the ACCMA's basic financial statements and related notes to those statements. The notes provide additional information that is essential for a full understanding of the data provided in the government-wide and fund financial statements.

Financial Highlights

Financial highlights for the fiscal year ended June 30, 2011, include the following:

- The ACCMA's total net assets were \$9.9 million, an increase of \$0.7 million or 7.3% over the prior fiscal year (see Statement of Activities, page 13).
- Total revenues decreased by 20.3% from \$55.4 million for fiscal year 2009-10 to \$44.2 million for fiscal year 2010-11. Similarly, the ACCMA's expenses decreased by 20.7% from \$54.9 million in fiscal year 2009-10 to \$43.5 million in fiscal year 2010-11. These decreases can be attributed to a decrease in project activity related to funding availability (see Statement of Activities, page 13).
- The ACCMA's cash and investments (restricted and unrestricted) totaled \$24.0 million, an increase of \$0.7 million or 3.0% over the prior fiscal year (see Statement of Net Assets, page 12).
- The General Fund reported a net increase in fund balance at June 30, 2011 of \$0.1 million or 79.2% over the fund balance at June 30, 2010 (see Statement of Revenues, Expenditures and Changes in Fund Balance, page 15).

Overview of the Financial Statements

As required by the Governmental Accounting Standards Board, the ACCMA's principal financial statements include the following:

- A Statement of Net Assets (showing Agency-wide assets and liabilities)
- A Statement of Activities (showing Agency-wide revenues and expenses)
- A Balance Sheet (showing assets and liabilities for the General Fund, Capital Projects Fund, Exchange Fund and the Non-major Special Revenue Funds, which include the Transportation for Clean Air Fund and Vehicle Registration Fee Fund)
- A Statement of Revenues, Expenditures and Changes in Fund Balances - Governmental Funds (showing revenues and expenditures by fund)

- A Statement of Revenues, Expenditures and Changes in Fund Balance - Budget and Actual for the General Fund (showing budget versus actual revenues and expenditures)

The Statement of Net Assets and the Statement of Activities, together, make up the *government-wide financial statements*. The Balance Sheet and Statements of Revenues, Expenditures and Changes in Fund Balances are referred to as the *fund financial statements*.

The *government-wide financial statements* report information using the economic resources measurement focus and the accrual basis of accounting. The *Statement of Net Assets* includes total assets and total liabilities with the difference between them reported as net assets. Over time, increases or decreases in net assets can indicate whether the financial health is improving or deteriorating. Total revenues, total expenses and changes in net assets are accounted for in the *Statement of Activities*, regardless of the timing of related cash flows.

The *fund financial statements* provide more detailed information by fund. A fund is a set of accounts used to control resources segregated for specific activities or purposes. The ACCMA has established funds to ensure resources are utilized for the purposes intended. Funds classified as major are reported individually on the financial statements and funds classified as non-major are grouped and reported in a single column.

The ACCMA has five funds, the General Fund, Capital Projects Fund, Exchange Fund and Special Revenue Funds. The Special Revenue Funds are made up of two funds, the Transportation for Clean Air Fund and the Vehicle Registration Fee Fund. *Combining Statements* report detailed data for each of the non-major funds.

General Fund – The ACCMA uses the General Fund as its chief operating fund. This fund is used for preparing the Congestion Management Plan. In prior years, the General Fund was also used for programming federal, state and local funds to implement the Congestion Management Plan; however, effective July 1, 2010, the ACCMA established the Capital Projects Fund for this purpose. The fund balance in the General Fund increased by \$0.1 million leaving an ending fund balance of \$0.2 million at June 30, 2011.

Capital Projects Fund – This fund is used to account for capital projects designed to implement the Congestion Management Plan for Alameda County. The amount of capital project revenues and expenditures for fiscal year 2010-2011 were \$34.2 million and \$33.2 million, respectively with the difference transferred to the General Fund to help cover administration costs.

Exchange Fund – Under the Exchange Program, the ACCMA entered into agreements with several local agencies to exchange the ACCMA's state or federal funds with local funding from other governments for various transportation projects. This program is used to expedite projects by giving project sponsors the flexibility of using local funds rather than more restrictive state or federal funds.

The ACCMA has entered into the following exchange agreements through June 30, 2011:

AC Transit	\$ 35,060,514
BART	8,100,000
Fremont	5,983,256
Dublin	4,230,000
Livermore	4,580,000
ACTIA	2,300,000
Union City	9,314,000
MTC/ACCMA	675,000
Santa Clara Valley Transportation Authority	558,000
Altamont Commuter Express	432,445
Berkeley	259,560
Total Exchanged Funds	<u>\$ 71,492,775</u>

These exchanges were recognized as deferred revenue in the government-wide financial statements at the time the ACCMA entered into exchange agreements, and are being recognized as revenue when qualifying expenses are incurred. \$63.8 million of these exchanged funds have been collected and approximately \$57.4 million has been expended as of June 30, 2011.

Special Revenue Funds – The ACCMA has two Special Revenue Funds, the Transportation for Clean Air (TFCA) Fund and the Vehicle Registration Fee (VRF) Fund. Both are related to fees imposed on vehicle registrations in Alameda County for which the ACCMA is required to administer funds. These two Special Revenue Funds have been established to administer and account for these funds separately from other funding sources of the ACCMA to ensure that they are spent on the specific purpose intended. The TFCA funds are required to be used to implement projects aimed at reducing air pollution from motor vehicles, and the VRF funds are required to be used to implement transportation related programs and projects.

Government-wide Financial Analysis

Net Assets

As of June 30, 2011, total assets were \$59.0 million, an increase of \$6.5 million or 12.5% over June 30, 2010 with cash and investments accounting for \$24.0 million or 40.7% of total assets.

Total liabilities were \$49.0 million as of June 30, 2011, an increase of \$5.9 million or 13.6% over June 30, 2010. Similarly, accounts receivable was \$34.7 million as of June 30, 2011, an increase of \$6.0 million or 20.9%.

Net assets were \$9.9 million at June 30, 2011, an increase of \$0.7 million or 7.3% over June 30, 2010. Of the total \$9.9 million in net assets at June 30, 2011, \$9.5 million is restricted for planning and construction.

The ACCMA does not record capital assets created by the projects it implements on its own financial statements since these assets are of value only to the local government in which they are located.

Alameda County Congestion Management Agency

Net Assets

As of June 30, 2011 and 2010

	2011	2010
Cash and investments	\$ 24,011,003	\$ 23,321,775
Receivables		
Accounts receivable	34,715,297	28,708,293
Interest	22,606	27,312
Prepaid items	24,149	59,416
Capital assets net of depreciation		
Furniture and equipment	135,714	172,582
Building improvements	85,646	142,744
Automobile	-	14,099
Total assets	\$ 58,994,415	\$ 52,446,221
Accounts payable & other liabilities	\$ 17,590,653	\$ 14,020,874
Deferred revenue	31,455,871	29,156,723
Total liabilities	49,046,524	43,177,597
Invested in capital assets	221,360	329,425
Restricted for planning & construction	9,476,992	8,799,919
Unrestricted	249,539	139,280
Total net assets	9,947,891	9,268,624
Total liabilities and net assets	\$ 58,994,415	\$ 52,446,221

Change in Net Assets

Total revenues in fiscal year 2010-11 were \$44.1 million, a decrease of \$11.3 million or 20.3% from fiscal year 2009-10. Total revenues in fiscal year 2009-10 were \$55.4 million, an increase of \$15.5 million or 38.8% over fiscal year 2008-09. Total expenses in fiscal year 2010-11 were \$43.5 million, a decrease of \$11.4 million or 20.8% from fiscal year 2009-10 and total expenses in fiscal year 2009-10 were \$54.9 million, an increase of \$16.2 million or 41.9% over fiscal year 2008-09. The following are changes in the key activities:

- Capital grants and contributions in fiscal year 2010-11 were \$29.1 million, a decrease of \$19.4 million or 40.0% from fiscal year 2009-10. This is due to timing on the availability of funding which has slowed the progress of some activities.

- Operating grants and contributions in fiscal year 2010-11 were \$13.8 million, an increase of \$8.0 million or 140.4% over fiscal year 2009-10.
- Administration expenses in fiscal year 2010-11 were \$5.3 million, a decrease of \$0.6 million or 10.8% from fiscal year 2009-10.
- Capital project expenses in fiscal year 2010-11 were \$28.2 million, a decrease of \$18.9 million or 40.2% from fiscal year 2009-10 mostly attributed to funding availability issues.
- Exchange fund expenses in fiscal year 2010-11 were \$7.0 million, an increase of \$6.0 million or 587.7% over fiscal year 2009-10 due to increased activity in projects utilizing Exchange funding such as the I-880 Southbound HOV Lane project.
- Special Revenue fund expenses in fiscal year 2010-11 were \$2.9 million, an increase of \$2.1 million or 276.0% over fiscal year 2009-10 due in part to election costs incurred for the new Vehicle Registration Fee.

In fiscal year 2010-11, revenues exceeded expenses by \$0.7 million, resulting in an increase to net assets which were \$9.9 million at year-end. In fiscal year 2009-10, revenues exceeded expenses by \$0.6 million, resulting in an increase to net asset which were \$9.3 million as of June 30, 2010.

**Alameda County Congestion Management Agency
Changes in Net Assets
As of June 30, 2011 and 2010**

	<u>2011</u>	<u>2010</u>
Revenues		
Program revenues:		
Operating grants and contributions	\$ 13,776,147	\$ 5,729,733
Capital grants and contributions	29,135,906	48,585,065
General revenues:		
Member agency contributions	1,095,338	1,004,898
Investment income	119,194	99,822
Other income	15,251	-
Total revenues	<u>44,141,836</u>	<u>55,419,518</u>
Expenses		
General administration	5,332,963	5,978,561
Capital Projects Fund	28,172,961	47,072,962
Exchange Fund	7,032,662	1,022,594
Special Revenue Funds	2,923,983	777,589
Total expenses	<u>43,462,569</u>	<u>54,851,706</u>
 Change in net assets	 679,267	 567,812
 Net assets, beginning of year	 <u>9,268,624</u>	 <u>8,700,812</u>
Net assets, end of year	<u>\$ 9,947,891</u>	<u>\$ 9,268,624</u>

Governmental Funds Financial Analysis

As of June 30, 2011, the ACCMA had \$9.7 million of fund balance in the governmental funds: \$0.3 million in the General Fund, \$4.6 million in the Exchange Fund and \$4.8 million in the Special Revenue Funds. This is an increase from June 30, 2010 of \$0.8 million or 8.8%. The increase is mostly due to the addition of the new Vehicle Registration Fee Special Revenue Fund.

The excess of revenues over expenditures in the capital projects fund of \$1.0 million in fiscal year 2010-11 is generated due to the reimbursement of overhead cost which are billed to funding agencies as a percentage of salaries based on an Indirect Cost Allocation Rate audited and approved by CalTrans on an annual basis. This balance is transferred to the General Fund at the fiscal year end to cover costs incurred by the ACCMA to administer capital projects.

As of June 30, 2011, the ACCCA had \$44.2 million of revenues in the governmental funds: \$5.1 million in the General Fund, \$34.2 million in the Capital Projects Fund, \$7.0 million in the Exchange Fund, \$3.6 million in the Special Revenue Funds less \$5.8 million of inter-fund revenues which have been eliminated on a consolidated basis. This is a decrease from June 30, 2010 of \$11.3 million or 20.3%. This decrease is due to a delay in some projects due to the availability of funds.

As of June 30, 2011, the ACCMA had \$43.4 million of expenditures in the governmental funds: \$6.1 million in the General Fund, \$33.2 million in the Capital Projects Fund, \$7.0 million in the Exchange Fund, \$2.9 million in the Special Revenue Funds less \$5.8 million of inter-fund expenditures which have been eliminated on a consolidated basis. This is a decrease from June 30, 2010 of \$11.4 million or 20.7% attributed to a delay in some capital projects due to the availability of funding sources.

As of June 30, 2011, the ACCMA had \$51.1 million of assets in the governmental funds: \$16.6 million in the General Fund, \$37.3 million in the Capital Projects Fund, \$15.4 million in the Exchange Fund, \$6.4 million in the Special Revenue Funds less \$24.6 million of inter-fund receivables which have been eliminated on a consolidated basis. This is a decrease from June 30, 2010 of \$1.9 million or 3.6%.

As of June 30, 2011, the ACCMA had \$41.4 million of liabilities in the governmental funds: \$16.4 million in the General Fund, \$37.3 million in the Capital Projects Fund, \$10.8 million in the Exchange Fund, \$1.5 million in the Special Revenue Funds less \$24.6 million of inter-fund payables which have been eliminated on a consolidated basis. This is a decrease from June 30, 2010 of \$2.7 million or 6.2%.

Capital Assets

As of June 30, 2011, ACCMA had \$221,360 invested in capital assets, including furniture and equipment and leasehold improvements.

**The Alameda County Congestion Management Agency
Capital Assets
(net of accumulated depreciation)
June 30, 2011 and 2010**

	2011	2010
Furniture and Equipment	\$ 135,714	\$ 172,583
Leasehold improvements	85,646	142,744
Automobile	-	14,099
Total	<u>\$ 221,360</u>	<u>\$ 329,426</u>

There were three capital asset additions in fiscal year 2010-11 including a phone system, fiber optic communications equipment, and audio/visual board room improvements. There was one disposition of an automobile.

Comparison of Budget to Actual – General Fund

As shown on the Statement of Revenues, Expenditures and Changes in Fund Balance - Budget (GAAP Basis) and Actual for the General Fund on page 13, the ACCMA began the fiscal year with a revenue budget of \$4.8 million plus an operating transfer in of \$2.5 million less an expenditure budget of \$7.4 million. Throughout the year, the revenue budget was adjusted to \$5.8 million and the expenditure budget was adjusted to \$8.0 due to an increase in work being completed on the transportation and land use planning activity and activities related to the ACCMA joining of the Alameda CTC Joint Powers Agency.

Actual revenues in the General Fund were under the final revenue budget by \$0.6 million or 11.1% and under the final expenditure budget by \$1.9 million or 23.4% for the fiscal year. These variance are related to planning and programming activities in the General Fund which are billed to funding agencies on a reimbursement basis. Since expenditures were below budget, consequently so were revenues. The disparity in the difference, with revenues collected more than planning and programming expenditures, is because overhead recovery amounts are included as General Fund revenues. These amounts are invoiced to billing agencies at an indirect cost allocation rate audited and approved on an annual basis by CalTrans as a percentage of salaries and benefits costs. This methodology helps to reimburse the ACCMA for the cost of administering planning and programming activities.

Summary of Known Facts, Decisions or Conditions

Alameda CTC - The ACCMA, along with ACTIA, formally became members of the Alameda CTC, a Joint Powers Agency, on July 22, 2010. For a variety of reasons, including issues related to contracting with CalPERS, the ACCMA and ACTIA continue to exist. As part of the Joint Powers Agreement, the ACCMA and ACTIA delegated their authority to Alameda CTC including all activities and responsibilities. It is expected that all steps necessary to have Alameda CTC become the operating entity will be completed in early 2012 and that prior to the end of fiscal year 2011-12, the ACCMA will be legally dissolved and the Alameda CTC will be named the successor agency. The first consolidated Alameda CTC budget for fiscal year 2011-12 was approved by the Alameda CTC's Commission in June, 2011, and the financial databases for the ACCMA and ACTIA have been consolidated as of July, 2011 for the new fiscal year.

Sunol Smart Carpool Lane - The Sunol Smart Carpool Lane (Lane) was established by a Joint Powers Agreement (Agreement) between the ACCMA, ACTIA and the Santa Clara Valley Transportation Authority which created the Sunol Smart Carpool Lane Joint Powers Authority (Authority). The Agreement named the ACCMA as the managing agency for the project on behalf of the Authority. The Lane began operations on September 20, 2010 gaining its authority to operate in California through State law amended by 2004 legislation, AB 2032. During the transition/warranty period from construction to full operations, the ACCMA has agreed to cover the cost of operations on behalf of the Authority via its project funded by various federal, state and local sources through June 30, 2012. Since inception, the Lane has continued to show growth in revenues and riders from week to week and is expected to be independently sustainable by June 30, 2012.

Vehicle Registration Fee - In November 2010, a majority (62.8 %) of Alameda County voters approved Measure F to fund transportation related programs and projects. Measure F added \$10 to all motor Vehicle Registration Fees (VRF) collected by the Department of Motor Vehicles. The Transportation Expenditure Plan (TEP) approved with the measure allocates revenue from the VRF to transportation-related programs and projects that have a relationship or benefit to the persons who pay the fee and that sustains the County's transportation network and reduces traffic congestion and vehicle-related pollution. The measure is expected to generate approximately \$11 million annually which will be distributed net of administrative costs based on the approved TEP in the following manner:

- Local Road Improvement and Repair Program (60 %)
- Transit for Congestion Relief Program (25%)
- Local Transportation Technology Program (10%)
- Pedestrian and Bicyclist Safety Program (5%)

Countywide Transportation Plan - A key ACCMA project this past year has been working in conjunction with ACTIA towards developing a Countywide Transportation Plan (CWTP) for Alameda County. The CWTP is a long-range policy document that guides decisions and articulates the vision for the County's transportation system over a 25-year planning horizon. It lays the groundwork for an investment program that is efficient and productive as well as a strategy for meeting transportation needs for all users in Alameda County. It includes projects and other improvements for new and existing freeways, local streets and roads, public transit (paratransit, buses, trains, ferries), as well as facilities and programs to support bicycling and walking. The CWTP will serve as Alameda County's input into the Metropolitan Transportation Commission's Regional Transportation Plan (RTP) from which much of Alameda County's transportation funding is derived. ACCMA and ACTIA staff continue to engage the community to provide input into the process to help prioritize transportation improvements. For the first time, the CWTP and RTP for the Bay Area will require Alameda County to meet greenhouse gas (GHG) emission reduction targets set by the State of California under SB 375. The target is a 7% GHG reduction by 2020, and a 15% GHG reduction by 2035. To address SB 375 requirements and other needs, the CWTP will address transit-oriented development and priority development areas; parking management; transportation systems management and goods movement; as well as transit connectivity, maintenance and operations.

Requests for Information

This financial report is designed to provide a general overview of the ACCMA's finances for all those interested in government finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Office of Accounting at 1333 Broadway, Suite 220, Oakland, CA 94612.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
STATEMENT OF NET ASSETS
JUNE 30, 2011

DRAFT

ASSETS

Cash and Investments	\$ 4,528,549
Restricted Cash and Investments	19,482,454
Accounts Receivable	34,715,297
Interest Receivable	22,606
Prepaid Items	24,149
Capital Assets, Net of Accumulated Depreciation	<u>221,360</u>
Total Assets	<u><u>58,994,415</u></u>

LIABILITIES

Accounts Payable	12,438,458
Accrued Liabilities	152,195
Loan Payable	5,000,000
Deferred Revenue	<u>31,455,871</u>
Total Liabilities	<u><u>49,046,524</u></u>

NET ASSETS

Restricted for Planning and Construction	9,476,992
Invested in Capital Assets	221,360
Unrestricted	<u>249,539</u>
Total Net Assets	<u><u>\$ 9,947,891</u></u>

The accompanying notes are an integral part of the basic financial statements.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
STATEMENT OF ACTIVITIES
YEAR ENDED JUNE 30, 2011

DRAFT

EXPENSES

Salaries & Benefits	\$ 3,942,816
Board Operations	78,063
Travel & Transportation - Special Events	84,791
Office Space	437,995
Office & Related	565,439
Legal Counsel	227,124
Annual Audit	32,086
Professional Services	51,481
Legislative Advocacy	95,781
Consultants & Contractors	34,889,116
TFCA Grant Program	2,031,442
Election Costs	772,625
Depreciation	133,954
Administration	119,856
Total Expenses	<u>43,462,569</u>

PROGRAM REVENUES - Grants and Contributions:

Metropolitan Transportation Commission	6,312,567
CalTrans	12,658,280
Transportation Fund for Clean Air	1,830,061
AC Transit	200,000
ACTIA	10,122,887
Vehicle Registration Fees	1,739,271
Other	10,048,987
Total Program Revenues	<u>42,912,053</u>
Net Program Revenues (Expenses)	<u>(550,516)</u>

GENERAL REVENUES

Member Agency Fees	1,095,338
Other	15,251
Interest	119,194
Total General Revenues	<u>1,229,783</u>
Change in Net Assets	679,267

Net Assets, July 1, 2010 9,268,624

Net Assets, June 30, 2011 \$ 9,947,891

The accompanying notes are an integral part of the basic financial statements.

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
BALANCE SHEET
GOVERNMENTAL FUNDS
JUNE 30, 2011**

DRAFT

	<u>General Fund</u>	<u>Major Capital Projects Fund</u>	<u>Exchange Fund</u>	<u>Non-major Special Revenue Funds</u>	<u>Inter-Fund Eliminations</u>	<u>Total Governmental Funds</u>
ASSETS						
Cash and Investments	\$ 4,528,549					\$ 4,528,549
Restricted Cash and Investments		\$ 10,163,204	\$ 5,018,099	\$ 4,301,151		19,482,454
Accounts Receivable	2,490,395	27,160,927		2,063,172	\$ (4,652,499)	27,061,995
Interest Receivable	2,440	12,331	4,849	2,986		22,606
Interfund Receivable	9,561,505		10,385,900		(19,947,405)	-
Prepaid Items	24,149					24,149
Total Assets	<u>\$ 16,607,038</u>	<u>\$ 37,336,462</u>	<u>\$ 15,408,848</u>	<u>\$ 6,367,309</u>	<u>\$ (24,599,904)</u>	<u>\$ 51,119,753</u>
LIABILITIES AND FUND BALANCES						
Liabilities:						
Accounts Payable	\$ 819,404	\$ 10,445,669	\$ 4,302,849	\$ 1,523,035	\$ (4,652,499)	\$ 12,438,458
Accrued Liabilities	152,195					152,195
Loan Payable	5,000,000					5,000,000
Interfund Payable	10,385,900	9,561,505			(19,947,405)	-
Deferred Revenue		17,329,288	6,473,281			23,802,569
Total Liabilities	<u>16,357,499</u>	<u>37,336,462</u>	<u>10,776,130</u>	<u>1,523,035</u>	<u>(24,599,904)</u>	<u>41,393,222</u>
Fund Balances:						
Restricted:						
Transportation Fund for Clean Air				3,912,293		3,912,293
Vehicle Registration Fees				931,981		931,981
Committed			4,632,718			4,632,718
Unassigned	249,539					249,539
Fund Balances	<u>249,539</u>	<u>-</u>	<u>4,632,718</u>	<u>4,844,274</u>	<u>-</u>	<u>9,726,531</u>
Total Liabilities and Fund Balances	<u>\$ 16,607,038</u>	<u>\$ 37,336,462</u>	<u>\$ 15,408,848</u>	<u>\$ 6,367,309</u>	<u>\$ (24,599,904)</u>	<u>\$ 51,119,753</u>

The accompanying notes are an integral part of the basic financial statements.

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES -
GOVERNMENTAL FUNDS
YEAR ENDED JUNE 30, 2011**

DRAFT

	<u>General Fund</u>	<u>Major Capital Projects Fund</u>	<u>Exchange Fund</u>	<u>Non-major Special Revenue Funds</u>	<u>Inter-Fund Eliminations</u>	<u>Total Governmental Funds</u>
REVENUES						
Grants:						
Metropolitan Transportation Commission	\$ 1,499,174	\$ 4,813,393				\$ 6,312,567
CalTrans	1,475,874	11,182,406				12,658,280
Transportation Fund for Clean Air	237,597	369,059		\$ 1,830,061	\$ (606,656)	1,830,061
AC Transit		200,000				200,000
ACTIA	199,205	9,923,682				10,122,887
Other		3,016,425	\$ 7,032,562			10,048,987
Member Agency Fees	1,095,338					1,095,338
Exchange Program Funds	582,986	4,645,237			(5,228,223)	-
Vehicle Registration Fees				1,739,271		1,739,271
Other	25,825					25,825
Interest	32,526	54,844	13,956	17,868		119,194
Total Revenues	<u>5,148,525</u>	<u>34,205,046</u>	<u>7,046,518</u>	<u>3,587,200</u>	<u>(5,834,879)</u>	<u>44,152,410</u>
EXPENDITURES						
Current:						
Salaries & Benefits	2,970,637	972,179				3,942,816
Board Operations	78,063					78,063
Travel & Transportation - Special Events	84,791					84,791
Office Space	437,995					437,995
Office & Related Costs	565,279		100	60		565,439
Legal Counsel	227,124					227,124
Annual Audit	32,086					32,086
Professional Services	51,481					51,481
Legislative Advocacy	95,781					95,781
Consultants & Contractors	1,476,355	32,215,078	7,032,562		(5,834,879)	34,889,116
TFCA Grant Program				2,031,442		2,031,442
VRF Election Costs				772,625		772,625
Administration				119,856		119,856
Capital Outlay	36,463					36,463
Total Expenditures	<u>6,056,055</u>	<u>33,187,257</u>	<u>7,032,662</u>	<u>2,923,983</u>	<u>(5,834,879)</u>	<u>43,365,078</u>
Excess of Revenues Over (Under) Expenditures	<u>(907,530)</u>	<u>1,017,789</u>	<u>13,856</u>	<u>663,217</u>	<u>-</u>	<u>787,332</u>
OTHER FINANCING SOURCES (USES):						
Operating Transfer In	1,017,789				(1,017,789)	-
Operating Transfer Out		(1,017,789)			1,017,789	-
Total Other Financing Sources (Uses)	<u>1,017,789</u>	<u>(1,017,789)</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Net Change in Fund Balances	110,259	-	13,856	663,217	-	787,332
Fund Balances, July 1, 2010	139,280	-	4,618,862	4,181,057	-	8,939,199
Fund Balances, June 30, 2011	<u>\$ 249,539</u>	<u>\$ -</u>	<u>\$ 4,632,718</u>	<u>\$ 4,844,274</u>	<u>\$ -</u>	<u>\$ 9,726,531</u>

The accompanying notes are an integral part of the basic financial statements.

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
RECONCILIATIONS OF
FUND FINANCIAL STATEMENTS TO GOVERNMENT-WIDE FINANCIAL STATEMENTS
JUNE 30, 2011**

DRAFT

**Reconciliation of Fund Balance of Governmental Funds to Net Assets on the
Statement of Net Assets:**

Fund Balances on governmental funds' Balance Sheet	\$ 9,726,531
Capital assets, net of accumulated depreciation, are reported on the Statement of Net Assets but not in governmental funds	<u>221,360</u>
Net Assets on Statement of Net Assets	<u><u>\$ 9,947,891</u></u>

**Reconciliation of Net Change in Fund Balances of Governmental Funds to
Change in Net Assets on Statement of Activities:**

Net Change in Fund Balances on governmental funds' Statement of Revenues, Expenditures and Changes in Fund Balances	\$ 787,332
Net change in capital assets due to purchases and disposals is reported on governmental funds' Statement of Revenues, Expenditures and Changes in Fund Balances but not in the Statement of Activities	25,889
Depreciation expense is reported in the Statement of Activities but not in governmental funds	<u>(133,954)</u>
Change in Net Assets on Statement of Activities	<u><u>\$ 679,267</u></u>

The accompanying notes are an integral part of the basic financial statements.

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCE - BUDGET (GAAP BASIS) AND ACTUAL
GENERAL FUND
YEAR ENDED JUNE 30, 2011**

DRAFT

REVENUES	Actual	Budget		Variance With Final Budget - Over (Under)
		Original	Final	
Grants:				
MTC Planning Funds	\$ 1,499,174	\$ 1,534,700	\$ 1,633,900	\$ (134,726)
Caltrans STIP Funds	1,475,874	1,828,000	1,828,000	(352,126)
ACCMa TFCA	237,597	200,000	203,600	33,997
ACTIA Measure B	199,205	90,300	310,000	(110,795)
Other	-	70,000	70,000	(70,000)
Revenue from Member Agencies	1,095,338	1,095,338	1,095,338	-
Revenue from Exchange Program	582,986	-	652,000	(69,014)
Miscellaneous	25,825	-	-	25,825
Interest	32,526	-	-	32,526
Total Revenues	<u>5,148,525</u>	<u>4,818,338</u>	<u>5,792,838</u>	<u>(644,313)</u>
EXPENDITURES				
Current:				
Salaries & Benefits	2,970,637	1,948,802	2,357,845	612,792
Board Operations	78,063	60,000	60,000	18,063
Travel & Transportation - Special Events	84,791	85,000	85,000	(209)
Office Space	437,995	440,000	420,000	17,995
Office & Related	565,279	296,500	312,500	252,779
Legal	227,124	100,000	195,000	32,124
Annual Audit	32,086	32,000	32,000	86
Professional Services	51,481	125,000	125,000	(73,519)
Legislative Advocacy	95,781	108,000	108,000	(12,219)
Consultants & Contractors	1,476,355	4,146,400	4,285,200	(2,808,845)
Capital Outlay	36,463	20,000	20,000	16,463
Total Expenditures	<u>6,056,055</u>	<u>7,361,702</u>	<u>8,000,545</u>	<u>(1,944,490)</u>
Excess of revenues over (under) expenditures	(907,530)	(2,543,364)	(2,207,707)	1,300,177
OTHER FINANCING SOURCES -				
Operating Transfer In	<u>1,017,789</u>	<u>2,548,982</u>	<u>2,238,978</u>	<u>(1,221,189)</u>
Net Change in Fund Balance	<u>\$ 110,259</u>	<u>\$ 5,618</u>	<u>\$ 31,271</u>	<u>\$ 78,988</u>

The accompanying notes are an integral part of the basic financial statements.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS
JUNE 30, 2011

NOTE 1 - REPORTING ENTITY

In June 1990, California voters approved a fuel tax increase as part of Propositions 111 and 108. To receive a share of the fuel tax revenues, local governments must conform to a Congestion Management Program ("CMP"). The Alameda County Congestion Management Agency (the "ACCMA") was created by a Joint Powers Agreement ("JPA") dated February 20, 1991 between Alameda County, all fourteen cities in the County and four transit operators (the "Member Agencies"). The ACCMA is responsible for preparing, adopting, revising, amending, administering, and implementing the CMP and the Countywide Transportation Plan ("CWTP") for Alameda County pursuant to Section 65088 at seq. of the Government Code, and providing other transportation planning and programming functions. The JPA provides for the sharing of the costs of the ACCMA among the Member Agencies.

As an extension of its legislatively mandated activities, the ACCMA also initiates a variety of studies, programs and projects that serve to implement the CMP and CWTP. Examples of special studies that have resulted in projects are:

- I-880 North County Operations and Safety Study
- Countywide Bicycle and Pedestrian Plans
- Historic Parkway – State Route 84 Local Area Transportation Improvement Program
- Central County Freeway Study – State Route 238 Local Area Transportation Improvement Program
- Tri-Valley Triangle Study
- San Pablo Avenue Corridor Transit Operations and Improvement Study

In addition, the ACCMA works closely with the California Department of Transportation, the Alameda County Transportation Improvement Authority ("ACTIA"), and other federal, state and local agencies to implement projects and programs aimed at reducing congestion and improving mobility and air quality in Alameda County. Examples of projects currently being sponsored by the ACCMA include:

- I-80 Integrated Corridor Mobility Project
- I-880 North Safety & Operations Improvements
- I-580 East & Westbound High Occupancy Vehicle (HOV) Lanes, and
- I-680 Northbound Express Lane & HOV Project

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 1 - REPORTING ENTITY (continued)

Each of the projects and programs sponsored by the ACCMA is funded through one or more federal, state or local grants. The ACCMA is reimbursed from the grants as eligible program or project implementation costs are incurred. Administrative and staff costs associated with implementing the legislatively mandated activities, such as the CMP and CWTP, as well as the programming of federal and state transportation funds through the Metropolitan Transportation Commission ("MTC") and the California Transportation Commission are met through planning grants from MTC, Member Agency annual dues and other local funding sources.

The ACCMA's board is composed of one representative from each of the four transit operators, two representatives from the County of Alameda, one representative per 100,000 population from each city in the County, and one representative from the Bay Area Air Quality Management District. Each city's representation is adjusted following each national census.

On March 25, 2010, the ACCMA, ACTIA, the County of Alameda, the fourteen cities within Alameda County, the Bay Area Rapid Transit District and the Alameda-Contra Costa Transit District entered into a Joint Powers Agreement (JPA). On June 24, 2010, the Boards of ACCMA and ACTIA gave the final approval which created a joint powers agency, pursuant to the California Joint Exercise of Powers Act, known as the Alameda County Transportation Commission ("Alameda CTC").

On July 22, 2010, the ACCMA along with ACTIA, became a part of the Alameda CTC joint powers authority. Alameda CTC has all of the powers, functions and responsibilities of both agencies along with certain additional powers as described in the JPA. It is expected that all steps necessary for Alameda CTC to be named the successor agency of the ACCMA and ACTIA will be completed prior to the end of fiscal year 2011-12. At that time, the ACCMA will be terminated. For fiscal year 2011-12, the ACCMA is operating as part of the Alameda CTC for which a consolidated budget was adopted by the Commission in June, 2011. Alameda CTC's mission is to plan, fund and deliver a broad spectrum of transportation projects and programs to enhance mobility throughout Alameda County.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 2 – SIGNIFICANT ACCOUNTING POLICIES

Government-Wide and Fund Financial Statements

The government-wide financial statements (i.e., the statement of net assets and the statement of activities) report information on all activities of the ACCMA. The effect of inter-fund activity has been eliminated from these statements.

The statement of net assets and the statement of activities are prepared using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Grants are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

The statement of activities demonstrates the degree to which the direct expenses are offset by program revenues. Direct expenses are those that are clearly identifiable with the ACCMA's primary functions. Program revenues consist of grants and contributions that are restricted to meeting the operational or capital requirements of the ACCMA. Member agency fees, interest and other revenues not included in program revenues are reported as general revenues.

Major individual governmental funds are reported in separate columns in the fund financial statements. Non-major funds are summarized and presented in one column of the fund financial statements.

The ACCMA uses the following major funds:

- *General Fund* is the general operating fund of the ACCMA. It is used to account for all financial resources and transactions except those required to be accounted for in another fund.
- *Capital Projects Fund* is used to account for the proceeds and expenditures related to the construction of capital improvement projects implemented to reduce congestion or improve mobility in Alameda County. The ACCMA does not retain ownership of these improvements. They are transferred to the sponsor or managing jurisdiction upon completion.
- *Exchange Fund* is a capital projects fund used to account for the proceeds and expenditures of the ACCMA's Exchange Program, which is described in more detail in note 5.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 2 – SIGNIFICANT ACCOUNTING POLICIES (continued)

Measurement Focus and Basis of Accounting

The ACCMA's fund financial statements are presented on a modified accrual basis of accounting. The modified accrual basis of accounting recognizes revenues when they are both "measurable and available." Measurable means the amount can be determined. Available means collectible within the current period or soon thereafter to pay current liabilities. The ACCMA considers revenues to be available if they are collected within six months after fiscal year end.

Expenditures are recorded when the related fund liability is incurred. The modified accrual basis of accounting uses the current financial resources measurement focus whereby the balance sheet generally presents only current assets and current liabilities and the operating statement presents sources and uses of available resources during a given period. Grant revenues, local matching revenue and investment income (including the change in the fair value of investments) associated with the current fiscal period are all considered to be subject to accrual and have been recognized as revenues of the current fiscal year using the modified accrual basis of accounting.

Net Assets

Net assets are reported in the following categories:

- Invested in capital assets – This category includes all capital assets net of accumulated depreciation. The ACCMA has no capital-related debt.
- Restricted net assets – This category presents external restrictions imposed by creditors, grantors, contributors, or laws and regulations of other governments, and restrictions imposed by law through constitutional provisions or enabling legislation. When both restricted and unrestricted net assets are available, unrestricted resources are used only after the restricted resources are depleted.
- Unrestricted net assets – This category represents net assets of the ACCMA that are not restricted for any project or other purpose. The deficit at June 30, 2011, will be covered by future general revenues.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 2 – SIGNIFICANT ACCOUNTING POLICIES (continued)

Fund Balances

Governmental funds report fund balance in classifications based primarily on the extent to which the ACCMA is bound to honor constraints on how the funds can be spent. As of June 30, 2011, the ACCMA's fund balances for governmental funds are made up of the following:

- ***Restricted*** – includes amounts that can be spent only for the specific purposes stipulated by external resource providers, constitutionally or through enabling legislation. Restrictions may be changed or lifted only with the consent of the resource providers.
- ***Committed*** – includes amounts that can only be used for the specific purposes determined by a formal action of the ACCMA's Board. Commitments may be changed or lifted only by the ACCMA taking the same formal action that imposed the constraint originally.
- ***Assigned*** – comprises amounts intended to be used by the ACCMA for specific purposes that are neither restricted nor committed. Intent is expressed by the ACCMA Board.
- ***Unassigned*** – is the residual classification for the General Fund and includes all amounts not contained in the other classifications. Unassigned amounts are available for any purpose.

In circumstances when an expenditure is made for a purpose for which amounts are available in multiple fund balance classifications, fund balance is usually depleted in the order of restricted, committed, assigned then unassigned.

All of the ACCMA's restricted, committed and assigned funds are required to be used for projects and programs designed to reduce congestion or improve mobility in Alameda County.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 2 – SIGNIFICANT ACCOUNTING POLICIES (continued)

Use of Estimates

The preparation of basic financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenditures during the reporting period. Actual results could differ from those estimates.

Investments

Investments are stated at fair value. Included in interest income is the net change in the fair value of investments which consists of the realized gains or losses and the unrealized appreciation or depreciation of those investments. Measurement of the fair value of investments is based upon quoted market prices, if available. The estimated fair value of investments that have no quoted market price is determined based on equivalent yields for such securities or for securities of comparable maturity, quality, and type as obtained from market makers.

Employee Benefits

In compliance with ACCMA policy, employees are permitted to carry over five weeks of accrued vacation days from year to year. The ACCMA has accrued \$152,195 for this liability at June 30, 2011. Sick leave benefits do not vest.

Budget

The ACCMA annually adopts a budget for its General Fund using the modified accrual basis of accounting. Expenditures that exceed the total approved budget are not permitted without Board approval.

The Executive Director is authorized to approve expenditures in excess of budgeted line items within the three primary expenditure categories (personnel, consultants/contractors and other operating costs) in any amount as long as the total budget within each of the three expenditure categories is not overspent. Appropriation authority lapses at the end of the fiscal year. The Board increased appropriations during the fiscal year for the General Fund by \$638,843 mostly due to administrative costs related to joining the Alameda CTC JPA which were not included in the original budget for fiscal year 2010-11.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 3 - CASH AND INVESTMENTS

As of June 30, 2011, the ACCMA's cash and investments were as follows:

Cash in Banks	\$ 3,788,045
Investment in State Treasurer's Investment Pool	<u>20,222,958</u>
Total Cash and Investments	<u><u>\$ 24,011,003</u></u>

Cash in banks is entirely insured or collateralized by the bank holding the deposit. California law requires banks and savings and loan institutions to pledge government securities with a market value of 110% of the deposit or first trust deed mortgage notes with a value of 150% of the deposit as collateral for all municipal deposits. This collateral remains with the institution, but is considered to be held in the ACCMA's name and places the ACCMA ahead of general creditors of the institution.

Oversight of the State Treasurer's investment pool or Local Agency Investment Fund ("LAIF") is provided by the Pooled Money Investment Board consisting of the Treasurer, Controller and Director of Finance for the State of California. The ACCMA's position in the pool is equal to the value of the pool shares. The income from the pooled investments is allocated between the participants based on the daily cash balance maintained. Funds invested in LAIF are available for withdrawal on demand. LAIF records investments on an amortized cost basis, and LAIF is not rated.

The ACCMA mitigates its risk of investment losses as follows:

- Credit risk – This is the risk that an issuer or other counterparty of a security will not fulfill its obligations. The ACCMA's investment policy allows investing only in investments carrying minimum credit ratings from "A" to "AA" from one or two nationally recognized rating agencies, depending on the investment type, and requires diversification in the investment portfolio.
- Custodial credit risk – This is the risk that in the event a financial institution or counterparty fails, the ACCMA would not be able to recover the value of its deposits and investments. At June 30, 2011, the ACCMA's deposits were insured up to \$250,000 by the Federal Depositary Insurance Corporation and the remainder was collateralized by the financial institution's trust department in the ACCMA's name.

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011**

NOTE 3 - CASH AND INVESTMENTS (continued)

- Interest rate risk – This is the risk of market value declines due to rises in the general level of interest rates. To the extent possible, the maturity dates of the ACCMA's investments are matched with its expected cash flow needs. Investment maturities greater than three years require the approval of the Treasurer/Auditor. Long-term securities of more than one year are limited to 40% of the portfolio.
- Concentration of credit risk – This is the risk of loss attributable to the magnitude of investment with a single issuer. The ACCMA's investment policy limits investments in any one issuer to 5% of the portfolio except for government agency obligations (35%), repurchase agreements (25% to 50% depending on the length of time until maturity) and LAIF for which the policy allows up to the maximum amount permitted by law.

Investments authorized by the ACCMA's investment policy include:

- | | |
|--|---|
| • United States Treasury Bills and Notes | • Medium Term Corporate Notes |
| • Federal Agency Obligations | • Savings/Money Market Accounts |
| • State of California and Local Agency Debt Securities | • Mortgage & Asset-Backed Obligations |
| • Bankers' Acceptances | • Certificates of Deposit |
| • Commercial Paper | • Mutual Funds |
| • Repurchase Agreements | • California Local Agency Investment Fund |

NOTE 4 – CAPITAL ASSETS

Property and equipment costing \$5,000 or more is recorded in the statement of net assets at historical cost. Capital assets are depreciated using the straight line method over the following estimated useful lives: office furniture and equipment, five years; building improvements, remaining term of lease agreement; and automobile, five years.

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011**

NOTE 4 – CAPITAL ASSETS (continued)

Capital asset balances at June 30, 2011, and activity during the year were as follows:

	<i>Balance 6/30/2010</i>	<i>Additions</i>	<i>Disposals</i>	<i>Balance 6/30/2011</i>
Office Furniture/Equipment	\$ 504,103	\$ 36,463		\$ 540,566
Building Improvements	322,529			322,529
Automobile	35,246		\$(35,246)	
Subtotal	861,878	36,463	(35,246)	863,095
Less Accumulated Depreciation	(532,453)	(133,954)	24,672	(641,735)
Net Book Value	\$ 329,425	\$ (97,491)	\$(10,574)	\$ 221,360

NOTE 5 – EXCHANGE PROGRAM

In May 2000, the Board adopted a Local Funds Exchange Program for the purpose of providing local funds to Agencies for use in projects that either do not have the ability to make use of state or federal funds or would face unacceptable delays, cost increases or undue hardships if state or federal funds were utilized.

The ACCMA has entered into agreements with several local agencies to exchange State STIP funds with the other governments' local funding for various transportation projects. The revenues received by the ACCMA as a result of the exchange are treated for financial reporting purposes as deferred revenue. These deferred revenues are recognized as revenues at the time qualifying expenditures are incurred.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 5 – EXCHANGE PROGRAM (continued)

Following is a list of the funds exchanged from other governments through June 30, 2011:

AC Transit	\$35,060,514
BART	8,100,000
Fremont	5,983,256
Dublin	4,230,000
Livermore	4,580,000
ACTIA	2,300,000
Union City	9,314,000
MTC/ACCMA	675,000
Santa Clara Valley Transportation Authority	558,000
Altamont Commuter Express	432,445
Berkeley	259,560
Total Exchanged Funds	<u>71,492,775</u>
Total Expenditures Incurred:	
Year ended June 30, 2011	(6,957,562)
Previous years	<u>(50,408,630)</u>
Total Deferred Revenue – accrual basis	14,126,583
Less Amount not yet Collected	<u>(7,653,302)</u>
Total Deferred Revenue – modified accrual basis	<u><u>\$ 6,473,281</u></u>

NOTE 6 - EMPLOYEE RETIREMENT PLAN

All ACCMA employees are eligible to participate in the California Public Employees Retirement System (CalPERS), a cost-sharing multiple-employer defined benefit pension plan which acts as a common investment and administrative agent for its participating member employers. CalPERS provides retirement, disability and death benefits to plan members based on the participant's age, years of service and final compensation. Employees vest after five years of service and can receive the maximum benefit of 2.5% of annual salary at age 55. The ACCMA's employees participate in the Miscellaneous Employee Plan risk pool. Benefit provisions under the plan are established by State statute and ACCMA resolution.

The ACCMA is required to contribute the funding requirement amounts for the plan which are determined as of each June 30 on an actuarial basis by CalPERS. Employees have an obligation to contribute eight percent of their salary to the plan, however the ACCMA makes seven percent of this contribution on the employee's behalf.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 6 - EMPLOYEE RETIREMENT PLAN (continued)

The plan's provisions and benefits in effect at June 30, 2009 (the date of the most recent available actuarial report from CalPERS), are summarized as follows:

Benefit payments	Monthly for life
Minimum retirement age	50
Required employee contribution rate	8%
Required employer contribution rate, year ended June 30, 2011	14.256%

CalPERS determines contribution requirements using a modification of the Entry Age Normal Method. Under this method, the ACCMA's total normal benefit cost for each employee from date of hire to date of retirement is expressed as a level percentage of the related total payroll cost. Normal benefit cost under this method is the level amount the ACCMA must pay annually to fund an employee's projected retirement benefit. The actuarial assumptions used to compute contribution requirements are also used to compute the pension benefit obligation.

CalPERS uses the 15-year smoothed market method of valuing the plan's assets. An investment rate of return of 7.75% is assumed, a projected salary increase ranging from 3.25% to 14.45%, inflation of 3.0% and payroll growth of 3.25%. Annual salary increases are assumed to vary by duration of service. The ACCMA's unfunded actuarial accrued liability is being amortized as a level percentage of payroll over a closed 20-year period.

The following table shows ACCMA's required contributions and percentage contributed for the current year and each of the preceding two years.

<i>Fiscal Year Ended</i>	<i>Annual Pension Cost (APC)</i>	<i>Percentage of APC Contributions</i>	<i>Net Pension Obligation</i>
6/30/2009	\$ 521,850	100%	\$ -
6/30/2010	559,040	100%	-
6/30/2011	491,163	100%	-

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 6 - EMPLOYEE RETIREMENT PLAN (continued)

The plan's actuarial value (which differs from market value) and funding progress over the past three years are set forth below at their actuarial valuation date of June 30 (dollars in thousands):

<i>Actuarial Valuation Date</i>	<i>Accrued Liability</i>	<i>Value of Assets</i>	<i>Unfunded Liability</i>	<i>Funded Ratio</i>	<i>Covered Payroll</i>	<i>Liability as % of Payroll</i>
June 30, 2007	\$1,315,454	\$1,149,247	\$166,207	87.4%	\$289,090	57.5%
June 30, 2008	1,537,910	1,337,708	200,202	87.0%	333,308	60.1%
June 30, 2009	1,834,425	1,493,431	340,994	81.4%	355,150	96.0%

Audited annual financial statements are available from CalPERS at P.O. Box 942709, Sacramento, CA 94229-2709.

NOTE 7 - COMMITMENTS AND CONTINGENCIES

Operating Lease

The ACCMA is obligated under an operating lease with CIM/Oakland 1333 Broadway LP through November 30, 2013 for the premises located at 1333 Broadway, Oakland. Minimum rental commitments for each year ending June 30 as follows:

2012	\$461,497
2013	475,205
2014	121,657

Grants

The ACCMA participates in a number of state and federal grant programs that are subject to financial and compliance audits by the grantors. Audits of certain grant programs for or including the year ended June 30, 2011, have not yet been conducted or completed. Accordingly, the ACCMA's compliance with applicable grant requirements will be established at some future date. The amount, if any, of expenditures which may be disallowed by the granting agencies cannot be determined at this time. However, management does not believe that any audit disallowances would have a material effect on the financial position of the ACCMA.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 7 – COMMITMENTS AND CONTINGENCIES (continued)

Construction

The ACCMA had construction commitments of approximately \$10.4 million as of June 30, 2011.

Funding Agreements

Exchange Fund - The ACCMA has entered into Exchange agreements with several local governments to provide funding for transportation projects. As of June 30, 2011, the remaining project costs to be paid by the ACCMA totaled approximately \$10.1 million.

Capital Projects Fund - The Sunol Smart Carpool Lane Joint Powers Authority (“Authority”) is a joint powers authority, organized in February 2006 pursuant to a Joint Exercise of Powers Resolution (“Resolution”) among the ACCMA, ACTIA and the Santa Clara Valley Transportation Authority. The Resolution was entered into pursuant to the Government Code of the State of California, commencing with Section 6500. The Authority was formed to plan, design and construct and then administer the operation of a value pricing high-occupancy vehicle program on the Sunol Grade segment of southbound Interstate-680 in Alameda and Santa Clara Counties.

The Authority was formed as a result of a planning study completed by the ACCMA and evolved into an ACCMA capital project. The lane went into operations on September 20, 2010. The ACCMA was designated the managing agency for the Authority and has provided administrative, accounting and other support since its inception. The ACCMA has agreed to cover the costs of operations for the Authority during the ramp up and warranty period of operations as part of its original capital project through June 30, 2012. During the period of September 20, 2010 through June 30, 2011, the ACCMA incurred administrative and operating expenses on behalf of the Authority as follows:

California Highway Patrol enforcement	\$169,487
Executive director compensation	149,012
Bay Area Toll Authority transaction fees	121,395
ACCMA staff time charges	115,528
Legal fees	49,942
Insurance	28,414
Utilities	19,597
Other	17,074
Total	<u>\$670,449</u>

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 7 – COMMITMENTS AND CONTINGENCIES (continued)

Since project inception in fiscal year 2001-02, the ACCMA has incurred capital project costs in the amount of \$36.3 million, including operating costs on the Sunol Smart Car Pool Lane project.

Insurance

The ACCMA is exposed to various risks of loss related to torts; theft or damage to assets; errors and omissions; employees' injuries; natural disasters; and unemployment.

The following is a table summarizing the ACCMA's insurance coverage:

<i>Type of Coverage</i>	<i>Deductible</i>	<i>Coverage</i>
• General Liability	\$ 250	Up to \$4,000,000 per occurrence
• Property Coverage	250	Up to \$513,700 per occurrence
• Workers' Compensation	-	Up to \$1,000,000 per occurrence
• Employment Practices	35,000	Up to \$2,000,000 per occurrence
• Automobile Liability	-	Up to \$1,000,000 per occurrence
• Director & Officers	25,000	Up to \$2,000,000 per occurrence
• Crime	10,000	Up to \$1,000,000 per occurrence
• Umbrella/Excess	10,000	Up to \$1,000,000 per occurrence

There were no claims in excess of insured amounts during the past three fiscal years.

NOTE 8 – INTER-FUND ACTIVITY

As of June 30, 2011, the General Fund's inter-fund liability due to the Exchange Fund in the amount of \$10,385,900 as well as the Capital Projects Fund's inter-fund liability to the General Fund in the amount of \$9,561,505 resulted from cash advances for capital projects. This arrangement is necessary because capital project funding is received on a reimbursement basis. These amounts will be repaid from revenue received from funding agencies as the ACCMA is reimbursed for capital project expenditures. These amounts are shown in the eliminations column of the fund financial statements and are eliminated from the government-wide financial statements.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

NOTE 8 – INTER-FUND ACTIVITY (continued)

The ACCMA also experiences inter-fund activity when one of the special revenue funds or the Exchange Fund provides funding for a capital project or program. As of June 30, 2011, the General Fund and the Capital Projects Fund had revenues of \$237,597 and \$369,059, respectively, from the Transportation for Clean Air (TFCA) Fund and \$582,986 and \$4,645,237, respectively, from the Exchange Fund. As of June 30, 2011, \$4,652,499 of these revenues had not yet been paid by the TFCA and Exchange Funds to the General and Capital Projects Funds. Since the TFCA and Exchange Funds have already recorded all funds received as revenues and all funding requirements as expenditures, these inter-fund revenues and related expenditures in the General Fund and the Capital Projects Fund are included in the elimination column of the fund financial statements and are eliminated from the government-wide financial statements.

NOTE 9 – LOAN

The ACCMA entered into a loan agreement with ACTIA dated March 24, 2011, whereby ACTIA agreed to loan up to \$25 million to the ACCMA, if needed. The outstanding loan payable to ACTIA at June 30, 2011 was \$5 million. The loan carries no interest and is repayable to ACTIA when the ACCMA is in a position to do so, which is expected to be during the fiscal year 2014-15 when current capital projects are through the construction phase. The ACCMA may repay the loan, in whole or in part, at anytime without penalty.

NOTE 10 – POST EMPLOYMENT BENEFITS OTHER THAN PENSIONS

The ACCMA participates in the California Employers' Retirement Benefit Trust ("CERBT"), an agent multiple-employer defined benefit postemployment healthcare plan administered by CalPERS. The CERBT provides lifetime healthcare benefits to retired ACCMA employees and their eligible family members. These benefit provisions were established and may be amended by the ACCMA. The amount the ACCMA will contribute will never exceed the amount contributed on behalf of active employees. The ACCMA had four eligible retirees as of June 30, 2011.

Employees hired after January 26, 2006 are eligible for benefits if they retire from the ACCMA, are immediately eligible to receive a pension from CalPERS and have 10 years of public service, including at least five years with the ACCMA. The ACCMA will contribute based on years of public service and the following formula: 50% after 10 years with an additional 5% for each additional year of service reaching a maximum of 100% after 20 years of service.

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011**

**NOTE 10 – POST EMPLOYMENT BENEFITS OTHER THAN PENSIONS
(continued)**

The ACCMA obtained an actuarial valuation as of July 1, 2009. The funding policy established by the ACCMA is to contribute annually the full Annually Required Contribution (“ARC”), an amount actuarially determined in accordance with the parameters of GASB Statement No. 45. The ACCMA’s annual other post employment benefit (“OPEB”) obligation cost is calculated based on the ARC of the employer. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to fund normal cost each year and amortize any unfunded actuarially accrued liabilities over a period of up to 30 years.

The following tables show the ARC of the ACCMA, the components of ACCMA’s annual OPEB costs for the year, the amount actually contributed to the Plan and the changes in ACCMA’s net OPEB cost obligation to the Plan.

Normal Cost at Year End	\$ 115,391
Amortization of UAAL	27,368
	<hr/>
Annual Required Contribution (ARC)	142,759
Interest on Prior Year Net OPEB Obligation	-
Adjustment to ARC	-
	<hr/>
Annual OPEB Cost	142,759
Contributions made	(142,759)
	<hr/>
Increase (Decrease) in Net OPEB Obligation	-
Net OPEB Obligation - Beginning of Fiscal Year	-
Net OPEB Obligation - End of Fiscal Year	<u><u>\$ -</u></u>

The annual OPEB cost, the percentage of annual OPEB cost contributed to the Plan and the net OPEB obligation for fiscal year 2011 were as follows:

<i>Fiscal Year</i>	<i>Annual OPEB Cost</i>	<i>Actual Contribution</i>	<i>Percentage of ARC Contributed</i>	<i>Net OPEB Obligation (Asset)</i>
6/30/2009	\$89,770	\$ 90,000	100%	\$ (230)
6/30/2010	136,217	136,217	100%	-
6/30/2011	142,759	142,759	100%	-

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011**

**NOTE 10 – POST EMPLOYMENT BENEFITS OTHER THAN PENSIONS
(continued)**

Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and plan members) and include the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefit costs between the employer and plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations.

In the actuarial valuation as of July 1, 2009, the entry age normal cost method was used. The actuarial assumptions included a 7.75% investment rate of return; an annual healthcare cost trend rate varying between 7.9% in calendar year 2011 to 5.5% in 2019 and thereafter; and a 3.25% annual increase in projected payroll. The Unfunded Actuarially Accrued Liability (“UAAL”) is being amortized on a level dollar approach on a closed basis over 30 years beginning in fiscal year 2007-08.

The table below presents multi-year funding progress information demonstrating whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability for benefits.

<i>Actuarial Valuation Date</i>	<i>Actuarial Accrued Liability (AAL) (a)</i>	<i>Actuarial Value of Assets (b)</i>	<i>Unfunded AAL (UAAL) (a)-(b)</i>	<i>Funded Status (b)/(a)</i>	<i>Annual Covered Payroll (c)</i>	<i>UAAL As a % of Covered Payroll [(a)-(b)]/(c)</i>
6/30/2008	\$ 777,380	\$ 683,484	\$ 93,896	87.9%	\$ 2,689,958	3.5%
6/30/2009	972,130	556,291	415,839	57.2%	2,907,338	14.3%
6/30/2010	1,143,281	727,326	415,955	63.6%	2,813,500	14.8%

The CERBT issues a publicly available financial report that may be obtained from CalPERS, Lincoln Plaza North, 400 Q Street, Sacramento, CA 93811.

ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO BASIC FINANCIAL STATEMENTS (CONTINUED)
JUNE 30, 2011

**NOTE 11 – PUBLIC TRANSPORTATION MODERNIZATION IMPROVEMENT
AND SERVICE ENHANCEMENT ACCOUNT**

In November 2006, California voters passed a bond measure enacting the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006. Of the \$19.9 billion of state general obligation bonds authorized, \$4 billion was set aside by the state as instructed by the statute as the Public Transportation Modernization Improvement and Service Enhancement Account (PTMISEA). These funds are available to the California Department of Transportation for intercity rail projects and to transit operators in California for rehabilitation, safety or modernization improvements, capital enhancements or expansions, new capital projects, bus rapid transits improvements or for rolling stock procurement, rehabilitation or replacement.

In fiscal year 2009-10, the ACCMA applied for and received \$283,155 from the State's PTMISEA account and expended \$201,855 leaving a remaining balance of \$80,716. During the year ended June 30, 2011, the ACCMA did not apply for or spend any PTMISEA funds therefore the balance from the prior year remains as follows:

Balance of PTMISEA funds, June 30, 2010	\$ 80,716
Proceeds received	-
Expenditures incurred	-
Unexpended Proceeds, June 30, 2011	<u>\$ 80,716</u>

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
COMBINING BALANCE SHEET
NON-MAJOR SPECIAL REVENUE FUNDS
JUNE 30, 2011**

DRAFT

	<i>Transportation Fund for Clean Air</i>	<i>Vehicle Registration Fund</i>	<i>Total Non-Major Special Revenue Funds</i>
ASSETS			
Restricted Cash and Investments	\$ 3,759,717	\$ 541,434	\$ 4,301,151
Accounts Receivable	900,000	1,163,172	2,063,172
Interest Receivable	2,986		2,986
Total Assets	<u><u>\$ 4,662,703</u></u>	<u><u>\$ 1,704,606</u></u>	<u><u>\$ 6,367,309</u></u>
LIABILITIES AND FUND BALANCES			
Liabilities - Accounts Payable	\$ 750,410	\$ 772,625	\$ 1,523,035
Total Liabilities	<u>750,410</u>	<u>772,625</u>	<u>1,523,035</u>
Fund Balances - Restricted:			
Transportation Fund for Clean Air	3,912,293		3,912,293
Vehicle Registration Fees		931,981	931,981
Fund Balances	<u>3,912,293</u>	<u>931,981</u>	<u>4,844,274</u>
Total Liabilities and Fund Balances	<u><u>\$ 4,662,703</u></u>	<u><u>\$ 1,704,606</u></u>	<u><u>\$ 6,367,309</u></u>

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
COMBINING STATEMENT OF REVENUES, EXPENDITURES AND
CHANGES IN FUND BALANCES -
NON-MAJOR SPECIAL REVENUE FUNDS
YEAR ENDED JUNE 30, 2011**

DRAFT

	<i>Transportation Fund for Clean Air</i>	<i>Vehicle Registration Fund</i>	<i>Total Non-Major Special Revenue Funds</i>
REVENUES			
Grants:			
Transportation Fund for Clean Air	\$ 1,830,061		\$ 1,830,061
Vehicle Registration Fees		\$ 1,739,271	1,739,271
Interest	17,868		17,868
Total Revenues	<u>1,847,929</u>	<u>1,739,271</u>	<u>3,587,200</u>
EXPENDITURES			
Current:			
TFCA Grant Program	2,031,442		2,031,442
VRF Election Costs		772,625	772,625
Administration	85,191	34,665	119,856
Office & Related Costs	60		60
Total Expenditures	<u>2,116,693</u>	<u>807,290</u>	<u>2,923,983</u>
Net Change in Fund Balances	(268,764)	931,981	663,217
Fund Balances, July 1, 2010	<u>4,181,057</u>	<u>-</u>	<u>4,181,057</u>
Fund Balances, June 30, 2011	<u>\$ 3,912,293</u>	<u>\$ 931,981</u>	<u>\$ 4,844,274</u>

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON
COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL
STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT
AUDITING STANDARDS**

The Board of Directors
Alameda County Congestion Management Agency:

We have audited the basic financial statements of Alameda County Congestion Management Agency (the "ACCMA") as of and for the year ended June 30, 2011, and have issued our report thereon dated November 21, 2011. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control over Financial Reporting

In planning and performing our audit, we considered the ACCMA's internal control over financial reporting as a basis for designing our audit procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the ACCMA's internal control over financial reporting. Accordingly we do not express an opinion on the effectiveness of the ACCMA's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON
COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL
STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT
AUDITING STANDARDS (Continued)**

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the ACCMA's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended for the information of management, Board of Directors, federal awarding agencies and pass-through entities, and is not intended to be and should not be used by anyone other than these specified parties.

November 21, 2011

**INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH
REQUIREMENTS APPLICABLE TO EACH MAJOR PROGRAM AND ON
INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB
CIRCULAR A-133**

The Board of Directors
Alameda County Congestion Management Agency:

Compliance

We have audited Alameda County Congestion Management Agency (the "ACCMA") compliance with the types of compliance requirements described in the OMB *Circular A-133 Compliance Supplement* that could have a direct and material effect on the ACCMA's major federal program for the year ended June 30, 2011. The ACCMA's major federal program is identified in the summary of auditors' results section of the accompanying schedule of auditors' results, findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to its major federal program is the responsibility of the ACCMA's management. Our responsibility is to express an opinion on the ACCMA's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on the major federal program occurred. An audit includes examining, on a test basis, evidence about the ACCMA's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination on the ACCMA's compliance with those requirements.

In our opinion, the ACCMA complied, in all material respects, with the requirements referred to above that could have a direct and material effect on each of its major federal program for the year ended June 30, 2011.

**INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH
REQUIREMENTS APPLICABLE TO EACH MAJOR PROGRAM AND ON
INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB
CIRCULAR A-133 (Continued)**

Internal Control over Compliance

Management of the ACCMA is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the ACCMA's internal control over compliance with requirements that could have a direct and material effect on its major federal program to determine our auditing procedures for the purpose of expressing

our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the ACCMA's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over compliance that we consider to be a material weaknesses, as defined above.

This report is intended for the information of management, Board of Directors, federal awarding agencies and pass-through entities, and is not intended to be and should not be used by anyone other than these specified parties.

November 21, 2011

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
YEAR ENDED JUNE 30, 2011**

<i><u>Federal Grantor/Pass-Through Grantor/Program Title</u></i>	<i><u>Federal CFDA Number</u></i>	<i><u>Expenditures</u></i>
U.S. Department of Transportation – Passed Through California Department of Transportation – Highway Planning and Construction:	20.205	
Countywide Bicycle Plan		\$ 83,198
Programming Funding		59,810
Webster Street SMART Corridor		2,016
I-80 Gilman Interchange		25,235
Safe Routes to School		4,698
I-880 SB HOV Lane		70,609
Implementation of Ramp Metering		62,810
I-680 SMART Carpool Lane		169,206
Congestion Management Program		351,447
Travel Model Support		142,081
I-880 Integrated Corridor		667,230
Center to Center		260,479
Transportation and Land Use Planning Funding		114,003 995,584
I-580 EB HOT Lane (American Recovery and Reinvestment Act funds)		805,059
I-880 North Safety Improvements		734,364
I-580 Corridor Row Acquisition		685,407
I-580 Tri-Valley Rapid Co		846,246
I-580 Soundwall Project		<u>2,230,934</u>
Total expenditures of federal awards		<u><u>\$8,310,416</u></u>

See notes to schedule of expenditures of federal awards.

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
YEAR ENDED JUNE 30, 2011**

NOTE 1 - GENERAL

The schedule of expenditures of federal awards ("Schedule") presents the activity of all federal award programs of the ACCMA for fiscal year 2010-11. The reporting entity is defined in Note 1 of the ACCMA's basic financial statements. Because the Schedule presents only the federal award activity of the ACCMA, it is not intended to and does not present the financial position, changes in financial position or the cash flows of the ACCMA.

NOTE 2 - BASIS OF ACCOUNTING

The Schedule is presented using the modified accrual basis of accounting. The ACCMA's revenue from federal awards is passed through the California Department of Transportation (CalTrans) and is reported in the basic financial statements as grant revenue from CalTrans. Expenditures of federal awards are reported in the ACCMA's statement of activities as "consultants & contractors" and "salaries & benefits" expenses for the year ended June 30, 2011.

**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
SCHEDULE OF AUDITORS' RESULTS, FINDINGS AND QUESTIONED COSTS
YEAR ENDED JUNE 30, 2011**

(1) Summary of Auditors' Results

- (a) Type of report issued on the financial statements: Unqualified opinion
- (b) Significant deficiencies in internal control over financial reporting disclosed by the audit of the financial statements: None Reported Material Weaknesses: No
- (c) Noncompliance noted which is material to the financial statements: No
- (d) Significant deficiencies in internal control over major programs disclosed: None Reported
Material Weaknesses: No
- (e) Type of report issued on compliance for major programs: Unqualified opinion
- (f) Any audit findings which are required to be reported under Section 510(a) of OMB Circular A-133: No
- (g) Major programs: Highway Planning and Construction (CFDA# 20.205) \$ 8,310,416
- (h) Dollar threshold used to distinguish between Type A and Type B programs: \$300,000
- (i) Auditee qualified as a low-risk auditee under Section 530 of OMB Circular A-133: Yes

(2) Findings Relating to the Financial Statements Reported in Accordance with Government

Auditing Standards: None

(3) Findings and Questioned Costs Relating to Federal Awards: None

(4) Status of Prior Years Findings: No prior year findings



**ALAMEDA COUNTY CONGESTION
MANAGEMENT AGENCY**

MANAGEMENT LETTER

YEAR ENDED JUNE 30, 2011

November 21, 2011

To the Executive Director,
Alameda County Congestion Management Agency:

In planning and performing our audit of the basic financial statements of the Alameda County Congestion Management Agency (the "ACCMA") for the year ended June 30, 2011, we considered the ACCMA's internal control in order to determine our auditing procedures for the purpose of expressing an opinion on the basic financial statements and not to provide assurance on the effectiveness of the ACCMA's internal control. Accordingly, we do not express an opinion on the effectiveness of the ACCMA's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weaknesses and, therefore, there can be no assurance that all such deficiencies have been identified.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We did not identify any deficiencies in internal control that we consider to be material weaknesses. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

During our audit we also became aware of several other matters that are opportunities for strengthening internal controls and operating efficiency. The Findings and Recommendations section of this report summarizes our findings and recommendations. We reported on the ACCMA's internal control over financial reporting in our report dated November 21, 2011. The information contained herein does not affect our report dated November 12, 2011 on the basic financial statements of the ACCMA.

We will review the status of our recommendations during our next audit engagement. We have already discussed our recommendations with management of the ACCMA and would be pleased to discuss them further, to perform additional study of these matters, or to assist you in their implementation upon request.

This report includes certain matters that are required by auditing standards generally accepted in the United States of America to be communicated to the ACCMA's Audit Committee.

The accompanying findings and recommendations, and required communications are intended solely for the information and use of the ACCMA's Board of Directors, Audit Committee, management and others within the ACCMA and are not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,

DRAFT

REQUIRED COMMUNICATIONS

Professional auditing standards require auditors to communicate with the audit committee, or its equivalent, on a number of subjects. The following information satisfies these requirements, and is solely for use of the ACCMA's Audit Committee, Board of Directors and management.

I. Our Responsibility under U.S. Generally Accepted Auditing Standards and *OMB Circular A-133*

As stated in our engagement letter dated May 28, 2009, our responsibility, as described by professional standards, is to express an opinion about whether the financial statements prepared by management with your oversight are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Our audit of the financial statements does not relieve you or management of your responsibilities.

In planning and performing our audit, we considered the ACCMA's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. We also considered internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with U.S. Office of Management and Budget (OMB) Circular A-133.

As part of obtaining reasonable assurance about whether the ACCMA's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit. Also, in accordance with OMB Circular A-133, we examined, on a test basis, evidence about the ACCMA's compliance with the types of compliance requirements described in *OMB Circular A-133 Compliance Supplement* applicable to each of its major federal programs for the purpose of expressing an opinion on the ACCMA's compliance with those requirements. While our audit provides a reasonable basis for our opinion, it does not provide a legal determination on the ACCMA's compliance with those requirements.

II. Planned Scope and Timing of the Audit

We performed the audit according to the planned scope and timing previously communicated to the ACCMA in our engagement letter dated May 28, 2009.

REQUIRED COMMUNICATIONS (Continued)

III. Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. In accordance with the terms of our engagement letter, we will advise management about the appropriateness of accounting policies and their application. The significant accounting policies used by the ACCMA are described in the notes to the ACCMA's financial statements.

Accounting estimates are an integral part of the basic financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the financial statements were depreciation estimates for capital assets and allocation of indirect costs to projects.

Management's estimate of depreciation for capital assets is based on estimated useful lives of assets and allocation of indirect costs to projects is based on methodologies required by granting agencies. We evaluated the key factors and assumptions used to develop these estimates in determining that they are reasonable in relation to the financial statements taken as a whole.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. None of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to the financial statements taken as a whole.

Disagreements with Management

For purposes of this report, professional standards define a disagreement with management as a matter, whether or not resolved to our satisfaction, concerning a financial accounting, reporting or auditing matter that could be significant to the basic financial statements or the auditors' report. No such disagreements arose during the course of our audit.

REQUIRED COMMUNICATIONS (Continued)

Management Representations

We have requested and received certain written representations from management in accordance with standards of the American Institute of Certified Public Accountants.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a “second opinion” on certain situations. If a consultation involves application of an accounting principle to the ACCMA’s basic financial statements or a determination of the type of auditors’ opinion that may be expressed on those financial statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the ACCMA’s auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

FINDINGS AND RECOMMENDATIONS

1. FUND ACCOUNTING

The ACCMA reports five funds in its annual financial statements (General, Exchange, Capital Projects, Vehicle Registration Fees and Transportation for Clean Air). However, it records the activities of the General, Capital Projects and Vehicle Registration Fees funds together in its accounting records, and adopts a combined budget for these three funds. This makes it more difficult to monitor budget vs. actual performance for these three funds and more difficult to prepare accurate financial statements for the board and the annual audit.

Recommendation

The ACCMA should adopt separate budgets for each of its funds and should account for each of its funds separately in its accounting records.

ACCMA Response

While the General Fund included both operating and capital activities in prior years, management of the Alameda CTC felt it was necessary to break out the Capital Fund from the General Fund for transparency purposes. With this in mind, the budget for fiscal year 2011-12 was developed separately by fund. In June, 2011, the Alameda CTC adopted separate budgets for all funds including the General Fund, the Capital Projects Fund, the Special Revenue Funds (includes the Vehicle Registration Fee Fund) and the Exchange Fund for fiscal year 2011-12. The new consolidated Alameda CTC financial database, implemented in July, 2011, has also been set up to account for all of these funds separately.

2. EXCHANGE AGREEMENTS

When the ACCMA enters into local funds exchange agreements with other jurisdictions, an agreement is signed stating the amount of local funds the other jurisdiction will pay to the ACCMA. When the amount to be paid by the other jurisdiction changes, the exchange agreement is not modified. The exchange agreement contains a clause that states, "In the event that the obligation amount is less than the exchange amount, then this agreement shall be amended without further action by the parties to provide that the exchange amount and the CMA return shall each be reduced to an amount equal to the obligation amount." It is important for the audit trail to definitively show the final amount of the exchange.

Recommendation

The ACCMA should formally amend its exchange agreements whenever key terms are revised, especially revisions to the amount to be collected.

ACCMA Response

Historically, the ACCMA has addressed the issue that amounts originally intended for exchange may change if the amount reimbursed by the outside funding agency to the Sponsor decreases from the original exchange agreement amount by including the language referenced above in its exchange fund agreements. Since the independent auditor is suggesting that this may not leave an adequate audit trail, staff will follow up with our legal

team to review the current process and language and suggest the best solution moving forward.

3. COMPREHENSIVE ANNUAL FINANCIAL REPORT

The ACCMA's basic financial statements meet its external financial reporting requirements. These basic financial statements include a management's discussion and analysis, government wide financial statements, fund financial statements and related note disclosures. The ACCMA may wish to prepare a more thorough version of its annual audited financial report, called a comprehensive annual financial report (CAFR). A CAFR would add two new sections:

- A statistical section showing multi-year trend information and non-financial data that is useful in evaluating economic condition, and
- A transmittal letter providing a profile of the government, an overview of the local economy, and the ACCMA's major initiatives and projects.

Governments that prepare a CAFR frequently submit it to the Government Finance Officers Association (GFOA) for consideration for a Certificate of Achievement for Excellence in Financial Reporting. The certificate from GFOA adds an additional level of credibility to the financial statements.

Recommendation

As the Alameda County Transportation Commission establishes its financial reporting procedures and reports, it should consider preparing a CAFR and participating in the GFOA's Certificate of Achievement for Excellence in Financial Reporting program.

ACCMA Response

Management agrees that the CAFR reporting format is a thorough financial statement reporting format which is very informative and encourages transparency and is what the Alameda CTC should strive for in its financial statement reporting. The ACCMA's and ACTIA's current financial statement reporting formats are quite different from each other, so the Alameda CTC will need to create a new financial statement reporting format in its first year of operations for fiscal year 2011-2012. The decision of whether or not to prepare a CAFR for fiscal year 2011-2012 will be made at that time when management can assess the required level of effort to create a new financial statement reporting structure and how much additional time and effort would be required to also create a new CAFR reporting structure for this fiscal year.



Memorandum

DATE: December 28, 2011

TO: Finance and Administration Committee

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

SUBJECT: **Approval and Adoption of the Alameda County Transportation Commission Salaries and Benefits Resolution for the Remainder of the 2012 Calendar Year**

Recommendation

It is recommended that the Commission approve and adopt the attached Alameda County Transportation Commission (Alameda CTC) Salaries and Benefits Resolution for the 2012 calendar year.

Summary

Since the current salary ranges were approved by the Commission in June, 2011, staff is not currently recommending any further changes to salary ranges. The recommended benefits program was created in an effort to consolidate the separate benefit programs of the Alameda County Congestion Management Agency (ACCMA) and the Alameda County Transportation Improvement Authority (ACTIA) while providing substantially equivalent benefits to employees and retirees as were previously received. Some compromise did occur in order to bring the two programs together.

Staff used a competitive process to select an insurance broker who also used a competitive process to select key insurance providers. The result is a benefits program which will provide dental, vision, life, long-term disability and short-term disability insurance for employees all at a savings to the Alameda CTC. In addition, Alameda CTC is working with the California Public Employees' Retirement System (CalPERS) to implement health coverage under the new Alameda CTC contract that will include the same health benefits that were previously provided to the ACCMA and ACTIA employees. The benefits program will be managed through a cafeteria plan for active employees and a Health Reimbursement Arrangement (HRA) for retirees. Draft Alameda CTC Cafeteria and HRA Plans are being presented for approval and adoption as a separate item on today's agenda.

The cafeteria plan will be available to all active employees to pay for some or all of the costs of their benefits. If the cost of their benefits is more than the approved contribution amount, the amount will be deducted from the employee's paycheck on a pretax basis. The cafeteria plan contribution amount recommended for 2012 is \$1,743 per month per employee. The recommended amount was determined after reviewing the new insurance rates available to the Alameda CTC through the competitive process.

The HRA Plan is a premium reimbursement plan for retiree health care premiums. The Alameda CTC will contribute only the required minimum contribution amount directly to CalPERS for retirees (\$112 per month in 2012). CalPERS requires that the remaining premium costs be deducted directly from the retiree's monthly retirement check under the CalPERS pension plan. Once CalPERS takes this deduction, the Alameda CTC's HRA will reimburse each retiree for the deduction, up to the annually determined amount. The HRA contribution amount recommended for 2012 is \$1,109 per retiree per month (\$1,220.88 Kaiser retiree plus one rate, less \$112 PEMHCA-required minimum contribution). Similar to active employees, if a retiree's elected health coverage costs exceed the amount approved by the Commission, the retiree will be required to pay for the additional amount from his or her own funds.

Based on a recent survey conducted by Koff and Associates and in order to be more in line with best practices, the Alameda CTC also has adjusted the benefit provided to employees for opting out of participation in Public Employees' Medical and Hospital Care Act (PEMHCA) medical to \$400 per month.

Background

In October, 2010, the Commission approved the comprehensive benefits program for transitioning and new employees of the Alameda CTC. This benefits program included CalPERS retirement benefits, health benefits for active employees and retirees, vacation and sick leave, holiday allowance and other benefits. This approval allowed for staff to begin the process with CalPERS to have a contract executed with the Alameda CTC. This contract is expected to be effective as of January 1, 2012. The Pension contract with CalPERS is required to be executed before the Health program with CalPERS can be initiated; therefore the new medical insurance program and all other new benefits are scheduled to become effective on February 1, 2012. CalPERS is working with staff to ensure there is no lapse in medical coverage.

In January 2011, the Commission adopted an Interim Consolidated Benefits Program to allow current ACTIA and ACCMA employees to be governed by a consistent set of policies regarding holiday schedules, vacation and sick leave, as well as other fringe benefits. In the attached resolution, these benefits remain unchanged.

Fiscal Impact

No changes are anticipated in employee salary ranges through the end of the current fiscal year. The adoption of the new, consolidated benefits program will result in an annual savings to the Alameda CTC of approximately \$20,000 or more depending on staff benefit elections.

Attachments:

Attachment A:	Recommended Calendar Year 2012 Salary Ranges for Alameda CTC
Attachment B:	Salaries and Benefits Resolution for the 2012 Calendar Year



Recommended 2012 Calendar Year Salary Ranges for Alameda CTC

Position/Classification	Min	Med	Max
Deputy Director of Projects and Programming	\$ 149,105	\$ 171,470	\$ 193,836
Deputy Director of Planning	\$ 135,081	\$ 155,344	\$ 175,606
Director of Finance	\$ 131,787	\$ 151,555	\$ 171,323
Deputy Director of Policy, Legislation, and Public Affairs	\$ 128,572	\$ 147,858	\$ 167,144
Principal Transportation Engineer	\$ 116,480	\$ 133,952	\$ 151,424
Principal Transportation Planner	\$ 105,525	\$ 121,345	\$ 137,183
Senior Transportation Engineer	\$ 100,441	\$ 115,507	\$ 130,573
Project Controls Engineer	\$ 95,601	\$ 109,941	\$ 124,281
Senior Transportation Planner	\$ 90,994	\$ 104,643	\$ 118,292
Accounting Manager	\$ 90,994	\$ 104,643	\$ 118,292
Senior Accountant	\$ 78,464	\$ 90,234	\$ 102,003
Contract Procurement Analyst	\$ 78,464	\$ 90,234	\$ 102,003
Contract Compliance and Outreach Analyst	\$ 78,464	\$ 90,234	\$ 102,003
Assistant Transportation Planner/Programming Analyst I	\$ 71,085	\$ 81,747	\$ 92,410
Office Supervisor	\$ 71,085	\$ 81,747	\$ 92,410
Accountant	\$ 67,659	\$ 77,808	\$ 87,957
Clerk of the Board/Commission	\$ 67,659	\$ 77,808	\$ 87,957
Executive Assistant	\$ 56,919	\$ 65,457	\$ 73,995
Administrative Assistant	\$ 51,566	\$ 59,301	\$ 67,036
Receptionist	\$ 40,283	\$ 46,326	\$ 52,368

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**ALAMEDA COUNTY TRANSPORTATION COMMISSION
RESOLUTION 12-____**

Commission Chair
Mark Green, Mayor - Union City

Commission Vice Chair
Scott Haggerty, Supervisor - District 1

ACTransit
Greg Harper, Director

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

BART
Thomas Blazick, Director

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Beverly Johnson, Councilmember

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City of Berkeley
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Jennifer Hosterman, Mayor

City of San Leandro
Joyce R. Staroscuk, Councilmember

Executive Director
Arthur L. Dao

**SALARIES AND BENEFITS FOR STAFF MEMBERS
FEBRUARY 1, 2012 THROUGH DECEMBER 31, 2012**

WHEREAS, the Alameda County Transportation Commission, hereinafter referred to as Alameda CTC, was created pursuant to a joint powers agreement ("Joint Powers Agreement") entered into among the 14 cities in Alameda County, the County of Alameda, the Bay Area Rapid Transportation District, the Alameda Contra Costa Transit District, the Alameda County Transportation Improvement Authority ("ACTIA"), and the Alameda County Congestion Management Agency ("ACCMA");

WHEREAS, the Alameda CTC is empowered by the Joint Powers Agreement to carry out numerous transportation planning, programming and construction functions and responsibilities, including all functions and powers of ACTIA and ACCMA;

WHEREAS, the Alameda CTC is authorized under Section 11 and 13 of the Joint Powers Agreement to appoint and retain staff as necessary to fulfill its powers, duties and responsibilities, and all Alameda CTC staff members are employees of the Alameda CTC as of January 1, 2012;

WHEREAS, as a new employer agency, the Alameda CTC wishes to establish a set of benefits and leave policies for all employees of the Agency; and

WHEREAS, both predecessor Agencies and Alameda CTC adopted Resolution 11-001, thereby establishing a consistent interim set of benefits and leave policies, and this Resolution is intended to supersede and replace such Resolution 11-001; and

NOW, THEREFORE, BE IT RESOLVED that the salaries and employment benefits for members of the independent staff of the Alameda CTC for February 1, 2012 through December 31, 2012 are hereby adopted, and are herein set forth.

1. Salaries

- 1.1 An employee shall be compensated at a rate set between the minimum (min) and maximum (max) of the range specified in Attachment 1 for their respective position classification.
- 1.2 The duties and responsibilities of the position classifications identified in Paragraph 1.1 shall be described by an Alameda CTC job specification approved by the Executive Director.

- 1.3 The salary ranges for the employees described in Paragraph 1.1 shall not include steps and/or provision for any automatic or tenure-based increases.
- 1.4 Starting compensation, including salary, for each employee shall be set by the Executive Director consistent with the prescribed ranges for the position classifications identified in Paragraph 1.1.

2. Appointments and Performance Management

- 2.1 Original appointments of new employees shall be tentative and subject to a probationary period of one (1) year actual service; an existing employee appointed to a new position shall serve a probationary period of at least one hundred eighty (180) days commencing the first day of employment in the new position.
 - 2.1.1 Every six (6) months during the probationary period new employees will meet with their supervisor to discuss the employee's performance to date. At the time of the discussion the supervisor will complete a written evaluation for the employee's personnel records.
 - 2.1.2 Upon completion of the probationary period, the employee shall be given a written evaluation. If this evaluation shows that the employee has satisfactorily demonstrated the qualifications for the position, the employee shall gain regular status, and shall be so informed in writing.
 - 2.1.3 **At any time during the probationary period, a probationary employee may be terminated** with or without cause and with or without notice. Employee shall be notified in writing by the Executive Director of such termination.
 - 2.1.4 The probationary period may be extended once by the Executive Director at his/her sole discretion in order to further evaluate the performance of the probationary employee.
 - 2.1.5 The probationary period is automatically extended by a period of time equal to the time the employee is absent due to any type of leave, including time absent while receiving workers' compensation.
- 2.2 Following successful completion of the probationary period, written performance reviews for employees shall be conducted at least once a year by the employee's supervisor and reviewed and approved by the Executive Director or his/her designee. In addition, a review of an employee's progress in meeting annual goals and objectives will be conducted at the end of six months by the employee and his or her supervisor.
- 2.3 On the basis of the performance reviews, increases or decreases in compensation may be granted at that time by the Executive Director at his/her sole discretion consistent with the Board approved annual budget.

3. Holidays

3.1 The following eleven (11) paid holidays shall be observed by the Agency:

New Year's Day	Veterans Day (Observed)
Martin Luther King Jr.'s Birthday	Thanksgiving Day
Presidents' Day	Day after Thanksgiving
Memorial Day	Christmas Eve
Independence Day	Christmas Day
Labor Day	

3.2 **Holiday Policy.** When a holiday falls on a Sunday, the following Monday shall be observed as the holiday date. When a holiday falls on a Saturday, the preceding Friday shall be observed.

3.3 **Floating Holidays.** Regular full-time employees are entitled to two (2) floating holidays per year. Employees shall be granted such holidays at the beginning of each fiscal year (i.e., effective on July 1 of each year). Floating Holidays are not accruable and those unused at the end of the fiscal year will be eliminated from the employee's available leave bank.

3.4 **Holiday Time.** Regular full-time employees shall receive eight (8) hours of holiday pay for each of the above holidays at their regular base rate. Regular part-time employees shall receive paid holiday time prorated based on actual hours worked should their regular work schedule fall on one of the above listed holidays.

3.5 **Administrative Procedure.** The Executive Director shall establish holiday procedures governing employees of the Agency.

4. Leaves of Absence

4.1 Vacation

4.1.1 **Accrual Rates.** The Agency shall provide vacation leave with pay for regular employees (including probationary employees) based on accrual guidelines shown in the table below. Vacation leave earned shall accrue upon completion of each pay period beginning upon completion of the pay period following that in which the employee commences service.

Accrual Rates Based on Years of Service:

Years of Service	Vacation Days Accrued Per Year	Maximum Hours Accrued Per Year
0-3 Years	10 Days	120 Hours
3.1-10 Years	15 Days	240 Hours
10.1-15 Years	20 Days	320 Hours
15.1+ Years	25 Days	400 Hours

Part-time employees shall earn vacation leave on a pro rata basis based on actual hours worked. The maximum accrual will also be pro rated.

4.1.2 **Maximum Vacation Benefits.** Once an employee reaches the maximum accrual, the employee will cease accruing any additional vacation leave until such time as vacation leave hours fall below the maximum.

- 4.1.3 **Payment of Vacation upon Separation.** Accrued vacation pay that has not been used will be paid at time of resignation or termination. An employee terminating employment with the Agency for reasons other than paid retirement from with the Agency employment shall be paid at such employee's current rate of pay for all unused accrued vacation up to the maximum amount of permissible accumulated vacation time as set forth above, in one (1) lump sum less applicable taxes. An employee separating from service with the Agency for paid retirement may elect either to take time off for vacation prior to the employee's date of retirement, or to be paid at the employee's current rate of pay for vacation up to the ceiling amount as set forth above, in one lump sum.
- 4.2 **Management Leave.** Regular full-time exempt employees may receive paid management leave of up to 80 hours per year at the sole discretion of the Executive Director. The leave is intended to compensate exempt employees who are required to attend work-related meetings outside of normal working hours. The amount of leave will be determined by the Executive Director based on each employee's function and the number of off hour meetings he/she is required to attend. No employee shall be eligible to accrue more than the amount of their annual Management Leave. Use of Management Leave shall be at the discretion of the Executive Director.
- 4.3 **Sick Leave.** Regular employees (including probationary employees) shall receive sick leave, accumulating at the rate of one day per calendar month up to four hundred eighty (480) hours (pro rated for part-time employees based on actual hours worked). Up to sixty (60) days of accrued but unused sick leave may be used toward service credit for PERS retirement benefits. Sick leave is available only for the actual illness or injury of an employee or the employee's spouse, registered domestic partner, children, parents, or other dependents.
- 4.4 **Family and Medical Leave.** The Agency may grant regular employees (including probationary employees) up to twelve (12) workweeks of unpaid time off in a 12-month period for the employee's own serious health condition or that of the employee's immediate family member, i.e., child, parent, spouse, or registered domestic partner, or for baby/child bonding after the birth, adoption, or foster care placement of an employee's child.
- Employees may exhaust any accrued vacation time and/or sick leave (if the leave is due to the employee's own serious health condition or to care for the serious health condition of an immediate family member as described above) while on unpaid leave. Employees taking family/medical leave due to the birth of a child to that employee's spouse or registered domestic partner, or the adoption or foster placement of a child, or to care for such child, may utilize accrued sick leave and/or vacation time during such leave. Such use of accrued vacation time and/or sick leave is the only pay such employee will receive from the Agency while on family/medical leave.
- 4.5 **Leave Due to Pregnancy, Child Birth or Related Conditions.** The Agency shall comply with California's Pregnancy Disability Leave Law. Employees may, but are not required to, utilize accrued vacation and sick leave during any pregnancy leave so as to receive pay during some or all such leave.
- 4.6 **Military Leave.** Military leave shall be granted in accordance with federal and state law.
- 4.7 **Bereavement Leave.** In the event of a death in the immediate family of a regular full-time employee, paid leave not chargeable to sick or vacation leave will be granted for a period up to three (3) consecutive scheduled work days for the purpose of making arrangements for, or to attend, the funeral. Employees shall receive one (1) day to attend a funeral for a friend or

relative outside their immediate family. Immediate family is defined as spouse, registered domestic partner, child, sister, brother, mother, father, legal guardian, any other person sharing the relationship of in loco parentis, legal dependent, current mother- or father-in-law, grandparents, or grandchildren.

4.8 Jury and Witness Duty Leave.

All regular full-time employees will be granted a leave of absence with pay for all or any part of the time required for jury duty in the manner prescribed by law.

The employee must return to work on the same day he or she is excused from service. The employee shall be paid the difference between his/her full salary and any payment received for such duty, except travel pay.

All regular full-time employees will be granted a leave of absence with pay for their appearance as a witness in a civil or criminal proceeding (other than as an accused) for any appearance that is solely attributable to the employee's work for the Agency.

4.9 Administrative Procedure. The Executive Director shall establish specific guidelines and procedures to implement all of the leave policies.

5. Health Insurance and Other Benefits

5.1 Cafeteria Plan. Alameda CTC provides a Cafeteria Plan for its eligible employees, into which Alameda CTC will pay \$1,743 per month per employee. This amount is in addition to the Public Employees' Medical and Hospital Care Act (PEMHCA) minimum required contribution of \$112. With these funds, each participating employee is able to choose the following coverage:

- Health Insurance (through the State of California's Public Employees' Retirement System (CalPERS));
- Dental Insurance;
- Vision Care Insurance;
- Life Insurance;
- Dependent Life Insurance;
- Accidental Death and Dismemberment Insurance;
- Long-term Disability Insurance; and
- Short-term Disability Insurance.

When an employee is required to work on a less than full-time basis due to medical or other valid reasons, the accrual for the cafeteria plan contribution amount will be prorated by dividing the actual hours worked plus any accrued sick/vacation hours used during the pay period, by the fulltime equivalent hours in the same pay period.

Regular full-time employees who elect not to use the CalPERS health care benefit shall receive \$400 per month which will be paid with each paycheck (\$200 per pay-period) and is subject to all applicable payroll taxes.

Regular part-time employees will receive a pro-rated amount of the monthly contribution of \$1,743 based on actual hours worked.

6. Additional Benefits Programs

- 6.1 **Transit Subsidy.** All regular full-time employees of the Agency are eligible for the following transit subsidy benefits (elected to be received by the employee):
1. Commuter Checks: \$230 per month
- 6.2. **Tuition Assistance.** Following completion of their probationary period, regular full-time employees are eligible for reimbursement of 90% of tuition fees for job-related courses, subject to budget availability up to \$500 at an accredited institution each fiscal year, at the sole discretion of the Executive Director.
- 6.3. **Other benefits.** At no cost to Alameda CTC, the Agency will also provide:
1. A Flexible Spending Account (FSA) program which will be administered through the cafeteria plan for both dependent care expense up to \$5,000 per calendar year and medical expenses up to \$2,500 per calendar year. To participate in the FSA to receive benefits in the form of reimbursements for dependent and/or medical care expenses from the FSA, an employee can elect to pay his or her contribution for FSA benefits on a pre-tax salary reduction basis; and
 2. An optional deferred compensation program.
7. **Administrative Procedure.** The Executive Director shall establish specific guidelines and procedures to implement all of the benefit policies.
8. **Retirement.** All employees of the Agency shall be entitled to membership with the California Public Employees' Retirement System (CalPERS) according to the guidelines established in the CalPERS Retirement Benefits Policy and the applicable contract with CalPERS. The Agency shall each contribute to CalPERS each pay period 5% of the 8% employee contribution on behalf of all employees. Such contribution shall be reported to PERS as "employee contribution being made by the contracting agency" and shall not be deemed to be "compensation" reportable to PERS.
9. **Reimbursement of Expenses.** Alameda CTC will reimburse employees of the Agency for reasonable and normal expenses associated with Alameda CTC business approved by the Executive Director. An employee may be offered a fixed taxable monthly allowance in lieu of actual expenses, which may be adjusted annually by the Executive Director.
10. **Office Hours** The offices of the Alameda CTC shall be open for the public between 8:30 a.m. and 5:00 p.m. each weekday, except on Alameda CTC holidays as defined in Paragraph 3.1. Employees are required to be at the Alameda CTC's offices during business hours from Monday through Friday.
11. All provisions of this Resolution shall be effective and pertain to all employees of the Agency as of the date of hire of the employee, or February 1, 2012, whichever is later, unless otherwise provided.
12. The Executive Director is authorized to execute the necessary contracts for the benefits and insurance coverage described herein.

- 13.** This Resolution is intended to and shall replace and supersede in its entirety that certain Resolution 11-001 adopted by each Board on June 23, 2011.

Duly passed and adopted by the Alameda County Transportation Commission at the regular meeting of the Board held on Thursday, January 26, 2012 in Oakland, California by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED:

Mark Green, Chairperson

ATTEST:

Vanessa Lee, Commission Secretary

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Memorandum

DATE: December 28, 2011

TO: Finance and Administration Committee

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

SUBJECT: **Approval and Adoption of a Cafeteria Plan for Active Employees and a Health Reimbursement Arrangement for Retirees of the Alameda County Transportation Commission**

Recommendation

It is recommended that the Commission approve and adopt the Cafeteria Plan for active employees, substantially in the form attached as Attachment A, and the Health Reimbursement Arrangement (HRA) Plan for retirees, substantially in the form attached as Attachment B.

Summary

The approval and adoption of the attached plan documents is the next step required in the process of implementing the comprehensive benefits program approved by the Commission in October, 2010. Staff is currently working with the California Public Employees' Retirement System (CalPERS) to enlist in the Public Employees Medical and Hospital Care Act (PEMHCA) for health benefits. Staff recommended the utilization of the Cafeteria Plan to deliver this benefit to active employees, and the HRA Plan to deliver this benefit to retirees.

The Cafeteria Plan will be available to all active employees to pay for all or some of the costs of their benefits. If the cost of their benefits is more than the approved contribution amount, the amount will be deducted from the employee's paycheck on a pretax basis. This plan provides the Commission with the flexibility to control future costs and at the same time satisfies PEMHCA requirements of a minimum contribution. The cafeteria plan contribution rate for 2012 is expected to be approved in the amount of \$1,743 per month per employee (recommended in the benefits resolution also going before the Commission today).

The Cafeteria Plan also includes a Flexible Spending Account (FSA) element which will allow employees to elect to have funds deducted from their paychecks on a pretax basis. The employee could then submit for reimbursement of these funds as eligible medical expenses are incurred throughout the year.

The HRA Plan is a premium reimbursement plan for retiree health care premiums. To be eligible for retiree health coverage, a retiree must be vested with at least 10 years of CalPERS service, five of which must be for employment with the Alameda CTC or its predecessor agencies. With 10 years of CalPERS service, a retiree would be 50% vested for retiree health benefits increasing by 5% with

each additional year of service up to 20 years (see chart in Exhibit B, page 4).

The Alameda CTC will contribute only the required minimum contribution amount directly to CalPERS for retirees (\$112 per month in 2012). CalPERS requires that the remaining premium costs be deducted directly from the retiree's monthly retirement check under the CalPERS pension plan. Once CalPERS takes this deduction, the Alameda CTC's HRA will reimburse each retiree for the deduction, up to the annually determined amount, which is expected to be approved for 2012 at \$1,109 per retiree per month (\$1,220.88 Kaiser retiree plus one rate, less \$112 PEMHCA-required minimum contribution). Similar to active employees, if a retiree's elected health coverage costs exceed the amount approved by the Commission, the retiree will be required to pay for the additional amount from his or her own funds.

Discussion

Both the Cafeteria Plan for active employees and the HRA Plan for retirees were approved in concept by the Commission as the main mechanism or system that would allow for the unification of the retirement and health benefits of the two predecessor agencies back in October, 2010.

In order to implement the Cafeteria Plan and the HRA Plan, the Alameda CTC was first required to enter into a contract with CalPERS to provide retiree benefits and to adopt PEMHCA to provide health benefits. The pension plan contract with CalPERS is expected to become effective as of January 1, 2012 and the Commission adopted PEMHCA at the December 1, 2011 meeting.

Attachments

Attachment A:	Alameda CTC Cafeteria Plan (Draft)
Attachment B:	Alameda CTC Health Reimbursement Arrangement (Draft)
Attachment C:	Resolution Approving and Adopting A Cafeteria Plan for Active Employees and A Health Reimbursement Arrangement for Retirees

**ALAMEDA COUNTY TRANSPORTATION COMMISSION
CAFETERIA PLAN**

As Adopted Effective February 1, 2012

[DRAFT January 9, 2012]

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ALAMEDA COUNTY TRANSPORTATION COMMISSION CAFETERIA PLAN

As Adopted Effective February 1, 2012

ARTICLE I. Introduction

1.1 Establishment of Plan

Alameda County Transportation Commission (the Employer) hereby establishes the Alameda County Transportation Commission Cafeteria Plan (the Plan) effective February 1, 2012 (the Effective Date). Capitalized terms used in this Plan that are not otherwise defined have the meanings set forth in Article II.

This Plan is designed to permit an Eligible Employee to pay for his or her share of contributions for the Benefit Plan Options in Appendix A on a pre-tax Salary Reduction basis, and to contribute on a pre-tax Salary Reduction basis to an Employee's account for reimbursement of certain Medical Care Expenses (Health FSA Account) and/or to an account for reimbursement of certain Dependent Care Expenses (DCAP Account).

1.2 Legal Status

This Plan is intended to qualify as a cafeteria plan under Code Section 125 and will be interpreted and administered consistent with the requirements of Code Section 125 and the regulations issued thereunder.

The Health FSA Component is intended to qualify as a self-insured medical reimbursement plan under Code Section 105, and the Medical Care Expenses reimbursed thereunder are intended to be eligible for exclusion from participating Employees' gross income under Code Section 105(b). The DCAP Component is intended to qualify as a dependent care assistance program under Code Section 129, and the Dependent Care Expenses reimbursed thereunder are intended to be eligible for exclusion from participating Employees' gross income under Code Section 129(a).

Although reprinted within this document, the Health FSA Component and the DCAP Component are separate plans for purposes of administration and all reporting and nondiscrimination requirements imposed by Code Sections 105 and 129. The Health FSA Component is also a separate plan for purposes of applicable provisions of HIPAA and COBRA. In the event that the Health FSA Component is determined not to be a separate plan, the Plan will be designated as a hybrid entity for purposes of HIPAA, such that it will be a covered entity only with respect to the Health FSA Component.

ARTICLE II. Definitions

2.1 Definitions

Account(s) means the Health FSA Accounts and the DCAP Accounts described in Sections 7.5 and 8.5.

Benefit Plan Option means a qualified benefit under Code Section 125(f) that is available to a Participant under this Plan as set forth in Appendix A, as amended from time to time. The Employer may substitute, add, subtract, or revise at any time the menu of such Benefit Plan Options and/or the benefits, terms, and conditions of any such options or plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

Board of Directors means the Board of Commissioners of the Alameda County Transportation Commission.

Change in Status means any of the events described below, as well as any other events included under subsequent changes to Code Section 125 or regulations issued thereunder, which the Plan Administrator, in its sole discretion and on a uniform and consistent basis, determines are permitted under IRS regulations and under this Plan:

- (a) *Legal Marital Status.* A change in a Participant's legal marital status, including marriage, death of a Spouse, divorce, legal separation, or annulment;
- (b) *Number of Dependents.* Events that change a Participant's number of Dependents, including birth, death, adoption, and placement for adoption;
- (c) *Employment Status.* Any of the following events that change the employment status of the Participant or his or her Spouse or Dependents: (1) a termination or commencement of employment; (2) a strike or lockout; (3) a commencement of or return from an unpaid leave of absence; (4) a change in worksite; and (5) the eligibility conditions of this Plan or other employee benefits plan of the Participant or his or her Spouse or Dependents depend on the employment status of that individual and there is a change in that individual's status with the consequence that the individual becomes (or ceases to be) eligible under this Plan or other employee benefits plan;
- (d) *Dependent Eligibility Requirements.* An event that causes a Dependent to satisfy or cease to satisfy the Dependent eligibility requirements for a particular benefit, such as attaining a specified age, student status, or any similar circumstance; and
- (e) *Change in Residence.* A change in the place of residence of the Participant or his or her Spouse or Dependents.

COBRA means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

Code means the Internal Revenue Code of 1986 and the Treasury Regulations issued thereunder, as amended.

Compensation means the cash wages or salary paid to an Employee by the Employer.

DCAP means dependent care assistance program.

DCAP Account means the account described in Section 8.5.

DCAP Benefits has the meaning described in Section 8.1.

DCAP Component means the component of this Plan described in Article VIII.

Dependent means: (a) for purposes of accident or health coverage, (1) a dependent as defined in Code Section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof, (2) any child (as defined in Code Section 152(f)(1) of the Participant who as of the end of the taxable year has not attained age 27, and (3) any child of the Participant to whom IRS Revenue Procedure 2008-48 applies (regarding certain children of divorced or separated parents who receive more than half of their support for the calendar year from one or both parents and are in the custody of one or both parents for more than half of the calendar year); and (b) for purposes of the DCAP Component, a Qualifying Individual. Notwithstanding the foregoing, the Health FSA Component will provide benefits in accordance with the applicable requirements of any National Medical Support Order, even if the child does not meet the definition of Dependent.

Dependent Care Expenses has the meaning described in Section 8.3.

Earned Income will have the meaning given such term in Code Section 129(e)(2).

Effective Date of this Plan means February 1, 2012.

Election Form/Salary Reduction Agreement means the form provided by the Plan Administrator for the purpose of allowing an Eligible Employee to participate in this Plan by electing Benefit Plan Options(s) and authorizing Salary Reductions to pay for any of the Benefit Plan Options.

Eligible Employee means an Employee eligible to participate in this Plan, as provided in Section 3.1.

Employee means an individual that the Employer classifies as a common-law employee and who is on the Employer's W-2 payroll, but does not include the following: (a) any leased employee (including but not limited to those individuals defined as leased employees in Code Section 414(n) or an individual classified by the Employer as a contract worker, independent contractor, temporary employee, or casual employee for the period during which such individual is so classified, whether or not any such individual is on the Employer's W-2 payroll or is determined by the IRS or others to be a common-law employee of the Employer; (b) any individual who performs services for the Employer but who is paid by a temporary or other employment or staffing agency for the period during which such individual is paid by such agency, whether or not such individual is determined by the IRS or others to be a common-law employee of the Employer; and (c) any employee covered under a collective bargaining agreement, unless that agreement provides for the employee's participation in the Plan. The term Employee does include former Employees for the limited purpose of allowing continued eligibility for benefits under the Plan for a limited duration following termination of employment provided any required contributions are made and only to the extent specifically provided under this Plan.

Employer means the Alameda County Transportation Commission.

FMLA means the Family and Medical Leave Act of 1993, as amended.

Grace Period means the period that begins immediately following the close of a Plan Year and ends on the day that is two months plus 15 days following the close of that Plan Year.

Health FSA means the health flexible spending arrangement.

Health FSA Account means the account described in Section 7.5.

Health FSA Benefits has the meaning described in Section 7.1.

Health FSA Component means the component of this Plan described in Article VII.

HIPAA means the Health Insurance Portability and Accountability Act of 1996, as amended.

Insurance Plan(s) means the plan(s) that the Employer maintains for its Employees (and for their Spouses, same-sex spouses, domestic partners, and Dependents that may be eligible under the terms of such plan), which provide benefits through a group insurance policy or policies (e.g., medical, dental and vision insurance). The Employer may substitute, add, subtract, or revise at any time the menu of such plans and/or the benefits, terms, and conditions of any such plans. Any such substitution, addition, subtraction, or revision will be communicated to Participants and will automatically be incorporated by reference under this Plan.

Medical Care Expenses has the meaning described in Section 7.3.

Nonelective Contribution(s) means any amount that the Employer, in its sole discretion, may contribute under the Plan to provide benefits for individual Participants and their Spouses, Dependents, domestic partners, and same-sex spouses, as applicable, under one or more of the Benefit Plan Options offered under the Plan.

Open Enrollment Period means the period during the Plan Year during which Eligible Employees may elect to participate in the Plan or make changes to their elections for the next Plan Year. The Employer will determine this period each Plan Year, which the Plan Administrator will make known in the Plan's open enrollment materials.

Participant means a person who is an Eligible Employee and who is participating in this Plan in accordance with the provisions of Article III. Participants include those who elect one or more Benefit Plan Options under the Plan.

Period of Coverage means the Plan Year, with the following exceptions: (a) for Employees who first become eligible to participate, it will mean the portion of the Plan Year following the date on which participation commences, as described in Section 4.2; and (b) for Employees who terminate participation, it will mean the portion of the Plan Year prior to the date on which participation terminates, as described in Section 3.3.

Plan means the Alameda County Transportation Commission Cafeteria Plan as set forth herein, as amended from time to time.

Plan Administrator means the person(s), entity, or committee as may be appointed from time to time by the Board of Directors (or its authorized designee) to administer the Plan. If no such person, entity, or committee is appointed, the Plan Administrator is the Employer.

Plan Sponsor means the Employer.

Plan Year means the calendar year (i.e., the 12-month period commencing January 1 and ending on December 31), except in the case of a short plan year representing the initial Plan Year or where the Plan Year is being changed, in which case the Plan Year will be the entire short plan year.

Premium Payment Benefits means the Premium Payment Benefits described in Section 6.1.

Premium Payment Component means the component of this Plan described in Article VI.

Qualifying Dependent Care Services has the meaning described in Section 8.3.

Qualifying Individual means (a) a tax dependent of the Participant as defined in Code Section 152 who is under the age of 13 and who is the Participant's qualifying child as defined in Code Section 152(a)(1); (b) a tax dependent of the Participant as defined in Code Section 152, but determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof, who is physically or mentally incapable of self-care and who has the same principal place of abode as the Participant for more than half of the year; or (c) a Participant's Spouse who is physically or mentally incapable of self-care, and who has the same principal place of abode as the Participant for more than half of the year. Notwithstanding the foregoing, in the case of divorced or separated parents, a Qualifying Individual who is a child will, as provided in Code Section 21(e)(5), be treated as a Qualifying Individual of the custodial parent (within the meaning of Code Section 152(e)) and will not be treated as a Qualifying Individual with respect to the noncustodial parent.

Salary Reduction means the amount by which the Participant's Compensation is reduced and applied by the Employer under this Plan to pay for one or more of the benefits, as permitted for the applicable component, before any applicable state and/or federal taxes have been deducted from the Participant's Compensation (i.e., on a pre-tax basis).

Spouse means an individual who is legally married to a Participant as determined under applicable state law and who is treated as a spouse under the Code. A domestic partner or same-sex spouse is not treated as a spouse under the Code. Notwithstanding the above, for purposes of the DCAP Component the term Spouse does not include (a) an individual legally separated from the Participant under a divorce or separate maintenance decree; or (b) an individual who, although married to the Participant, files a separate federal income tax return, maintains a principal residence separate from the Participant during the last six months of the taxable year, and does not furnish more than half of the cost of maintaining the principal place of abode of the Participant.

Student means an individual who, during each of five or more calendar months during the Plan Year, is a full-time student at any educational organization that normally maintains a regular faculty and curriculum and normally has an enrolled student body in attendance at the location where its educational activities are regularly carried on.

ARTICLE III. Eligibility and Participation

3.1 Eligibility to Participate

All full-time Employees are eligible to participate in the Plan. To become a Participant, an Eligible Employee must make a timely election to participate in accordance with Article IV. Eligibility for any Benefit Plan Option will be subject to the requirements specified in the governing plan documents of the applicable Benefit Plan Option. The provisions of this Article are not intended to override any eligibility requirement or waiting period specified in the applicable Benefit Plan Options and the terms of eligibility and participation for any Benefit Plan Option offered under the Plan are subject to the requirements specified in the Benefit Plan Option's governing documents.

3.2 Use of Contributions

As a Participant, an Employee will be permitted to (1) elect Benefit Plan Options for which he or she is eligible, (2) receive available Nonelective Contributions for which he or she is eligible in the manner set forth in the enrollment materials, (3) pay his or her share of the cost of his or her elected benefits with Salary Reduction contributions, and (4) if permitted under the terms of the Benefit Plan Options and uniform rules adopted by the Plan Administrator, pay his or her share of the costs of the elected benefits with after-tax dollars (e.g., if Salary Reduction contributions are not available or are insufficient to pay his or her share of the cost of the Benefit Plan Option). In addition, as a Participant, an Employee may be permitted to elect health coverage for an individual who is not the employee's Spouse or Dependent if permitted under the terms of the Benefit Plan Options and in accordance with uniform rules adopted by the Plan Administrator; provided, however, that the fair market value of such coverage will be included in the Employee's gross income to the extent required by applicable law, and the Employee will be treated as having purchased the coverage with after-tax dollars.

3.3 Termination of Participation

A Participant will cease to be a Participant in this Plan upon the earlier of:

- (a) the date the Participant makes a permitted election not to participate in the Plan;
- (b) the date that the Participant no longer satisfies the eligibility requirements of this Plan or all of the Benefit Plan Options. Notwithstanding the foregoing, for purposes of pre-tax COBRA coverage, certain Employees may continue eligibility for certain periods subject to the restrictions and terms otherwise described in this Plan; or
- (c) The date that the Plan is either terminated or amended to exclude the Participant or the class of employees to which the Participant belongs.

Termination of participation in this Plan will automatically revoke the Participant's elections. Benefits under any Insurance Plan will terminate as of the date(s) specified in the Insurance Plan. Reimbursements from the Health FSA and DCAP Accounts after termination of participation will be made pursuant to Section 7.8 for Health FSA Benefits and Section 8.8 for DCAP Benefits. If revocation occurs under this Section 3.3, no new election may be made by such Participant during the remainder of the Plan Year except as set forth in Section 3.4.

3.4 Participation Following Termination of Employment or Loss of Eligibility

If a Participant terminates his or her employment for any reason, including (but not limited to) disability, retirement, layoff, or voluntary resignation, or otherwise loses eligibility and then is rehired or becomes eligible once again within 30 days or less after the date of a termination of employment or loss of eligibility, then the Employee will be reinstated with the same elections that such individual had before termination or other loss of eligibility. If a former Participant is rehired more than 30 days following termination of employment or becomes eligible after 30 days following a loss of eligibility and is otherwise eligible to participate in the Plan, then the individual may make new elections as a new hire as described in Section 4.2. Notwithstanding the above, an election to participate in the Premium Payment Component will be reinstated only to the extent that coverage under the applicable Insurance Plan is reinstated.

3.5 FMLA Leaves of Absence

- (a) *Health Insurance Benefits.* Notwithstanding any provision to the contrary in this Plan, if a Participant goes on a qualifying leave under the FMLA, then to the extent required by the FMLA, the Employer will continue to maintain the Participant's health insurance benefits and Health FSA Benefits on the same terms and conditions as if the Participant were still an active Employee. That is, if the Participant elects to continue his or her coverage while on leave, the Employer will continue to pay its share of the contributions for those benefits under this Plan.

An Employer may require participants to continue all health insurance benefits and Health FSA Benefits coverage for Participants while they are on paid leave (provided that Participants on non-FMLA paid leave are required to continue coverage). If so, the Participant's share of the contributions will be paid by the method normally used during any paid leave (e.g., on a pre-tax Salary Reduction basis).

In the event of unpaid FMLA leave (or paid FMLA leave where coverage is not required to be continued), a Participant may elect to continue his or her health insurance benefits and Health FSA Benefits during the leave. If the Participant elects to continue coverage while on FMLA leave, then the Participant may pay his or her share of the contributions in one of the following ways:

- with after-tax dollars, by sending monthly payments to the Employer by the due date established by the Employer;
- with pre-tax dollars, by having such amounts withheld from the Participant's ongoing Compensation (if any), including unused sick days and vacation days, or pre-paying all or a portion of the contributions for the expected duration of the leave on a pre-tax Salary Reduction basis out of pre-leave Compensation. To pre-pay the contributions, the Participant must make a special election to that effect prior to the date that such Compensation would normally be made available (pre-tax dollars may not be used to fund coverage during the next Plan Year); or
- under another arrangement agreed upon between the Participant and the Plan Administrator (e.g., the Plan Administrator may fund coverage during the leave and withhold "catch-up" amounts from the Participant's Compensation on a pre-tax or after-tax basis) upon the Participant's return.

If the Employer requires all Participants to continue health insurance benefits and Health FSA Benefits during an unpaid FMLA leave, then the Participant may elect to discontinue payment of the Participant's required contributions until the Participant returns from leave. Upon returning from leave, the Participant will be required to repay the contributions not paid by the Participant during the leave. Payment will be withheld from the Participant's Compensation either on a pre-tax or after-tax basis, as agreed to by the Plan Administrator and the Participant.

If a Participant's health insurance benefits or Health FSA Benefits coverage ceases while on FMLA leave (e.g., for non-payment of required contributions), then the Participant is permitted to re-enter the Premium Payment Component or Health FSA Component as applicable, upon return from such leave on the same basis as when the Participant was participating in the Plan prior to the leave, or as otherwise required by the FMLA. In addition, the Plan may require Participants whose health insurance benefits or Health FSA Benefits coverage terminated during the leave to be reinstated in such coverage upon return from a period of unpaid leave, provided that Participants who return from a period of unpaid, non-FMLA leave are required to be reinstated in such coverage. Notwithstanding the preceding sentence, with regard to Health FSA Benefits, a Participant whose coverage ceased will be permitted to elect whether to be reinstated in the Health FSA Benefits at the same coverage level as was in effect before the FMLA leave (with increased contributions for the remaining period of coverage) or at a coverage level that is reduced pro rata for the period of FMLA leave during which the Participant did not pay contributions. If a Participant elects a coverage level that is reduced pro rata for the period of FMLA leave, then the amount withheld from a Participant's Compensation on a pay-period-by-pay-period basis for the purpose of paying for reinstated Health FSA Benefits will be equal to the amount withheld prior to the period of FMLA leave.

(b) *Non-Health Benefits.* If a Participant goes on a qualifying leave under the FMLA, then entitlement to non-health benefits (such as DCAP Benefits) is to be determined by the Employer's policy for providing such benefits when the Participant is on non-FMLA leave, as described in Section 3.6. If such policy permits a Participant to discontinue contributions while on leave, then the Participant will, upon returning from leave, be required to repay the contributions not paid by the Participant during the leave. Payment will be withheld from the Participant's Compensation either on a pre-tax or after-tax basis, as may be agreed upon by the Plan Administrator and the Participant or as the Plan Administrator otherwise deems appropriate.

3.6 Non-FMLA Leaves of Absence

If a Participant goes on an unpaid leave of absence that does not affect eligibility, then the Participant will continue to participate and the contributions due for the Participant will be paid by pre-payment before going on leave, by after-tax contributions while on leave, or with catch-up contributions after the leave ends, as may be determined by the Plan Administrator. If a Participant goes on an unpaid leave that affects eligibility, then the applicable election change rules in Section 10.3 will apply.

ARTICLE IV. Method and Timing of Elections

4.1 Election to Participate

To become a Participant, an Eligible Employee must submit a completed and signed Election Form/Salary Reduction Agreement to the Plan Administrator in the time and in the manner required by the Plan Administrator.

4.2 Elections When First Eligible

- (a) *Currently Eligible Employees.* An Employee who is eligible to participate in this Plan as of the Effective Date must complete, sign, and file an Election Form/Salary Reduction Agreement with the Plan Administrator during the election period (as specified by the Plan Administrator) immediately preceding the Effective Date of the Plan to become a Participant on the Effective Date. The elections made by the Eligible Employee on this initial Election Form/Salary Reduction Agreement will be effective for the Plan Year beginning on the Effective Date.
- (b) *New Employees or Newly Eligible Employees.* An Employee who first becomes eligible to participate in the Plan mid-year (and after the Effective Date) may elect to commence participation in the Plan after the eligibility requirements of Section 3.1 have been satisfied by completing, signing, and filing an Election Form/Salary Reduction Agreement with the Plan Administrator in the time and in the manner required by the Plan Administrator. Participation in the Plan will commence on the first day of the month following the Plan Administrator's receipt of a properly completed and signed Election Form/Salary Reduction Agreement. An Employee who does not elect benefits when first eligible may not enroll until the next Open Enrollment Period, unless an event occurs that would justify a mid-year election change, as described under Section 10.3. Eligibility for Premium Payment Benefits will be subject to the additional requirements, if any, specified in the applicable Insurance Plans.

4.3 Elections During Open Enrollment Period

During each Open Enrollment Period with respect to a Plan Year, the Plan Administrator will provide an Election Form/Salary Reduction Agreement to each Employee who is eligible to participate in this Plan. The Election Form/Salary Reduction Agreement will enable the Employee to elect to participate in the various components of this Plan for the next Plan Year and to authorize the necessary Salary Reductions to pay for the benefits elected. The Election Form/Salary Reduction Agreement must be returned to the Plan Administrator on or before the last day of the Open Enrollment Period, and it will become effective on the first day of the next Plan Year. If an Eligible Employee fails to return the Election Form/Salary Reduction Agreement during the Open Enrollment Period, then the Employee may not elect any benefits under this Plan until the next Open Enrollment Period, unless an event occurs that would justify a mid-year election change, as described under Section 10.3.

4.4 Failure of Eligible Employee to File an Election Form/Salary Reduction Agreement

If an Eligible Employee fails to file an Election Form/Salary Reduction Agreement within the time period described in Sections 4.2 and 4.3, then the Employee may not elect any benefits under the Plan (a) until the next Open Enrollment Period; or (b) until an event occurs that would justify a mid-year election change, as described under Section 10.3. Notwithstanding any contrary

provision in the Plan, if an Employee who fails to file an Election Form/Salary Reduction Agreement is eligible for benefits under an Insurance Plan and has made an effective election for such benefits outside the Plan, then the Employee's share of the contributions for such benefits will automatically be paid with pre-tax dollars and will be deemed a "default election" under the Plan. Such default elections cannot be changed until such time as the Employee files, during a subsequent Open Enrollment Period (or after an event occurs that would justify a mid-year election change as described under Section 10.3), a timely Election Form/Salary Reduction Agreement to elect Premium Payment Benefits. No default elections are permitted for Health FSA or DCAP Benefits.

4.5 Irrevocability of Elections

Unless an exception applies (as described in Article X), a Participant's election under the Plan is irrevocable for the duration of the Period of Coverage to which it relates.

ARTICLE V. Benefits Offered and Method of Funding

5.1 Benefits Offered

When first eligible or during the Open Enrollment Period as described under Article IV, Participants will be given the opportunity to elect one or more of the following benefits:

- (a) Premium Payment Benefits, as described in Article VI;
- (b) Health FSA Benefits, as described in Article VII.
- (c) DCAP Benefits, as described in Article VIII.

In no event will benefits under the Plan be provided in the form of deferred compensation. Notwithstanding the foregoing, amounts remaining in a Participant's Health FSA Account at the end of a Plan Year can be used to reimburse the Participant for Medical Care Expenses that are incurred during the Grace Period immediately following the close of that Plan Year as provided in Article VII. No Grace Period is available for DCAP Benefits.

5.2 Source of Benefit Funding

The cost of coverage under the component Benefit Plan Options will be funded by a Participant's Salary Reductions, Nonelective Contributions provided by the Employer, or a combination of the foregoing. The required contributions for each of the Benefit Plan Options offered under the Plan will be made known to employees in annual enrollment materials. Salary Reduction Contributions that are allocated to any Benefit Plan Option will equal the contributions required from the Participant less any available Nonelective Contributions allocated to that option. A Participant may elect to receive Nonelective Contributions in the form of cash to the extent described in the applicable annual enrollment materials. The maximum amount of employee contributions, plus any Nonelective Contributions made available by the Employer, will not exceed the aggregate cost of the Benefit Plan Options elected.

5.3 Employer Contributions

The Employer may, in its sole discretion, make Nonelective Contributions on behalf of a Participant toward the cost of one or more Benefit Plan Options. The amount of Nonelective Contributions that may be applied towards the cost of each of the Benefit Plan Option(s) for any

Participant will be subject to the sole discretion of the Employer and may be adjusted upward or downward at any time in the Employer's sole discretion. The amount will be calculated for each Plan Year in a uniform and nondiscriminatory manner and may be based upon the Participant's dependent status, commencement or termination date of the Participant's employment during the Plan Year, and such other factors as the Employer may prescribe.

No provision of this Plan will be construed to require the Employer or Plan Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person will have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer from which any payment under the Plan may be made. The Plan does not create a trust in favor of a Participant or any person claiming on a Participant's behalf.

ARTICLE VI. Premium Payment Component

6.1 Benefits

An Eligible Employee can elect to participate in the Premium Payment Component by electing (a) to receive benefits under the Insurance Plans described in Appendix A; and (b) to pay for his or her share of the contributions for those benefits on a pre-tax Salary Reduction basis. Unless an exception applies (as described in Article X), such election is irrevocable for the duration of the Period of Coverage to which it relates. Notwithstanding any other provision in this Plan, insurance benefits under the Insurance Plans are subject to the terms and conditions of the Insurance Plans, and no changes can be made with respect to such plans (such as mid-year changes in election) if such changes are not permitted under the applicable Insurance Plan.

6.2 Participant Contributions for Cost of Coverage

The annual contribution for a Participant's portion of the Premium Payment Benefits is equal to the amount as set by the Employer in the annual enrollment materials.

6.3 Benefits Provided Under the Insurance Plans

Insurance benefits will be provided by the Insurance Plans in accordance with their governing documents, and not this Plan. The types and amounts of insurance benefits, the requirements for participating in the Insurance Plans, and the other terms and conditions of coverage and benefits of such plans are set forth in their governing documents. All claims to receive benefits under the Insurance Plans will be subject to and governed by the terms and conditions of the Insurance Plans and the rules, regulations, policies, and procedures adopted in accordance with those plans, as may be amended from time to time.

6.4 Insurance Benefits; COBRA

Notwithstanding any provision to the contrary in this Plan, to the extent required by COBRA, a Participant and his or her Spouse and Dependents, as applicable, whose health coverage terminates under an Insurance Plan because of a COBRA qualifying event (and who is a qualified beneficiary as defined under COBRA), will be given the opportunity to continue on a self-pay basis the same health coverage that he or she had under the applicable Insurance Plan the day before the qualifying event for the periods prescribed by COBRA. Such continuation coverage will be subject to all conditions and limitations under COBRA.

Contributions for COBRA coverage under an Insurance Plan may be paid on a pre-tax basis for current Employees receiving taxable compensation (as may be permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year) where COBRA coverage arises either (a) because the Employee ceases to be eligible because of a reduction in hours; or (b) because the Employee's Dependent ceases to satisfy the eligibility requirements for coverage. For all other individuals (e.g., Employees who cease to be eligible because of retirement, termination of employment, or layoff), contributions for COBRA coverage for Insurance Plan benefits will be paid on an after-tax basis (unless as may be otherwise permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year).

ARTICLE VII. Health FSA Component

7.1 Health FSA Benefits

An Eligible Employee can elect to participate in the Health FSA Component by electing (a) to receive benefits in the form of reimbursements for Medical Care Expenses from the Health FSA (Health FSA Benefits); and (b) to pay his or her contribution for such Health FSA Benefits on a pre-tax Salary Reduction basis. Unless an exception applies (as described in Article X), any such election is irrevocable for the duration of the Period of Coverage to which it relates.

7.2 Participant Contributions for Cost of Coverage of Health FSA Benefits

The annual contribution for a Participant's portion of the Health FSA Benefits is equal to the annual benefit amount elected by the Participant, subject to the dollar limits set forth in the annual enrollment materials.

7.3 Eligible Medical Care Expenses for Health FSA

Under the Health FSA Component, a Participant may receive reimbursement for Medical Care Expenses incurred during the Period of Coverage for which an election is in force. In addition, certain individuals may receive reimbursement for Medical Care Expenses incurred during the Grace Period immediately following the close of a Plan Year from amounts remaining in their Health FSA Accounts for that Plan Year in accordance with Section 7.4(e).

- (a) *Incurred.* A Medical Care Expense is incurred at the time the medical care or service giving rise to the expense is furnished and not when the Participant is formally billed for, is charged for, or pays for the medical care.
- (b) *Medical Care Expenses.* "Medical Care Expenses" means expenses incurred by a Participant or his or her Spouse or Dependents for medical care, as defined in Code Section 213(d), but only to the extent that the expense has not been reimbursed through insurance or otherwise. If only a portion of a Medical Care Expense has been reimbursed elsewhere, then the Health FSA can reimburse the remaining portion of such Medical Care Expense if it otherwise meets the requirements of this Article VII. Notwithstanding the foregoing, the term Medical Care Expenses does not include:
 - premium payments for other health coverage, including but not limited to health insurance premiums for any other plan (whether or not sponsored by the Employer);

- medicines or drugs, unless the medicine or drug is a prescribed drug (determined without regard to whether the medicine or drug is available without a prescription) or is insulin (for this purpose, the Plan Administrator will have sole discretion to determine, on a uniform and consistent basis, whether a particular item is a medicine or drug and whether the requirement of a prescription has been satisfied);
- cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or a disfiguring disease (for this purpose, “cosmetic surgery” means any procedure that is directed at improving the patient’s appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease); or
- any other expense excluded under Appendix B or otherwise under the terms of this Plan.

The Plan Administrator may promulgate procedures regarding the eligibility of various expenses for reimbursement as Medical Care Expenses and may limit reimbursement of expenses described in such procedures.

7.4 Maximum and Minimum Benefits for Health FSA

- (a) *Maximum Reimbursement Available; Uniform Coverage.* The maximum dollar amount elected by the Participant for reimbursement of Medical Care Expenses incurred during a Period of Coverage (reduced by prior reimbursements during the Period of Coverage) will be available at all times during the Period of Coverage, regardless of the actual amounts credited to the Participant’s Health FSA Account pursuant to Section 7.5. Notwithstanding the foregoing, no reimbursements will be available for Medical Care Expenses incurred after coverage under this Plan has terminated, unless the Participant has elected COBRA as provided in Section 7.8 or is entitled to submit expenses incurred during a Grace Period as provided in Section 7.4(e). Payment will be made to the Participant in cash as reimbursement for Medical Care Expenses incurred during the Period of Coverage for which the Participant’s election is effective (or during a Grace Period, if applicable under Section 7.4(e)), provided that the other requirements of this Article VII have been satisfied.
- (b) *Maximum and Minimum Dollar Limits.* The maximum annual benefit amount that a Participant may elect to receive under this Plan in the form of reimbursements for Medical Care Expenses incurred in any Period of Coverage will be set forth in the enrollment materials. The minimum annual benefit amount that a Participant may elect to receive under this Plan in the form of reimbursements for Medical Care Expenses incurred in any Period of Coverage is \$0. Reimbursements due for Medical Care Expenses incurred by the Participant’s Spouse or Dependents will be charged against the Participant’s Health FSA Account. In no event will the maximum annual benefit exceed the maximum limit under federal law.
- (c) *Changes; No Proration.* For each Plan Year, the maximum and minimum dollar limit may be changed by the Plan Administrator and will be communicated to Employees through the Election Form/Salary Reduction Agreement or other enrollment materials. If a Participant enters the Health FSA Component mid-year or wishes to increase his or her election mid-year as permitted under Section 10.3, then there will be no proration rule—i.e., the Participant may elect coverage up to the maximum dollar limit or may increase coverage to the maximum dollar limit, as applicable.

- (d) *Effect on Maximum Benefits If Election Change Permitted.* Any change in an election under Article X (other than under Section 10.3(c) for FMLA leave) that increases contributions to the Health FSA Component also will change the maximum reimbursement benefits for the balance of the Period of Coverage commencing with the election change. Such maximum reimbursement benefits for the balance of the Period of Coverage will be calculated by adding (1) the contributions (if any) made by the Participant as of the end of the portion of the Period of Coverage immediately preceding the change in election, to (2) the total contributions scheduled to be made by the Participant during the remainder of such Period of Coverage to the Health FSA Account, reduced by (3) all reimbursements made during the entire Period of Coverage. Any change in an election under Section 10.3(c) for FMLA leave will change the maximum reimbursement benefits in accordance with the regulations governing the effect of the FMLA on the operation of cafeteria plans.
- (e) *Grace Periods; Special Rules for Claims Incurred During a Grace Period.* Notwithstanding any contrary provision in this Plan and subject to the conditions of this Section 7.4(e), an individual may be reimbursed for Medical Care Expenses incurred during a Grace Period from amounts remaining in his or her Health FSA Account at the end of the Plan Year to which that Grace Period relates ("Prior Plan Year Health FSA Amounts") if he or she is either: (1) a Participant with Health FSA coverage that is in effect on the last day of that Plan Year; or (2) a qualified beneficiary (as defined under COBRA) who has COBRA coverage under the Health FSA Component on the last day of that Plan Year.
- Prior Plan Year Health FSA Amounts may not be cashed out or converted to any other taxable or non-taxable benefit. For example, Prior Plan Year Health FSA Amounts may not be used to reimburse Dependent Care Expenses.
 - Medical Care Expenses incurred during a Grace Period and approved for reimbursement in accordance with Section 7.7 will be reimbursed first from any available Prior Plan Year Health FSA Amounts and then from any amounts that are available to reimburse expenses that are incurred during the current Plan Year, except that if the Health FSA is accessible by an electronic payment card (e.g., debit card, credit card, or similar arrangement), Medical Care Expenses incurred during the Grace Period may need to be submitted manually in order to be reimbursed from Prior Plan Year Health FSA Amounts if the card is unavailable for such reimbursement. An individual's Prior Plan Year Health FSA Amounts will be debited for any reimbursement of Medical Care Expenses incurred during the Grace Period that is made from such Prior Plan Year Health FSA Amounts.
 - Claims for reimbursement of Medical Care Expenses incurred during a Grace Period must be submitted no later than the April 30 following the close of the Plan Year to which the Grace Period relates in order to be reimbursed from Prior Plan Year Health FSA Amounts. Any Prior Plan Year Health FSA Amounts that remain after all reimbursements have been made for the Plan Year and its related Grace Period will not be carried over to reimburse the Participant for expenses incurred in any subsequent period. The Participant will forfeit all rights with respect to these amounts, which will be subject to the Plan's provisions regarding forfeitures in Section 7.6(b).

7.5 Establishment of Health FSA Account

The Plan Administrator will establish and maintain a Health FSA Account with respect to each Participant for each Plan Year or other Period of Coverage for which the Participant elects to participate in the Health FSA Component, but it will not create a separate fund or otherwise segregate assets for this purpose. The Account so established will merely be a recordkeeping account with the purpose of keeping track of contributions and determining forfeitures under Section 7.6.

- (a) *Crediting of Accounts.* A Participant's Health FSA Account for a Plan Year or other Period of Coverage will be credited periodically during such period with an amount equal to the Participant's Salary Reductions elected to be allocated to such Account.
- (b) *Debiting of Accounts.* A Participant's Health FSA Account for a Plan Year or other Period of Coverage will be debited for any reimbursement of Medical Care Expenses incurred during such period (or for reimbursement of Medical Care Expenses incurred during any Grace Period to which he or she is entitled as provided in Section 7.4(e)).
- (c) *Available Amount Not Based on Credited Amount.* As described in Section 7.4, the amount available for reimbursement of Medical Care Expenses is the Participant's annual benefit amount, reduced by prior reimbursements for Medical Care Expenses incurred during the Plan Year or other Period of Coverage (or during the Grace Period, if applicable); it is not based on the amount credited to the Health FSA Account at a particular point in time. Thus, a Participant's Health FSA Account may have a negative balance during a Plan Year or other Period of Coverage, but the aggregate amount of reimbursement will in no event exceed the maximum dollar amount elected by the Participant under this Plan.

7.6 Forfeiture of Health FSA Accounts; Use-or-Lose Rule

- (a) *Use-or-Lose Rule.* Except as otherwise provided in Section 7.4(e) (regarding certain individuals who may be reimbursed from Prior Plan Year Health FSA Amounts for expenses incurred during a Grace Period), if any balance remains in the Participant's Health FSA Account for a Period of Coverage after all reimbursements have been made for the Period of Coverage, then such balance will not be carried over to reimburse the Participant for Medical Care Expenses incurred during a subsequent Plan Year. The Participant will forfeit all rights with respect to such balance.
- (b) *Use of Forfeitures.* All forfeitures under this Plan will be used as follows: (1) first, to offset any losses experienced by the Employer during the Plan Year as a result of making reimbursements (i.e., providing Health FSA Benefits) with respect to all Participants in excess of the contributions paid by such Participants through Salary Reductions; (2) second, to reduce the cost of administering the Health FSA Component during the Plan Year or the subsequent Plan Year (all such administrative costs will be documented by the Plan Administrator); and (3) third, to provide increased benefits or compensation to Participants in subsequent years in any weighted or uniform fashion that the Plan Administrator deems appropriate, consistent with applicable regulations. In addition, any Health FSA Account benefit payments that are unclaimed (e.g., uncashed benefit checks) by the close of the Plan Year following the Period of Coverage in which the Medical Care Expense was incurred will be forfeited and applied as described above.

7.7 Reimbursement Claims Procedure for Health FSA

- (a) *Timing.* Within 30 days after receipt by the Plan Administrator of a reimbursement claim from a Participant, the Employer will reimburse the Participant for the Participant's Medical Care Expenses (if the Plan Administrator approves the claim), or the Plan Administrator will notify the Participant that his or her claim has been denied. This time period may be extended by an additional 15 days for matters beyond the control of the Plan Administrator, including in cases where a reimbursement claim is incomplete. The Plan Administrator will provide written notice of any extension, including the reasons for the extension, and will allow the Participant 45 days in which to complete the previously incomplete reimbursement claim.
- (b) *Claims Substantiation.* A Participant who has elected to receive Health FSA Benefits for a Period of Coverage may apply for reimbursement by submitting a request in writing to the Plan Administrator in such form as the Plan Administrator may prescribe, by no later than the April 30 following the close of the Plan Year in which the Medical Care Expense was incurred (except that for a Participant who ceases to be eligible to participate, this must be done no later than 90 days after the date that eligibility ceases, as described in Section 7.8) setting forth:
- the person(s) on whose behalf Medical Care Expenses have been incurred;
 - the nature and date of the expenses so incurred;
 - the amount of the requested reimbursement;
 - a statement that such expenses have not otherwise been reimbursed and that the Participant will not seek reimbursement through any other source; and
 - other such details about the expenses that may be requested by the Plan Administrator in the reimbursement request form or otherwise (e.g., a statement from a medical practitioner that the expense is to treat a specific medical condition, documentation that a medicine or drug was prescribed, or a more detailed certification from the Participant).
- The application must be accompanied by bills, invoices, or other statements from an independent third party showing that the Medical Care Expenses have been incurred and showing the amounts of such expenses, along with any additional documentation that the Plan Administrator may request. Except for the final reimbursement claim for a Participant's Health FSA Account for a Plan Year or other Period of Coverage, no claim for reimbursement may be made unless and until the aggregate claim for reimbursement is at least \$25. If the Health FSA is accessible by an electronic payment card (e.g., debit card, credit card, or similar arrangement), the Participant will be required to comply with substantiation procedures established by the Plan Administrator in accordance with Rev. Rul. 2003-43, IRS Notice 2006-69, or other IRS guidance.
- (c) *Claims Denied.* For reimbursement claims that are denied, see the appeals procedure in Article XI.
- (d) *Claims Ordering; No Reprocessing.* All claims for reimbursement under the Health FSA Component will be paid in the order in which they are approved. Once paid, a claim will not be reprocessed or otherwise recharacterized solely for the purpose of paying it (or treating it as paid) from amounts attributable to a different Plan Year or Period of Coverage.

7.8 Reimbursements From Health FSA After Termination of Participation; COBRA

When a Participant ceases to be a Participant under Section 3.3, the Participant's Salary Reductions and election to participate will terminate. Except as otherwise provided in Section 7.4(e) (regarding certain individuals who may be reimbursed from Prior Plan Year Health FSA Amounts for expenses incurred during a Grace Period), the Participant will not be able to receive reimbursements for Medical Care Expenses incurred after the end of the day on which the Participant's employment terminates or the Participant otherwise ceases to be eligible. However, such Participant (or the Participant's estate) may claim reimbursement for any Medical Care Expenses incurred during the Period of Coverage prior to the date that the Participant ceases to be eligible (or during any Grace Period to which he or she is entitled as provided in Section 7.4(e)), provided that the Participant (or the Participant's estate) files a claim within 90 days after the date that the Participant ceases to be a Participant.

Notwithstanding any provision to the contrary in this Plan, to the extent required by COBRA, a Participant and his or her Spouse and Dependents, as applicable, whose coverage terminates under the Health FSA Component because of a COBRA qualifying event (and who is a qualified beneficiary as defined under COBRA) will be given the opportunity to continue on a self-pay basis the same coverage that he or she had under the Health FSA Component the day before the qualifying event for the periods prescribed by COBRA. Specifically, such individuals will be eligible for COBRA continuation coverage only if, under Section 7.5, they have a positive Health FSA Account balance at the time of a COBRA qualifying event (taking into account all claims submitted before the date of the qualifying event). Such individuals will be notified if they are eligible for COBRA continuation coverage. If COBRA is elected, it will be available only for the remainder of the Plan Year in which the qualifying event occurs; such COBRA coverage for the Health FSA Component will cease at the end of the Plan Year and cannot be continued for the next Plan Year. Such continuation coverage will be subject to all conditions and limitations under COBRA. Notwithstanding the foregoing, a qualified beneficiary (as defined under COBRA) who has COBRA coverage under the Health FSA Component on the last day of a Plan Year may be entitled to reimbursement of Medical Care Expenses incurred during the Grace Period following that Plan Year in accordance with the provisions of Section 7.4(e).

Contributions for coverage for Health FSA Benefits may be paid on a pre-tax basis for current Employees receiving taxable compensation (as may be permitted by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year) where COBRA coverage arises either (a) because the Employee ceases to be eligible because of a reduction of hours or (b) because the Employee's Dependent ceases to satisfy the eligibility requirements for coverage. For all other individuals (e.g., Employees who cease to be eligible because of retirement, termination of employment, or layoff), contributions for COBRA coverage for Health FSA Benefits must be paid on an after-tax basis (unless permitted otherwise by the Plan Administrator on a uniform and consistent basis, but may not be prepaid from contributions in one Plan Year to provide coverage that extends into a subsequent Plan Year).

7.9 Coordination of Benefits

Health FSA Benefits are intended to pay benefits solely for Medical Care Expenses for which Participants have not been previously reimbursed and will not seek reimbursement elsewhere. Accordingly, the Health FSA will not be considered to be a group health plan for coordination of

benefits purposes, and Health FSA Benefits will not be taken into account when determining benefits payable under any other plan.

ARTICLE VIII. DCAP Component

8.1 DCAP Benefits

An Eligible Employee can elect to participate in the DCAP Component by electing (a) to receive benefits in the form of reimbursements for Dependent Care Expenses from the DCAP Component (DCAP Benefits), and (b) to pay his or her contribution for such DCAP Benefits on a pre-tax Salary Reduction basis. Unless an exception applies (as described in Article X), such election is irrevocable for the duration of the Period of Coverage to which it relates.

8.2 Participant Contributions for Cost of Coverage for DCAP Benefits

The annual Contribution for a Participant's portion of the DCAP Benefits is equal to the annual benefit amount elected by the Participant, subject to the dollar limits set forth in Section 8.4(b). (For example, if the maximum \$5,000 annual benefit amount is elected, then the annual contribution amount is also \$5,000.)

8.3 Eligible Dependent Care Expenses

Under the DCAP Component, a Participant may receive reimbursement for Dependent Care Expenses incurred during the Period of Coverage for which an election is in force.

- (a) *Incurred.* A Dependent Care Expense is incurred at the time the Qualifying Dependent Care Services giving rise to the expense is furnished, not when the Participant is formally billed for, is charged for, or pays for the Qualifying Dependent Care Services (e.g., services rendered for the month of June are not fully incurred until June 30 and cannot be reimbursed in full until then).
- (b) *Dependent Care Expenses.* "Dependent Care Expenses" are expenses that are considered to be employment-related expenses under Code Section 21(b)(2) (relating to expenses for the care of a Qualifying Individual necessary for gainful employment of the Employee and Spouse, if any, and expenses for incidental household services), if paid for by the Eligible Employee to obtain Qualifying Dependent Care Services; provided, however, that this term will not include any expenses for which the Participant or other person incurring the expense is reimbursed for the expense through insurance or any other plan. If only a portion of a Dependent Care Expense has been reimbursed elsewhere (e.g., because the Spouse's DCAP imposes maximum benefit limitations), the DCAP can reimburse the remaining portion of such Expense if it otherwise meets the requirements of this Article VIII.
- (c) *Qualifying Dependent Care Services.* "Qualifying Dependent Care Services" means services that: (1) relate to the care of a Qualifying Individual that enable the Participant and his or her Spouse to remain gainfully employed after the date of participation in the DCAP Component and during the Period of Coverage; and (2) are performed—
 - in the Participant's home; or
 - outside the Participant's home for (1) the care of a Participant's qualifying child who is under age 13; or (2) the care of any other Qualifying Individual who

regularly spends at least eight hours per day in the Participant's household. In addition, if the expenses are incurred for services provided by a dependent care center (i.e., a facility (including a day camp) that provides care for more than six individuals (other than individuals residing at the facility) on a regular basis and receives a fee, payment, or grant for such services), then the center must comply with all applicable state and local laws and regulations.

- (d) *Exclusion.* Dependent Care Expenses do not include amounts paid to:
- an individual with respect to whom a personal exemption is allowable under Code Section 151(c) to a Participant or his or her Spouse;
 - a Participant's Spouse;
 - a Participant's child (as defined in Code Section 152(f)(1)) who is under 19 years of age at the end of the year in which the expenses were incurred; or
 - a parent of a Participant's under age 13 qualifying child as defined in Code Section 152(a)(1) (e.g., a former spouse who is the child's noncustodial parent).

8.4 Maximum and Minimum Benefits for DCAP

- (a) *Maximum Reimbursement Available.* The maximum dollar amount elected by the Participant for reimbursement of Dependent Care Expenses incurred during a Period of Coverage (reduced by prior reimbursements during the Period of Coverage) will only be available during the Period of Coverage to the extent of the actual amounts credited to the Participant's DCAP Account pursuant to Section 8.5. (No reimbursement will be made to the extent that such reimbursement would exceed the balance in the Participant's Account (that is, the year-to-date amount that has been withheld from the Participant's Compensation for reimbursement for Dependent Care Expenses for the Period of Coverage, less any prior reimbursements). Payment will be made to the Participant in cash as reimbursement for Dependent Care Expenses incurred during the Period of Coverage for which the Participant's election is effective, provided that the other requirements of this Article VIII have been satisfied.
- (b) *Maximum and Minimum Dollar Limits.* The maximum annual benefit amount that a Participant may elect to receive under this Plan in the form of reimbursements for Dependent Care Expenses incurred in any Period of Coverage is \$5,000 or, if lower, the maximum amount that the Participant has reason to believe will be excludable from his or her income at the time the election is made as a result of the applicable statutory limit for the Participant. The applicable statutory limit for a Participant is the smallest of the following amounts:
- the Participant's Earned Income for the calendar year;
 - the Earned Income of the Participant's Spouse for the calendar year (for this purpose, a Spouse who is not employed during a month in which the Participant incurs a Dependent Care Expense and is either (1) physically or mentally incapable of self-care, or (2) a Student will be deemed to have Earned Income in the amount specified in Code Section 21(d)(2)); or
 - either \$5,000 or \$2,500 for the calendar year, as applicable below:
- (1) The amount is \$5,000 for the calendar year if one of the following applies: (a) the Participant is married and files a joint federal income tax return; (b) the Participant is married, files a separate federal income tax return, and meets the

following conditions: (i) the Participant maintains as his or her home a household that constitutes (for more than half of the taxable year) the principal abode of a Qualifying Individual (i.e., the Dependent for whom the Participant is eligible to receive reimbursements under the DCAP); (ii) the Participant furnishes over half of the cost of maintaining such household during the taxable year; and (iii) during the last six months of the taxable year, the Participant's Spouse is not a member of such household (i.e., the Spouse maintained a separate residence); or (c) the Participant is single or is the head of the household for federal income tax purposes.

(2) The amounts is \$2,500 for the calendar year if the Participant is married and resides with the Spouse, but files a separate federal income tax return.

The minimum annual benefit amount that a Participant may elect to receive under this Plan in the form of reimbursements for Dependent Care Expenses incurred in any Period of Coverage is \$0.

- (c) *Changes; No Proration.* For subsequent Plan Years, the maximum and minimum dollar limit may be changed by the Plan Administrator and will be communicated to Employees through the Election Form/Salary Reduction Agreement or other enrollment materials. If a Participant enters the DCAP Component mid-year or wishes to increase his or her election mid-year as permitted under Section 10.3, then there will be no proration rule—i.e., the Participant may elect coverage up to the maximum dollar limit or may increase coverage up to the maximum dollar limit, as applicable.
- (d) *Effect on Maximum Benefits If Election Change Permitted.* Any change in an election under Article X affecting annual contributions to the DCAP Component also will change the maximum reimbursement benefits for the balance of the Period of Coverage (commencing with the election change), as further limited by Sections 8.4(a) and (b). Such maximum reimbursement benefits for the balance of the Period of Coverage will be calculated by adding (1) the contributions, if any, made by the Participant as of the end of the portion of the Period of Coverage immediately preceding the change in election, to (2) the total contributions scheduled to be made by the Participant during the remainder of such Period of Coverage to the DCAP Account, reduced by (3) reimbursements during the Period of Coverage.

8.5 Establishment of DCAP Account

The Plan Administrator will establish and maintain a DCAP Account with respect to each Participant who has elected to participate in the DCAP Component, but it will not create a separate fund or otherwise segregate assets for this purpose. The Account so established will merely be a recordkeeping account with the purpose of keeping track of contributions and determining forfeitures under Section 8.6.

- (a) *Crediting of Accounts.* A Participant's DCAP Account will be credited periodically during each Period of Coverage with an amount equal to the Participant's Salary Reductions elected to be allocated to such Account.
- (b) *Debiting of Accounts.* A Participant's DCAP Account will be debited during each Period of Coverage for any reimbursement of Dependent Care Expenses incurred during the Period of Coverage.

- (c) *Available Amount Is Based on Credited Amount.* As described in Section 8.4, the amount available for reimbursement of Dependent Care Expenses may not exceed the year-to-date amount credited to the Participant's DCAP Account, less any prior reimbursements (i.e., it is based on the amount credited to the DCAP Account at a particular point in time). Thus, a Participant's DCAP Account may not have a negative balance during a Period of Coverage.

8.6 Forfeiture of DCAP Accounts; Use-It-or-Lose-It Rule

If any balance remains in the Participant's DCAP Account for a Period of Coverage after all reimbursements have been made for the Period of Coverage, then such balance will not be carried over to reimburse the Participant for Dependent Care Expenses incurred during a subsequent Plan Year. The Participant will forfeit all rights with respect to such balance. All forfeitures under this Plan will be used as follows: (1) first, to offset any losses experienced by the Employer during the Plan Year as a result of making reimbursements (i.e., providing DCAP Benefits) with respect to all Participants in excess of the contributions paid by such Participants through Salary Reductions; (2) second, to reduce the cost of administering the DCAP during the Plan Year or the subsequent Plan Year (all such administrative costs will be documented by the Plan Administrator); and (3) third, to provide increased benefits or compensation to Participants in subsequent years in any weighted or uniform fashion the Plan Administrator deems appropriate, consistent with applicable regulations. In addition, any DCAP Account benefit payments that are unclaimed (e.g., uncashed benefit checks) by the close of the Plan Year following the Period of Coverage in which the Dependent Care Expense was incurred will be forfeited and applied as described above.

8.7 Reimbursement Claims Procedure for DCAP

- (a) *Timing.* Within 30 days after receipt by the Plan Administrator of a reimbursement claim from a Participant, the Employer will reimburse the Participant for the Participant's Dependent Care Expenses (if the Plan Administrator approves the claim), or the Plan Administrator will notify the Participant that his or her claim has been denied. This time period may be extended by an additional 15 days for matters beyond the control of the Plan Administrator, including in cases where a reimbursement claim is incomplete. The Plan Administrator will provide written notice of any extension, including the reasons for the extension, and will allow the Participant 45 days in which to complete the previously incomplete reimbursement claim.
- (b) *Claims Substantiation.* A Participant who has elected to receive DCAP Benefits for a Period of Coverage may apply for reimbursement by submitting a request for reimbursement in writing to the Plan Administrator in such form as the Plan Administrator may prescribe, by no later than the April 30 following the close of the Plan Year in which the Dependent Care Expense was incurred (except for a Participant who ceases to be eligible to participate, by no later than 90 days after the date that eligibility ceases, as described in Section 8.8), setting forth:
- the person(s) on whose behalf Dependent Care Expenses have been incurred;
 - the nature and date of the expenses so incurred;
 - the amount of the requested reimbursement;

- the name of the person, organization or entity to whom the expense was or is to be paid, and taxpayer identification number (Social Security number, if the recipient is a person);
- a statement that such expenses have not otherwise been reimbursed and that the Participant will not seek reimbursement through any other source;
- the Participant's certification that he or she has no reason to believe that the reimbursement requested, added to his or her other reimbursements to date for Dependent Care Expenses incurred during the same calendar year, will exceed the applicable statutory limit for the Participant as described in Section 8.4(b); and
- other such details about the expenses that may be requested by the Plan Administrator in the reimbursement request form or otherwise (e.g., a more detailed certification from the Participant).

The application will be accompanied by bills, invoices, or other statements from an independent third party showing that the Dependent Care Expenses have been incurred and showing the amounts of such expenses, along with any additional documentation that the Plan Administrator may request. Except for the final reimbursement claim for a Period of Coverage, no claim for reimbursement may be made unless and until the aggregate claim for reimbursement is at least \$25.

- (c) *Claims Denied.* For reimbursement claims that are denied, see the appeals procedure in Article XI.

8.8 Reimbursements From DCAP After Termination of Participation

When a Participant ceases to be a Participant under Section 3.3, the Participant's Salary Reductions and election to participate will terminate. The Participant will not be able to receive reimbursements for Dependent Care Expenses incurred after the end of the day on which the Participant's employment terminates or the Participant otherwise ceases to be eligible, with one exception: such Participant (or the Participant's estate) may claim reimbursement for any Dependent Care Expenses incurred in the month that includes the date the Participant terminates employment or otherwise loses eligibility, provided that the Participant (or the Participant's estate) files a claim within 90 days after the date that the Participant's employment terminates or the Participant otherwise ceases to be eligible.

ARTICLE IX. HIPAA PROVISIONS FOR HEALTH FSA

9.1 Provision of Protected Health Information to Employer

Members of the Employer's workforce have access to the individually identifiable health information of Plan participants for administrative functions of the Health FSA. When this health information is provided from the Health FSA to the Employer, it is Protected Health Information (PHI). The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations restrict the Employer's ability to use and disclose PHI. The following HIPAA definition of PHI applies for purposes of this Article IX:

Protected Health Information. Protected health information means information that is created or received by the Plan and relates to the past, present, or future physical or mental health or

condition of a participant; the provision of health care to a participant; or the past, present, or future payment for the provision of health care to a participant; and that identifies the participant or for which there is a reasonable basis to believe the information can be used to identify the participant. Protected health information includes information of persons living or deceased.

The Employer will have access to PHI from the Health FSA only as permitted under this Article IX or as otherwise required or permitted by HIPAA. HIPAA and its implementing regulations were modified by the Health Information Technology for Economic and Clinical Health Act (HITECH Act), the statutory provisions of which are incorporated herein by reference.

9.2 Permitted Disclosure of Enrollment/Disenrollment Information

The Health FSA may disclose to the Employer information on whether the individual is participating in the Plan.

9.3 Permitted Uses and Disclosure of Summary Health Information

The Health FSA may disclose Summary Health Information to the Employer, provided that the Employer requests the Summary Health Information for the purpose of modifying, amending, or terminating the Health FSA.

“Summary Health Information” means information (a) that summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom a plan sponsor had provided health benefits under a health plan; and (b) from which the information described at 42 CFR Section 164.514(b)(2)(i) has been deleted, except that the geographic information described in 42 CFR Section 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit ZIP code.

9.4 Permitted and Required Uses and Disclosure of PHI for Plan Administration Purposes

Unless otherwise permitted by law, and subject to the conditions of disclosure described in Section 9.5 and obtaining written certification pursuant to Section 9.7, the Health FSA may disclose PHI to the Employer, provided that the Employer uses or discloses such PHI only for Plan administration purposes. “Plan administration purposes” means administration functions performed by the Employer on behalf of the Health FSA, such as quality assurance, claims processing, auditing, and monitoring. Plan administration functions do not include functions performed by the Employer in connection with any other benefit or benefit plan of the Employer, and they do not include any employment-related functions.

Notwithstanding the provisions of this Plan to the contrary, in no event will the Employer be permitted to use or disclose PHI in a manner that is inconsistent with 45 CFR Section 164.504(f).

9.5 Conditions of Disclosure for Plan Administration Purposes

The Employer agrees that with respect to any PHI (other than enrollment/disenrollment information and Summary Health Information, which are not subject to these restrictions) disclosed to it by the Health FSA, the Employer will:

- not use or further disclose the PHI other than as permitted or required by the Health FSA or as required by law;
- ensure that any agent, including a subcontractor, to whom it provides PHI received from the Health FSA agrees to the same restrictions and conditions that apply to the Employer with respect to PHI;
- not use or disclose the PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Employer;
- report to the Plan any use or disclosure of the information that is inconsistent with the uses or disclosures provided for of which it becomes aware;
- make available PHI to comply with HIPAA's right to access in accordance with 45 CFR Section 164.524;
- make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR Section 164.526;
- make available the information required to provide an accounting of disclosures in accordance with 45 CFR Section 164.528;
- make its internal practices, books, and records relating to the use and disclosure of PHI received from the Health FSA available to the Secretary of Health and Human Services for purposes of determining compliance by the Health FSA with HIPAA's privacy requirements;
- if feasible, return or destroy all PHI received from the Health FSA that the Employer still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
- ensure that the adequate separation between the Health FSA and the Employer (i.e., the "firewall"), required in 45 CFR Section 504(f)(2)(iii) is satisfied.

The Employer further agrees that if it creates, receives, maintains, or transmits any electronic PHI (other than enrollment/disenrollment information and Summary Health Information, which are not subject to these restrictions) on behalf of the Health FSA, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agree to implement reasonable and appropriate security measures to protect the information. The Employer will report to the Health FSA any security incident of which it becomes aware.

9.6 Adequate Separation Between Plan and Employer

The Employer will allow the following persons access to PHI: Director of Finance, Accounting Manager, Senior Accountant, Accountant, the Plan Administrator, and payroll staff performing Health FSA functions and any other Employee who needs access to PHI in order to perform Plan administration functions that the Employer performs for the Health FSA (such as quality assurance, claims processing, auditing, monitoring, payroll, and appeals). No other persons will have access to PHI. These specified employees (or classes of employees) will only have access to and use PHI to the extent necessary to perform the plan administration functions that

the Employer performs for the Health FSA. In the event that any of these specified employees does not comply with the provisions of this Section, that employee will be subject to disciplinary action by the Employer for non-compliance pursuant to the Employer's employee discipline and termination procedures.

The Employer will ensure that the provisions of this Section 9.6 are supported by reasonable and appropriate security measures to the extent that the designees have access to electronic PHI.

9.7 Certification of Plan Sponsor

The Health FSA will disclose PHI to the Employer only upon the receipt of a certification by the Employer that the Health FSA incorporates the provisions of 45 CFR Section 164.504(f)(2)(ii), and that the Employer agrees to the conditions of disclosure set forth in Section 9.5. Execution of the Plan by the Employer will serve as the required certification.

9.8 Privacy Official

The Employer will designate a Privacy Official, who will be responsible for the Plan's compliance with HIPAA. The Privacy Official may contract with or otherwise utilize the services of attorneys, accountants, brokers, consultants, or other third party experts as the Privacy Official deems necessary or advisable. In addition and notwithstanding any provision of this Plan to the contrary, the Privacy Official will have the authority to and be responsible for:

- accepting and verifying the accuracy and completeness of any certification provided by the Employer under this Article;
- transmitting the certification to any third parties as may be necessary to permit them to disclose PHI to the Employer;
- establishing and implementing policies and procedures with respect to PHI that are designed to ensure compliance by the Plan with the requirements of HIPAA;
- establishing and overseeing proper training of personnel who will have access to PHI; and
- any other duty or responsibility that the Privacy Official, in his or her sole capacity, deems necessary or appropriate to comply with the provisions of HIPAA and the purposes of the Article IX.

9.9 Interpretation and Limited Applicability

This Article serves the sole purpose of complying with the requirements of HIPAA and will be interpreted and construed in a manner to effectuate this purpose. Neither this Article IX nor the duties, powers, responsibilities, and obligations listed herein will be taken into account in determining the amount or nature of the benefits provided to any person covered under the Health FSA Component, nor will they inure to the benefit of any third parties. To the extent that any of the provisions of this Article IX are no longer required by HIPAA or do not apply to the Plan because the Plan is otherwise excepted from HIPAA, they will be deemed deleted and will have no force or effect.

9.10 Service Performed for the Employer

Notwithstanding any other provisions of this Plan to the contrary, all services performed by a business associate for the Health FSA in accordance with the applicable service agreement will be deemed to be performed on behalf of the Health FSA and subject to the administrative simplification provisions of HIPAA contained in 45 C.F.R. Parts 160 through 164, except services that relate to eligibility and enrollment in the Health FSA. If a business associate of the Health FSA performs any services that relate to eligibility and enrollment in the Health FSA, these services will be deemed to be performed on behalf of the Employer in its capacity as Plan Sponsor and not on behalf of the Health FSA.

ARTICLE X. Irrevocability of Elections; Exceptions

10.1 Irrevocability of Elections

Except as described in this Article X, a Participant's election under the Plan is irrevocable for the duration of the Period of Coverage to which it relates. In other words, unless an exception applies, the Participant may not change any elections for the duration of the Period of Coverage regarding:

- (a) participation in this Plan;
- (b) Salary Reduction amounts; or
- (c) election of particular Benefit Plan Options.

10.2 Procedure for Making New Election If Exception to Irrevocability Applies

- (a) *Timeframe for Making New Election.* A Participant (or an Eligible Employee who, when first eligible under Section 4.2 or during the Open Enrollment Period under Section 4.3, declined to be a Participant) may make a new election within 30 days of the occurrence of an event described in Section 10.3 (or within 60 days of the occurrence of an event described in Section 10.3(e)(3) or (4)), as applicable, but only if the election under the new Election Form/Salary Reduction Agreement is made on account of and is consistent with the event. Notwithstanding the foregoing, a Change in Status (e.g., a divorce or a dependent's losing student status) that results in a beneficiary becoming ineligible for coverage under the Insurance Plans will automatically result in a corresponding election change, whether or not requested by the Participant within the normal 30-day period.
- (b) *Effective Date of New Election.* Elections made pursuant to this Section 10.2 will be effective for the balance of the Period of Coverage following the change of election unless a subsequent event allows for a further election change. Except as provided in Section 10.3(e) for HIPAA special enrollment rights in the event of birth, adoption, or placement for adoption, all election changes will be effective on a prospective basis only (i.e., election changes will become effective no earlier than the first day of the next calendar month following the date that the election change was filed, but, as determined by the Plan Administrator, election changes may become effective later to the extent that the coverage in the applicable Benefit Plan Option commences later).
- (c) *Effect of New Election Upon Amount of Benefits.* For the effect of a changed election upon the maximum and minimum benefits under the Health FSA and DCAP Components, see Sections 7.4 and 8.4 respectively.

10.3 Events Permitting Exception to Irrevocability Rule for All Benefits

A Participant may change an election as described below upon the occurrence of the stated events for the applicable component of this Plan:

- (a) *Open Enrollment Period (Applies to all Benefit Plan Options).* A Participant may change an election during the Open Enrollment Period in accordance with Section 4.3.
- (b) *Termination of Employment (Applies to all Benefit Plan Options).* A Participant's election will terminate under the Plan upon termination of employment in accordance with Section 3.3.
- (c) *Leaves of Absence (Applies to all Benefit Plan Options).* A Participant may change an election under the Plan upon FMLA leave in accordance with Section 3.5 and upon non-FMLA leave in accordance with Section 3.6.
- (d) *Change in Status (Applies to Premium Payment Benefits and to Health FSA Benefits and DCAP Benefits as limited further below).* A Participant may change his or her election under the Plan upon the occurrence of a Change in Status, but only if such election change is made on account of and corresponds with a Change in Status that affects eligibility for coverage under a plan of the Employer or a plan of the Spouse's or Dependent's employer (referred to as the general consistency requirement). A Change in Status that affects eligibility for coverage under a plan of the Employer or a plan of the Spouse's or Dependent's employer includes a Change in Status that results in an increase or decrease in the number of an Employee's family members (i.e., a Spouse and/or Dependents) who may benefit from the coverage.
- (e) *HIPAA Special Enrollment Rights (Applies to Premium Payment Benefits under Medical Insurance Plans only, and not to any other Insurance Plan, Health FSA, or DCAP Benefits).* If a Participant or his or her Spouse or Dependent is entitled to special enrollment rights under a group health plan (other than an excepted benefit), as required by HIPAA under Code Section 9801(f), then a Participant may revoke a prior election for group health plan coverage and make a new election (including, when required by HIPAA, an election to enroll in another group health plan), provided that the election change corresponds with such HIPAA special enrollment rights. As required by HIPAA, a special enrollment right will arise in the following circumstances:
 - (1) a Participant or his or her Spouse or Dependent declined to enroll in group health plan coverage because he or she had coverage, and eligibility for such coverage is subsequently lost because: (a) the coverage was provided under COBRA and the COBRA coverage was exhausted; or (b) the coverage was non-COBRA coverage and the coverage terminated due to loss of eligibility for coverage or the employer contributions for the coverage were terminated;
 - (2) a new Dependent is acquired as a result of marriage, birth, adoption, or placement for adoption;
 - (3) the Participant's or Dependent's coverage under a Medicaid plan or state children's health insurance program is terminated as a result of loss of eligibility for such coverage; or

(4) the Participant or Dependent becomes eligible for a state premium assistance subsidy from a Medicaid plan or through a state children's health insurance program with respect to coverage under the group health plan.

An election to add previously eligible Dependents as a result of the acquisition of a new Spouse or Dependent child will be considered to be consistent with the special enrollment right. An election change on account of a HIPAA special enrollment attributable to the birth, adoption, or placement for adoption of a new Dependent child may, subject to the provisions of the underlying group health plan, be effective retroactively (up to 30 days).

For purposes of Section 10.3(e)(1), a loss of eligibility includes (but is not limited to) loss of eligibility due to legal separation, divorce, cessation of dependent status, death of an employee, termination of employment, reduction of hours, or any loss of eligibility for coverage that is measured with reference to any of the foregoing; loss of coverage offered through an HMO that does not provide benefits to individuals who do not reside, live, or work in the service area because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual), and in the case of HMO coverage in the group market, no other benefit Plan is available to the individual; a situation in which an individual incurs a claim that would meet or exceed a lifetime limit on all benefits; and a situation in which a plan no longer offers any benefits to the class of similarly situated individuals that includes the individual.

- (f) *Certain Judgments, Decrees and Orders (Applies to Premium Payment and Health FSA Benefits, but Not to DCAP Benefits).* If a judgment, decree, or order (collectively, an "Order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a National Medical Support Order) requires accident or health coverage (including an election for Health FSA Benefits) for a Participant's child (including a foster child who is a Dependent of the Participant), then a Participant may (1) change his or her election to provide coverage for the child (provided that the Order requires the Participant to provide coverage); or (2) change his or her election to revoke coverage for the child if the Order requires that another individual (including the Participant's Spouse or former Spouse) provide coverage under that individual's plan and such coverage is actually provided.
- (g) *Medicare and Medicaid (Applies to Premium Payment Benefits, to Health FSA Benefits as Limited Below, but Not to DCAP Benefits).* If a Participant or his or her Spouse or Dependent who is enrolled in a health or accident plan under this Plan becomes entitled to (i.e., becomes enrolled in) Medicare or Medicaid (other than coverage consisting solely of benefits under Section 1928 of the Social Security Act providing for pediatric vaccines), then the Participant may prospectively reduce or cancel the health or accident coverage of the person becoming entitled to Medicare or Medicaid and/or the Participant's Health FSA coverage may be canceled (but not reduced). Notwithstanding the foregoing, such cancellation will not become effective to the extent that it would reduce future contributions to the Health FSA to a point where the total contributions for the Plan Year are less than the amount already reimbursed for the Plan Year. Furthermore, if a Participant or his or her Spouse or Dependent who has been entitled to Medicare or Medicaid loses eligibility for such coverage, then the Participant may prospectively elect to commence or increase the accident or health coverage of the individual who loses Medicare or Medicaid eligibility and/or the Participant's Health FSA coverage may commence or increase.

(h) *Change in Cost (Applies to Premium Payment Benefits, to DCAP Benefits as Limited Below, but Not to Health FSA Benefits).* For purposes of this Section 10.3(h), “similar coverage” means coverage for the same category of benefits for the same individuals (e.g., family to family or single to single). For example, two plans that provide major medical coverage are considered to be similar coverage. For purposes of this definition, (a) a health FSA is not similar coverage with respect to an accident or health plan that is not a health FSA; (b) an HMO and a PPO are considered to be similar coverage; and (c) coverage by another employer, such as a Spouse's or Dependent's employer, may be treated as similar coverage if it otherwise meets the requirements of similar coverage.

(1) *Increase or Decrease for Insignificant Cost Changes.* Participants are required to increase their elective contributions (by increasing Salary Reductions) to reflect insignificant increases in their required contribution for their Benefit Plan Option(s), and to decrease their elective contributions to reflect insignificant decreases in their required contribution. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will determine whether an increase or decrease is insignificant based upon all the surrounding facts and circumstances, including but not limited to the dollar amount or percentage of the cost change. The Plan Administrator, on a reasonable and consistent basis, will automatically effectuate this increase or decrease in affected employees' elective contributions on a prospective basis.

(2) *Significant Cost Increases.* If the Plan Administrator determines that the cost charged to an Employee of a Participant's Benefit Plan Option(s) significantly increases during a Period of Coverage, then the Participant may (a) make a corresponding prospective increase in his or her elective contributions (by increasing Salary Reductions); (b) revoke his or her election for that coverage, and in lieu thereof, receive on a prospective basis coverage under another Benefit Plan Option that provides similar coverage (such as an HMO, but not the Health FSA); or (c) drop coverage prospectively if there is no other Benefit Plan Option available that provides similar coverage. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a cost increase is significant in accordance with prevailing IRS guidance.

(3) *Significant Cost Decreases.* If the Plan Administrator determines that the cost of any Benefit Plan Option significantly decreases during a Period of Coverage, then the Plan Administrator may permit the following election changes: (a) Participants enrolled in that Benefit Plan Option may make a corresponding prospective decrease in their elective contributions (by decreasing Salary Reductions); (b) Participants who are enrolled in another Benefit Plan Option (such as an HMO, but not the Health FSA) may change their election on a prospective basis to elect the Benefit Plan Option that has decreased in cost; or (c) Employees who are otherwise eligible under Section 3.1 may elect the Benefit Plan Option that has decreased in cost (such as the PPO) on a prospective basis, subject to the terms and limitations of the Benefit Plan Option. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a cost decrease is significant in accordance with prevailing IRS guidance.

(4) *Limitation on Change in Cost Provisions for DCAP Benefits.* The above “Change in Cost” provisions (Sections 10.3(h)(1) through 10.3(h)(3)) apply to DCAP Benefits only if the cost change is imposed by a dependent care provider who is not a “relative” of the Employee. For this purpose, a relative is an individual who is related as described in Code Sections 152(d)(2)(A) through (G), incorporating the rules of Code Sections 152(f)(1) and 152(f)(4).

- (i) Change in Coverage (*Applies to Premium Payment and DCAP Benefits, but Not to Health FSA Benefits*).

The definition of “similar coverage” under Section 10.3(h) applies also to this Section 10.3(i).

(1) *Significant Curtailment*. If coverage is “significantly curtailed” (as defined below), Participants may elect coverage under another Benefit Plan Option that provides similar coverage. In addition, as set forth below, if the coverage curtailment results in a “Loss of Coverage” (as defined below), then Participants may drop coverage if no similar coverage is offered by the Employer. The Plan Administrator in its sole discretion, on a uniform and consistent basis, will decide, in accordance with prevailing IRS guidance, whether a curtailment is “significant,” and whether a Loss of Coverage has occurred.

(a) *Significant Curtailment Without Loss of Coverage*. If the Plan Administrator determines that a Participant's coverage under a Benefit Plan Option under this Plan (or the Participant's Spouse's or Dependent's coverage under his or her employer's plan) is significantly curtailed without a Loss of Coverage (for example, when there is a significant increase in the deductible, the co-pay, or the out-of-pocket cost-sharing limit under an accident or health plan) during a Period of Coverage, the Participant may revoke his or her election for the affected coverage, and in lieu thereof, prospectively elect coverage under another Benefit Plan Option that provides similar coverage (such as an HMO, but not the Health FSA). Coverage under a plan is deemed to be “significantly curtailed” only if there is an overall reduction in coverage provided under the plan so as to constitute reduced coverage generally.

(b) *Significant Curtailment With a Loss of Coverage*. If the Plan Administrator determines that a Participant's Benefit Plan Option coverage under this Plan (or the Participant's Spouse's or Dependent's coverage under his or her employer's plan) is significantly curtailed, and if such curtailment results in a Loss of Coverage during a Period of Coverage, then the Participant may revoke his or her election for the affected coverage and may either prospectively elect coverage under another Benefit Plan Option that provides similar coverage (such as an HMO, but not the Health FSA) or drop coverage if no other Benefit Plan Option providing similar coverage is offered by the Employer.

(c) *Definition of Loss of Coverage*. For purposes of this Section 10.3(i)(1), a “Loss of Coverage” means a complete loss of coverage (including the elimination of a Benefit Plan Option, an HMO ceasing to be available where the Participant or his or her Spouse or Dependent resides, or a Participant or his or her Spouse or Dependent losing all coverage under the Benefit Plan Option by reason of an overall lifetime or annual limitation). In addition, the Plan Administrator, in its sole discretion, on a uniform and consistent basis, may treat the following as a Loss of Coverage:

- a substantial decrease in the medical care providers available under the Benefit Plan Option (such as a major hospital ceasing to be a member of a preferred provider network or a substantial decrease in the number of physicians participating in a PPO or HMO);

- a reduction in benefits for a specific type of medical condition or treatment with respect to which the Participant or his or her Spouse or Dependent is currently in a course of treatment; or
- any other similar fundamental loss of coverage.

(d) *DCAP Coverage Changes.* A Participant may make a prospective election change that is on account of and corresponds with a change by the Participant in the dependent care service provider. For example: (i) if the Participant terminates one dependent care service provider and hires a new dependent care service provider, then the Participant may change coverage to reflect the cost of the new service provider; and (ii) if the Participant terminates a dependent care service provider because a relative becomes available to take care of the child at no charge, then the Participant may cancel coverage.

(2) *Addition or Significant Improvement of a Benefit Plan Option.* If during a Period of Coverage the Plan adds a new Benefit Plan Option or significantly improves an existing Benefit Plan Option, the Plan Administrator may permit the following election changes: (a) Participants who are enrolled in a Benefit Plan Option other than the newly added or significantly improved Benefit Plan Option may change their elections on a prospective basis to elect the newly added or significantly improved Benefit Plan Option; and (b) Employees who are otherwise eligible under Section 3.1 may elect the newly added or significantly improved Benefit Plan Option on a prospective basis, subject to the terms and limitations of the Benefit Plan Option. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether there has been an addition of, or a significant improvement in, a Benefit Plan Option in accordance with prevailing IRS guidance.

(3) *Loss of Coverage Under Other Group Health Coverage.* A Participant may prospectively change his or her election to add group health coverage for the Participant or his or her Spouse or Dependent, if such individual(s) loses coverage under any group health coverage sponsored by a governmental or educational institution, including (but not limited to) the following: a state children's health insurance program under Title XXI of the Social Security Act; a medical care program of an Indian Tribal government (as defined in Code Section 7701(a)(40), the Indian Health Service, or a tribal organization; a state health benefits risk pool; or a foreign government group health plan, subject to the terms and limitations of the applicable Benefit Plan Option(s).

(4) *Change in Coverage Under An Employer Plan.* A Participant may make a prospective election change that is on account of and corresponds with a change made under an employer plan (including a plan of the Employer or a plan of the Spouse's or Dependent's employer), so long as (a) the other cafeteria plan or qualified benefits plan permits its participants to make an election change that would be permitted under applicable IRS regulations; or (b) the Plan permits Participants to make an election for a Period of Coverage that is different from the plan year under the other cafeteria plan or qualified benefits plan. For example, if an election is made by the Participant's Spouse during his or her employer's open enrollment to drop coverage, the Participant may add coverage to replace the dropped coverage. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a requested change is on account of and corresponds with a change made under the other employer plan, in accordance with prevailing IRS guidance.

Election changes may not be made to reduce Health FSA coverage during a Period of Coverage; however, election changes may be made to cancel Health FSA coverage completely due to the occurrence of any of the following events: death of a Spouse, divorce, legal separation, or annulment; death of a Dependent; change in employment status such that the Participant becomes ineligible for Health FSA coverage; or a Dependent's ceasing to satisfy eligibility requirements for Health FSA coverage. Notwithstanding the foregoing, such cancellation will not become effective to the extent that it would reduce future contributions to the Health FSA to a point where the total contributions for the Plan Year are less than the amount already reimbursed for the Plan Year. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will determine, based on prevailing IRS guidance, whether a requested change is on account of and corresponds with a Change in Status. Assuming that the general consistency requirement is satisfied, a requested election change must also satisfy the following specific consistency requirements in order for a Participant to be able to alter his or her election based on the specified Change in Status:

(1) *Loss of Spouse or Dependent Eligibility; Special COBRA Rules.* For a Change in Status involving a Participant's divorce, annulment or legal separation from a Spouse, the death of a Spouse or a Dependent, or a Dependent's ceasing to satisfy the eligibility requirements for coverage, a Participant may only elect to cancel accident or health insurance coverage for (a) the Spouse involved in the divorce, annulment, or legal separation; (b) the deceased Spouse or Dependent; or (c) the Dependent that ceased to satisfy the eligibility requirements. Canceling coverage for any other individual under these circumstances would fail to correspond with that Change in Status. Notwithstanding the foregoing, if the Participant or his or her Spouse or Dependent becomes eligible for COBRA (or similar health plan continuation coverage under state law) under the Employer's plan because of a reduction of hours or because the Participant's Dependent ceases to satisfy the eligibility requirements for coverage (and the Participant remains a Participant under this Plan), then the Participant may increase his or her election to pay for such coverage.

(2) *Gain of Coverage Eligibility Under Another Employer's Plan.* For a Change in Status in which a Participant or his or her Spouse or Dependent gains eligibility for coverage under a cafeteria plan or qualified benefit plan of the employer of the Participant's Spouse or Dependent as a result of a change in marital status or a change in employment status, a Participant may elect to cease or decrease coverage for that individual only if coverage for that individual becomes effective or is increased under the Spouse's or Dependent's employer's plan. The Plan Administrator may rely on a Participant's certification that the Participant has obtained or will obtain coverage under the Spouse's or Dependent's employer's plan, unless the Plan Administrator has reason to believe that the Participant's certification is incorrect.

(3) *Special Consistency Rule for DCAP Benefits.* With respect to the DCAP Benefits, a Participant may change or terminate his or her election upon a Change in Status if (a) such change or termination is made on account of and corresponds with a Change in Status that affects eligibility for coverage under an employer's plan; or (b) the election change is on account of and corresponds with a Change in Status that affects eligibility of Dependent Care Expenses for the tax exclusion under Code Section 129.

A Participant entitled to change an election as described in this Section 10.3 must do so in accordance with the procedures described in Section 10.2.

10.4 Election Modifications Required by Plan Administrator

The Plan Administrator may, at any time, require any Participant or class of Participants to amend the amount of their Salary Reductions for a Period of Coverage if the Plan Administrator determines that such action is necessary or advisable in order to (a) satisfy any of the Code's nondiscrimination requirements applicable to this Plan or other cafeteria plan; (b) prevent any Employee or class of Employees from having to recognize more income for federal income tax purposes from the receipt of benefits hereunder than would otherwise be recognized; (c) maintain the qualified status of benefits received under this Plan; or (d) satisfy Code nondiscrimination requirements or other limitations applicable to the Employer's qualified plans. In the event that contributions need to be reduced for a class of Participants, the Plan Administrator will reduce the Salary Reduction amounts for each affected Participant, beginning with the Participant in the class who had elected the highest Salary Reduction amount and continuing with the Participant in the class who had elected the next-highest Salary Reduction amount, and so forth, until the defect is corrected.

ARTICLE XI. Appeals Procedure

11.1 Procedure If Benefits Are Denied Under This Plan

If a claim for reimbursement under this Plan is wholly or partially denied, then claims will be administered in accordance with the claims procedure set forth in Appendix C of this Plan.

11.2 Claims Procedures for Insurance Benefits

Claims and reimbursement for benefits under any Insurance Plan will be administered in accordance with the claims procedures for the Insurance Plans, as set forth in their governing plan documents and/or summary plan descriptions.

ARTICLE XII. Recordkeeping and Administration

12.1 Plan Administrator

The administration of this Plan will be under the supervision of the Plan Administrator. It is the principal duty of the Plan Administrator to see that this Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in this Plan without discrimination among them.

12.2 Powers of the Plan Administrator

The Plan Administrator will have such duties and powers as it considers necessary or appropriate to discharge its duties. It will have the exclusive right to interpret the Plan and to decide all matters thereunder, and all determinations of the Plan Administrator with respect to any matter hereunder will be conclusive and binding on all persons. Without limiting the generality of the foregoing, the Plan Administrator will have the following discretionary authority:

- (a) to construe and interpret this Plan, including all possible ambiguities, inconsistencies, and omissions in the Plan and related documents, and to decide all questions of fact, questions relating to eligibility and participation, and questions of benefits under this Plan;

- (b) to prescribe procedures to be followed and the forms to be used by Employees and Participants to make elections pursuant to this Plan;
- (c) to prepare and distribute information explaining this Plan and the benefits under this Plan in such manner as the Plan Administrator determines to be appropriate;
- (d) to request and receive from all Employees and Participants such information as the Plan Administrator will from time to time determine to be necessary for the proper administration of this Plan;
- (e) to furnish each Employee and Participant with such reports with respect to the administration of this Plan as the Plan Administrator determines to be reasonable and appropriate, including appropriate statements setting forth the amounts by which a Participant's Compensation has been reduced in order to provide benefits under this Plan;
- (f) to receive, review, and keep on file such reports and information regarding the benefits covered by this Plan as the Plan Administrator determines from time to time to be necessary and proper;
- (g) to appoint and employ such individuals or entities to assist in the administration of this Plan as it determines to be necessary or advisable, including legal counsel and benefit consultants;
- (h) to sign documents for the purposes of administering this Plan, or to designate an individual or individuals to sign documents for the purposes of administering this Plan;
- (i) to secure independent medical or other advice and require such evidence as it deems necessary to decide any claim or appeal; and
- (j) to maintain the books of accounts, records, and other data in the manner necessary for proper administration of this Plan and to meet any applicable disclosure and reporting requirements.

12.3 Reliance on Participant, Tables, etc.

The Plan Administrator may rely upon the direction, information, or election of a Participant as being proper under the Plan and will not be responsible for any act or failure to act because of a direction or lack of direction by a Participant. The Plan Administrator will also be entitled, to the extent permitted by law, to rely conclusively on all tables, valuations, certificates, opinions, and reports that are furnished by accountants, attorneys, or other experts employed or engaged by the Plan Administrator.

12.4 Provision for Third-Party Plan Service Providers

The Plan Administrator, subject to approval of the Employer, may employ the services of such persons as it may deem necessary or desirable in connection with the operation of the Plan. Unless otherwise provided in the service agreement, obligations under this Plan will remain the obligation of the Plan Administrator or the Employer, as applicable.

12.5 Fiduciary Liability

To the extent permitted by law, the Plan Administrator will not incur any liability for any acts or for failure to act except for their own willful misconduct or willful breach of this Plan.

12.6 Compensation of Plan Administrator

Unless otherwise determined by the Employer and permitted by law, any Plan Administrator that is also an Employee of the Employer will serve without compensation for services rendered in such capacity, but all reasonable expenses incurred in the performance of their duties will be paid by the Employer.

12.7 Insurance Contracts

The Employer will have the right (a) to enter into a contract with one or more insurance companies for the purposes of providing any benefits under the Plan; and (b) to replace any of such insurance companies or contracts. Any dividends, retroactive rate adjustments, or other refunds of any type that may become payable under any such insurance contract will not be assets of the Plan but will be the property of and be retained by the Employer, to the extent that such amounts are less than aggregate Employer contributions toward such insurance.

12.8 Inability to Locate Payee

If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because it cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person, then such payment and all subsequent payments otherwise due to such Participant or other person will be forfeited following a reasonable time after the date any such payment first became due.

12.9 Effect of Mistake

In the event of a mistake as to the eligibility or participation of an Employee, the allocations made to the account of any Participant, or the amount of benefits paid or to be paid to a Participant or other person, the Plan Administrator will, to the extent that it deems administratively possible and otherwise permissible under Code Section 125 or the regulations issued thereunder, cause to be allocated or cause to be withheld or accelerated, or otherwise make adjustment of, such amounts as it will in its judgment accord to such Participant or other person the credits to the account or distributions to which he or she is properly entitled under the Plan. Such action by the Plan Administrator may include withholding of any amounts due to the Plan or the Employer from Compensation paid by the Employer.

ARTICLE XIII. General Provisions

13.1 Expenses

All reasonable expenses incurred in administering the Plan are currently paid by forfeitures to the extent provided in Section 7.6 with respect to Health FSA Benefits and Section 8.6 with respect to DCAP Benefits, and then by the Employer.

13.2 No Contract of Employment

Nothing herein contained is intended to be or will be construed as constituting a contract or other arrangement between any Employee and the Employer to the effect that such Employee will be employed for any specific period of time.

13.3 Amendment and Termination

This Plan has been established with the intent of being maintained for an indefinite period of time. Nonetheless, the Employer may amend or terminate all or any part of this Plan at any time for any reason by resolution of the Employer's Board of Directors or by any person or persons authorized by the Board of Directors to take such action.

13.4 Governing Law

The provisions of the Plan will be construed, administered and enforced according to applicable federal law and, to the extent not preempted, the laws of the State of California.

13.5 Compliance With Code and Other Applicable Laws

It is intended that this Plan meet all applicable requirements of the Code and of all regulations issued thereunder. This Plan will be construed, operated, and administered accordingly, and in the event of any conflict between any part, clause, or provision of this Plan and the Code, the provisions of the Code will be deemed controlling, and any conflicting part, clause, or provision of this Plan will be deemed superseded to the extent of the conflict. In addition, the Plan will comply with the requirements of all other applicable laws.

13.6 No Guarantee of Tax Consequences

Neither the Plan Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under this Plan will be excludable from the Participant's gross income for federal, state, or local income tax purposes. It will be the obligation of each Participant to determine whether each payment under this Plan is excludable from the Participant's gross income for federal, state, and local income tax purposes and to notify the Plan Administrator if the Participant has any reason to believe that such payment is not so excludable.

13.7 Indemnification of Employer

If any Participant receives one or more payments or reimbursements under this Plan on a tax-free basis and if such payments do not qualify for such treatment under the Code, then such Participant will indemnify and reimburse the Employer for any liability that it may incur for failure to withhold federal income taxes, Social Security or Medicare taxes, or other taxes from such payments or reimbursements.

13.8 Non-Assignability of Rights

The right of any Participant to receive any reimbursement under this Plan will not be alienable by the Participant by assignment or any other method and will not be subject to claims by the Participant's creditors by any process whatsoever. Any attempt to cause such right to be so subjected will not be recognized, except to the extent required by law.

13.9 Headings

The headings of the various Articles and Sections are inserted for convenience of reference and are not to be regarded as part of this Plan or as indicating or controlling the meaning or construction of any provision.

13.10 Plan Provisions Controlling

In the event that the terms or provisions of any summary or description of this Plan are in any construction interpreted as being in conflict with the provisions of this Plan as set forth in this document, the provisions of this Plan will be controlling.

13.11 Severability

Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder of the Plan will be given effect to the maximum extent possible.

* * *

To record the adoption of the Plan, the Employer's authorized representative hereby executes this document on this _____ day of _____, 2012.

Alameda County Transportation Commission

By: _____

Title: _____

Date: _____

Appendix A

Benefit Plan Options

Benefit Plan Options will include the coverage available under the following plans maintained by the Alameda County Transportation Commission:

A. Insurance Plans

1. Medical Insurance under the Public Employees' Medical and Hospital Care Act (PEMHCA or "PERS Health")
2. Dental Insurance
3. Vision Insurance
4. Long-Term Disability Insurance
5. Short-Term Disability Insurance
6. Group-Term Life Insurance (on the life of an Employee only)

B. Health Care Flexible Spending Account

C. Dependent Care Flexible Spending Account

Appendix B

Exclusions: Medical Expenses that are Not Reimbursable from the Health FSA

The Alameda County Transportation Commission Cafeteria Plan document contains the general rules governing what expenses are reimbursable. This Appendix B, as referenced in the Plan document, specifies certain expenses that are excluded under this Plan with respect to reimbursement from the Health FSA—that is, expenses that *are not reimbursable*, even if they meet the definition of “medical care” under Code Section 213(d) and may otherwise be reimbursable under the regulations governing Health FSAs.

Exclusions: *The following expenses are not reimbursable from the Health FSA*, even if they meet the definition of “medical care” under Code Section 213(d) and may otherwise be reimbursable under legal requirements applicable to health FSAs:

- Premiums for other health coverage, including but not limited to premiums for any other plan (whether or not sponsored by the Employer)
- Long-term care services
- Cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or a disfiguring disease. “Cosmetic surgery” means any procedure that is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.
- The salary expense of a nurse to care for a healthy newborn at home
- Funeral and burial expenses
- Household and domestic help (even if recommended by a qualified physician due to an Employee's or Dependent's inability to perform physical housework)
- Custodial care
- Medicines or drugs (other than insulin) that have not been prescribed
- Costs for sending a problem child to a special school for benefits that the child may receive from the course of study and disciplinary methods
- Social activities, such as dance lessons (even if recommended by a physician for general health improvement)
- Bottled water
- Cosmetics, toiletries, toothpaste, etc.
- Uniforms or special clothing, such as maternity clothing
- Automobile insurance premiums
- Transportation expenses of any kind, including transportation expenses to receive medical care
- Marijuana and other controlled substances that are in violation of federal laws, even if prescribed by a physician
- Any item that does not constitute “medical care” as defined under Code Section 213(d)
- Any item that is not reimbursable due to the rules in Prop. Treas. Reg. Section 1.125-5(k)(4) or other applicable law or regulations

Appendix C

Claims Procedures

Capitalized terms in this Appendix C have the same meaning as the defined terms in the Alameda County Transportation Commission Cafeteria Plan.

Any Participant may file a claim with the Plan Administrator for a Plan benefit to which the claimant believes that he or she is entitled.

1. The Plan Administrator will receive all claims filed for benefits under the Plan. Upon receiving a claim, the Plan Administrator will review the claim and determine whether the claimant is entitled to receive any benefits pursuant to such claim. The Plan Administrator will notify the claimant in writing of any adverse decision with respect to his or her claim within 30 days after its submission. The notice of any adverse decision will be written in a manner calculated to be understood by the claimant and must include, as applicable: (i) the specific reason or reasons for the denial; (ii) specific references to the Plan provisions on which the denial is based; (iii) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and (iv) an explanation of the Plan's claim review procedures.
2. If the circumstances require an extension of time for processing the initial claim, a written notice of the extension will be furnished to the claimant before the end of the initial 30-day period. This time period may be extended by an additional 15 days for matters beyond the control of the Plan Administrator, including in cases where a reimbursement claim is incomplete. The extension notice must indicate the circumstances requiring an extension of time.
3. If a claim for benefits is denied or if the Plan Administrator has given no response to such claim within the time period set out in the above paragraph (in which case the claim for benefits will be deemed to be denied), the claimant or his or her duly authorized representative, at the claimant's sole expense, may appeal the denial by submitting written notice of such appeal to the Plan Administrator within 90 days of the receipt of written notice of the denial or 60 days from the date such claim is deemed to be denied.
4. The claimant will be notified of the decision on the appeal within 90 days of receipt of the notice of appeal, unless circumstances require an extension of time for processing, in which case a decision will be rendered as soon as possible, but not later than 120 days after receipt of a notice of appeal. If such an extension of time is required, written notice of the extension will be furnished to the claimant before the end of the original 90-day period. The notice of decision on the appeal must be made in writing. If the decision on the appeal is not furnished within the time specified above, the appeal of the claim will be deemed denied.

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**ALAMEDA COUNTY TRANSPORTATION COMMISSION
RETIREE HEALTH REIMBURSEMENT ARRANGEMENT**

As Adopted Effective February 1, 2012

[DRAFT January 9, 2012]

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ALAMEDA COUNTY TRANSPORTATION COMMISSION RETIREE HEALTH REIMBURSEMENT ARRANGEMENT

As Adopted Effective February 1, 2012

ARTICLE I. ESTABLISHMENT AND PURPOSE OF THE PLAN

The Alameda County Transportation Commission (the Employer) provides post-retirement health benefits to its Eligible Retirees. The Employer hereby establishes this Alameda County Transportation Commission Retiree Health Reimbursement Arrangement (the Plan), effective February 1, 2012 (the Effective Date) to enable Eligible Retirees and their eligible Beneficiaries to pay for the health care benefits described herein.

The Plan is intended to qualify as a health reimbursement arrangement within the meaning of Internal Revenue Service Notice 2002-45, and it is intended that the benefits under the Plan be tax-free to the maximum extent permitted under the Internal Revenue Code and the regulations issued thereunder. The Plan will be administered and interpreted to accomplish that objective. Capitalized terms used in this Plan that are not otherwise defined have the meanings set forth in Article II.

ARTICLE II. DEFINITIONS

- 2.1** “**Beneficiary**” means any Eligible Retiree's surviving family member who qualifies as an "annuitant" under California Government Code section 22760(c) or (h).
- 2.2** “**Board**” means the Board of Commissioners of the Alameda County Transportation Commission.
- 2.3** “**CalPERS**” means the California Public Employees' Retirement System in which the Employer is a participating agency.
- 2.4** “**CalPERS Health**” means the health care program made available by the Employer to Eligible Retirees under the Public Employees' Medical and Hospital Care Act, codified under sections 22750 - 22948 of the California Government Code, which program provides health insurance under various coverage options from which covered individuals may select.
- 2.5** “**COBRA**” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.
- 2.6** “**Code**” means the Internal Revenue Code of 1986 and the Treasury Regulations and guidance issued thereunder, as amended.
- 2.7** “**Effective Date**” means February 1, 2012.

- 2.8** “**Eligible Retiree**” means an Employee who has met the eligibility requirements in Article III. An individual’s status as an Eligible Retiree will be determined solely by the Employer.
- 2.9** “**Employee**” means an individual that the Employer classifies as a common-law employee and who is on the Employer’s W-2 payroll, but does not include the following: (a) any leased employee (including but not limited to those individuals defined as leased employees in Code Section 414(n) or an individual classified by the Employer as a contract worker, independent contractor, temporary employee, or casual employee for the period during which such individual is so classified, whether or not any such individual is on the Employer’s W-2 payroll or is determined by the IRS or others to be a common-law employee of the Employer; (b) any individual who performs services for the Employer but who is paid by a temporary or other employment or staffing agency for the period during which such individual is paid by such agency, whether or not such individual is determined by the IRS or others to be a common-law employee of the Employer; and (c) any employee covered under a collective bargaining agreement, unless the agreement provides for the employee’s participation in this Plan.
- 2.10** “**Employer**” means the Alameda County Transportation Commission.
- 2.11** “**HIPAA**” means the Health Insurance Portability and Accountability Act of 1996, as amended.
- 2.12** “**MEC**” means the minimum employer contribution required to be made by the Employer directly to CalPERS for an Eligible Retiree’s coverage under CalPERS Health (\$112 per month in 2012, and adjusted annually in accordance with California Government Code Section 22892).
- 2.13** “**Plan**” means this Alameda County Transportation Commission Retiree Health Reimbursement Arrangement, as set forth herein and amended from time to time.
- 2.14** “**Plan Administrator**” means the Employer unless the Employer designates another person or organization to hold the position of Plan Administrator. The Employer may alternatively designate another person or organization to perform certain duties assigned to the Plan Administrator under this Plan.
- 2.15** “**Plan Year**” means the calendar year (i.e., the 12-month period commencing January 1 and ending on December 31). The first Plan Year is a short plan year, beginning on the Effective Date and ending on December 31, 2012.
- 2.16** “**Predecessor Agency**” means (1) the Alameda County Transportation Improvement Authority, or (2) the Alameda County Congestion Management Agency.
- 2.17** “**Trust**” means the legal entity that the Employer may establish and/or adopt to hold any assets it has irrevocably set aside to pay benefits under the Plan.

ARTICLE III.
ELIGIBILITY, PARTICIPATION, AND COVERAGE

- 3.1 Eligibility.** Only Eligible Retirees are eligible to participate in the Plan. An individual will become an Eligible Retiree under the Plan only upon meeting all of the following requirements.
- a) The individual retired under CalPERS directly from the Employer or a Predecessor Agency within 120 days after his or her employment with the Employer or Predecessor Agency terminated. If the Employee retired under CalPERS from any other governmental agency (or retired under any other governmental retirement plan and not under CalPERS), he or she will not meet this requirement.
 - b) The individual is eligible for coverage under CalPERS Health as a retiree, enrolled in CalPERS Health, and entitled to the MEC from the Employer.
 - c) The individual has at least 10 completed years of credited service with CalPERS at retirement (as determined by CalPERS), and the individual performed at least five years of that service entirely for the Employer and/or a Predecessor Agency.
- 3.2 No Benefits Unless Eligible.** An Employee will not have any interest under the Plan unless he or she meets all of the preceding requirements of this Article III, as applicable. Any person who does not meet these requirements will not be entitled to any benefits under the Plan.
- 3.3 Commencement of Participation.** Each Eligible Retiree on the Effective Date will participate in the Plan beginning on that date. Each person who becomes an Eligible Retiree after the Effective Date will begin participation in the Plan on the date of becoming an Eligible Retiree.
- 3.4 Period of Coverage.** Participation in the Plan is tied to the Eligible Retiree's enrollment in CalPERS Health as a retiree. Coverage under this Plan for an Eligible Retiree will begin on the first day of the calendar month that coverage under CalPERS Health as a retiree begins.
- 3.5 Termination of Participation.** An Eligible Retiree's participation in the Plan terminates upon the earlier of:
- a) the date he or she ceases to be an Eligible Retiree;
 - b) the date that the Eligible Retiree is reemployed by the Employer, except as provided in Section 3.7; or
 - c) the Eligible Retiree's death, except benefits may continue to the Eligible Retiree's Beneficiary in accordance with Section 3.6.
- 3.6 Beneficiaries.** After an Eligible Retiree's death, benefits will be provided under the Plan to the Eligible Retiree's Beneficiary, if any, but only if the individual is (1) eligible for coverage under CalPERS Health and (2) entitled to the MEC from the Employer. Benefits will be provided under the Plan to such Beneficiary only during such periods

that he or she meets these two requirements. The Beneficiary will not be entitled to any benefits under the Plan for any period he or she does not meet these two requirements. To the extent required by the Code, the Employer will follow the tax withholding and reporting requirements applicable to benefits paid under this Plan to an Eligible Retiree's non-dependent domestic partner or same-sex spouse.

- 3.7 Reemployed Retirees.** If the Employer reemploys an Eligible Retiree, any benefits provided under the Plan to that Eligible Retiree will cease effective on the reemployment date and his or her Plan participation will cease. The Eligible Retiree will be entitled to benefits under the Plan upon subsequent termination of employment only if he or she is then eligible under this Article III. If, however, after the reemployment date, the reemployed Eligible Retiree is entitled to continued receipt of retirement benefits under CalPERS as a retiree of the Employer and continues to be eligible for both the MEC and retiree coverage under CalPERS Health, any benefits provided under the Plan to that Eligible Retiree will continue uninterrupted.

ARTICLE IV. VESTING AND BENEFITS

- 4.1 Amount of Benefits.** Each Eligible Retiree will be entitled to receive Employer-funded health care coverage as specified in this Article IV, paid in the form of a reimbursement in accordance with Section 4.3. The maximum benefit on behalf of an Eligible Retiree for any calendar month will be the amount established and adopted by the Board from time to time (and such benefit amounts are herein incorporated by reference), multiplied by the Eligible Retiree's Vested Percentage under Section 4.2. In no event, however, will the benefit paid in any calendar month on behalf of any Eligible Retiree be greater than the Eligible Retiree's actual out-of-pocket premium cost for CalPERS Health coverage for that calendar month. An Eligible Retiree may at any time decline benefits under the Plan by notifying the Employer.
- 4.2 Vested Percentage.** An Eligible Retiree's Vested Percentage is based on the Eligible Retiree's completed number of years of CalPERS credited service in accordance with the following table.

Years of CalPERS Credited Service	Vested Percentage
<10	0%
10	50%
11	55%
12	60%
13	65%
14	70%
15	75%
16	80%
17	85%
18	90%
19	95%
20+	100%

- 4.3 Reimbursements Under the Plan.** Benefits under the Plan will be provided in the form of monthly reimbursements of the health care coverage premium costs incurred by the Eligible Retiree (or his or her Beneficiary) for the coverage under the CalPERS Health option that the Eligible Retiree has elected for the applicable Plan Year, up to the maximum amount specified in Section 4.1. Any such premium costs may not be paid or reimbursed from any other source and must be substantiated in accordance with Section 4.4. Under no circumstances will unused amounts for one calendar month be applied to costs in any subsequent calendar month and no unused amounts may roll over to any subsequent Plan Year. The Eligible Retiree will be solely responsible for paying the coverage cost of any amounts that are not reimbursed under this Plan or otherwise paid by the Employer.
- 4.4 Substantiation of Expenses.** Reimbursements of health care premium expenses under the Plan for an Eligible Retiree's (or his or her Beneficiary's) individual coverage under CalPERS Health must be properly documented and substantiated at the time and in the manner determined by the Plan Administrator. The Plan Administrator has authority to establish rules and procedures to be followed by individuals in filing applications for benefits, for furnishing and verifying proofs necessary to establish their rights to benefits under the Plan, or for any other reason it deems necessary for the efficient administration of the Plan. Upon satisfactory documentation and substantiation, the Plan Administrator will direct payment to the Eligible Retiree (or his or her Beneficiary) as soon as administratively feasible.

ARTICLE V. BENEFIT FUNDING

- 5.1 Employer Contributions.** All benefits under the Plan will be paid by Employer contributions and earnings thereon. Employee contributions are not permitted. In addition, the Employer may set aside contributions and related earnings to pre-fund benefits under the Plan. In determining the amount of any such contributions, the Employer may engage an actuary to conduct actuarial experience studies and periodic actuarial valuations of the Plan benefits and to recommend to the Employer the amount of contributions that are needed in order to fund the Plan's benefits.
- 5.2 Trust.** The Employer may establish and/or adopt a Trust to receive and invest assets set aside by the Employer to pay benefits under the Plan. The Trust may specifically provide, among other things, for the investment and reinvestment of the Trust assets and the income thereof, the management of the Trust assets, the responsibilities and immunities of the trustee, removal of the trustee and appointment of a successor, accounting by the trustee and the disbursement of the Trust assets. The trustee will, in accordance with the terms of the Trust, accept and receive all contributions paid to it from time to time, and shall hold, invest, reinvest and manage such moneys and any increment, increase, earnings and income thereof for the exclusive benefit of Eligible Retirees and Beneficiaries and for the payment of reasonable expenses of administering the Plan.

ARTICLE VI. ADMINISTRATION OF THE PLAN

- 6.1 Plan Administrator.** The administration of this Plan will be under the supervision of the Plan Administrator. It is the principal duty of the Plan Administrator to see that this Plan

is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in this Plan.

- 6.2 Powers of the Plan Administrator.** The Plan Administrator will have such duties and powers as it considers necessary or appropriate to discharge its duties. It will have the exclusive right to interpret the Plan and to decide all matters thereunder, and all determinations of the Plan Administrator with respect to any matter hereunder will be conclusive and binding on all persons. Without limiting the generality of the foregoing, the Plan Administrator will have the following discretionary authority:
- a) to construe and interpret the Plan, including all possible ambiguities, inconsistencies, and omissions in the Plan and related documents, and to decide all questions of fact, questions relating to eligibility and participation, and questions of benefits under this Plan;
 - b) to prescribe procedures to be followed and the forms to be used by Eligible Retirees and Beneficiaries to claim reimbursements pursuant to this Plan;
 - c) to prepare and distribute information explaining this Plan and the benefits under this Plan in such manner as the Plan Administrator determines to be appropriate;
 - d) to request and receive from all Eligible Retirees and Beneficiaries such information as the Plan Administrator will from time to time determine to be necessary for the proper administration of this Plan;
 - e) to furnish each Eligible Retiree and Beneficiary with such reports with respect to the administration of this Plan as the Plan Administrator determines to be reasonable and appropriate;
 - f) to receive, review, and keep on file such reports and information regarding the benefits covered by this Plan as the Plan Administrator determines from time to time to be necessary and proper;
 - g) to appoint and employ such individuals or entities to assist in the administration of this Plan as it determines to be necessary or advisable, including legal counsel and benefit consultants;
 - h) to sign documents for the purposes of administering this Plan, or to designate an individual or individuals to sign documents for the purposes of administering this Plan;
 - i) to secure or require such evidence as it deems necessary to decide any claim for benefits under the Plan; and
 - j) to maintain the books of accounts, records, and other data in the manner necessary for proper administration of this Plan and to meet any applicable disclosure and reporting requirements.
- 6.3 Fiduciary Duties.** Each Plan fiduciary shall discharge its duties solely in the interest of Eligible Retirees and Beneficiaries and for the exclusive purpose of providing benefits under the Plan, or defraying reasonable expenses of administering the Plan. Each Plan

fiduciary, in carrying out such duties and responsibilities, shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use. A fiduciary may serve in more than one fiduciary capacity and may employ one or more persons to render advice with regard to its fiduciary responsibilities. If the fiduciary is serving as such without compensation, all expenses reasonably incurred by such fiduciary will be paid by the Employer. The Employer may, however, elect to have those expenses paid from Trust assets.

- 6.4 Provision for Third-Party Plan Service Providers.** The Plan Administrator, subject to approval of the Employer, may employ the services of such persons as it may deem necessary or desirable in connection with the operation of the Plan. Unless otherwise provided in the service agreement, obligations under this Plan shall remain the obligation of the Employer or Plan Administrator, as applicable.
- 6.5 Inability to Locate Payee.** If the Plan Administrator is unable to make payment to any person to whom a payment is due under the Plan because it cannot ascertain the identity or whereabouts of such person after reasonable efforts have been made to identify or locate such person, then such payment and all subsequent payments otherwise due to such person will be forfeited following a reasonable time after the date any such payment first became due.
- 6.6 COBRA and HIPAA Compliance.** The Plan will comply with the applicable requirements of the Consolidated Omnibus Budget Reconciliation Act of 1986 ("COBRA"), and with the applicable requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") in accordance with the rules set out in Appendix A below.

ARTICLE VII. AMENDMENT AND TERMINATION OF THE PLAN

- 7.1 No Vested Rights.** The Employer may at any time amend or terminate the Plan as provided in Sections 7.2 and 7.3 below. Nothing in the Plan is intended to or will be construed to entitle any Eligible Retiree or other person to vested or non-terminable benefits.
- 7.2 Amendment of the Plan.** The Employer may amend all or any part of this Plan at any time for any reason by resolution of the Board or by any person or persons authorized by the Board to take such action. Any such amendment will supersede and override any claim to "vested rights" that any person may otherwise have with respect to benefits under the Plan.
- 7.3 Termination of the Plan.**
- a) The Employer has established the Plan with the expectation that it will be continued, but continuance is not a contractual or other obligation of the Employer and no employee of the Employer or other person will have any vested right to continuance of the Plan or to continuance of any Employer contributions to the Plan. The Employer reserves the right at any time to terminate the Plan without prejudice and for any reason, and such termination will supersede and override any claim to "vested rights" that any person may otherwise have with

respect to benefits under the Plan. Such decision to terminate the Plan will be made in writing and must be approved by the Board.

- b) If the Plan is terminated, the Employer shall direct the trustee to compute the value of the Plan assets under the Trust as of the date of termination. Those assets will continue to be held in the Trust, and will be distributed to pay any remaining benefits owed under the Plan until those benefits are satisfied.
- c) The “partial termination” rules of the Code that apply to qualified retirement plans will not apply under this Plan, and no action will be taken with respect to this Plan in connection with any event or events that would be a partial termination for a qualified plan.

7.4 Determination of Effective Date of Amendment or Termination. Any such amendment, discontinuance or termination will be effective as of the date the Employer determines.

7.5 Assets After Termination. Any assets remaining in the Trust after all benefits owed under the Plan and all Plan expenses have been paid will revert to the Employer unless otherwise determined by the Employer.

7.6 Limitation of Obligations. The Employer must provide all benefits accrued by Eligible Retirees or Beneficiaries under the Plan through its termination. Once those benefits are satisfied, the Employer will not have any remaining obligations to provide any benefit under the Plan. No one will accrue benefits under the Plan after its termination.

ARTICLE VIII. GENERAL PROVISIONS

8.1 Governing Law. The provisions of the Plan will be construed, administered and enforced according to applicable federal law and, to the extent not preempted, the laws of the State of California.

8.2 Requirement for Proper Forms. All communications in connection with the Plan made by an Eligible Retiree or Beneficiary will become effective only when duly executed on any forms as may be required and furnished by, and filed with, the Employer or Plan Administrator, as applicable.

8.3 No Guarantee of Tax Consequences. Neither the Employer nor any Plan Administrator makes any warranty or other representation as to whether any benefits under the Plan will be treated as excludable from gross income for federal, state, or local income tax purposes. It will be the obligation of each Eligible Retiree or Beneficiary to determine whether each payment under this Plan is excludable from gross income for federal, state, and local income tax purposes and to notify the Employer or Plan Administrator if he or she has any reason to believe that such payment is not so excludable. If for any reason it is determined that any amount paid for the benefit of an Eligible Retiree or Beneficiary is includable in gross income for federal, state or local income tax purposes, then under no circumstances will the recipient have any recourse against the Employer or Plan Administrator with respect to any increased taxes or other losses or damages suffered by the Eligible Retiree or Beneficiary as a result thereof.

- 8.4 Compliance With Code and Other Applicable Laws.** It is intended that this Plan meet all applicable requirements of the Code and of all regulations and guidance issued thereunder. This Plan will be construed, operated and administered accordingly, and in the event of any conflict between any part, clause, or provision of this Plan and the Code, the provisions of the Code will be deemed controlling, and any conflicting part, clause, or provision of this Plan will be deemed superseded to the extent of the conflict. In addition, the Plan will comply with the requirements of all other applicable laws.
- 8.5 Headings.** The headings of the various Articles and Sections are inserted for convenience of reference and are not to be regarded as part of this Plan or as indicating or controlling the meaning or construction of any provision.
- 8.6 Severability.** Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder of the Plan will be given effect to the maximum extent possible.
- 8.7 Administration Expenses.** The Employer will pay the reasonable expenses of administering the Plan, including but not limited to the reasonable compensation of any counsel, accountants, and other agents hired by the Employer, Plan Administrator, or Board, as well as any other expenses incurred in administering the Plan. The Employer may, however, elect to have those expenses paid from Trust assets.
- 8.8 Effect of Mistake.** In the event of a mistake as to the eligibility or participation of an individual, or the allocations made to the account of any Eligible Retiree, or the amount of distributions made or to be made to an Eligible Retiree or other person, the Employer or Plan Administrator will, to the extent it deems possible, cause to be allocated or cause to be withheld or accelerated, or otherwise make adjustment of, such amounts as will in its judgment accord to such Eligible Retiree or other person the credits to the account or distributions to which he or she is properly entitled under the Plan.
- 8.9 No Contract of Employment.** The Plan does not provide any person with any right to be retained in the Employer's employment or service. An Eligible Retiree's sole rights under the Plan are limited to those described in this document.
- 8.10 Plan Provisions Controlling.** The Plan encompasses the benefits provided by the Employer to Eligible Retirees. In the event that the terms or provisions of any summary or description of this Plan are interpreted as being in conflict with the provisions of this Plan as set forth in this document, the provisions of this Plan will be controlling.
- 8.11 Non-Assignability of Rights.** The right of any Eligible Retiree or Beneficiary to receive any reimbursement under this Plan will not be alienable by the Eligible Retiree or Beneficiary by assignment or any other method and will not be subject to claims by his or her creditors by any process whatsoever. Any attempt to cause such right to be so subjected will not be recognized, except to the extent required by law.
- 8.12 Provisions Applicable During Periods of Military Service.** Notwithstanding any Plan provision to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided as required by any law concerning veterans' rights.

To record the adoption of the Plan, the Employer's authorized representative hereby executes this document on this ____ day of _____, 2012.

ALAMEDA COUNTY TRANSPORTATION COMMISSION

By: _____

Title: _____

Date: _____

APPENDIX A: HIPAA COMPLIANCE

A.1 Provision of Protected Health Information to Employer

Members of the Employer's workforce have access to the individually identifiable health information of Plan participants for administrative functions of the Plan. When this health information is provided from the Plan to the Employer, it is Protected Health Information (PHI). The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations restrict the Employer's ability to use and disclose PHI. The following HIPAA definition of PHI applies for purposes of this Article Appendix A:

Protected Health Information. Protected health information means information that is created or received by the Plan and relates to the past, present, or future physical or mental health or condition of a participant; the provision of health care to a participant; or the past, present, or future payment for the provision of health care to a participant; and that identifies the participant or for which there is a reasonable basis to believe the information can be used to identify the participant. Protected health information includes information of persons living or deceased.

The Employer will have access to PHI from the Plan only as permitted under this Appendix A or as otherwise required or permitted by HIPAA. HIPAA and its implementing regulations were modified by the Health Information Technology for Economic and Clinical Health Act (HITECH Act), the statutory provisions of which are incorporated herein by reference.

A.2 Permitted Disclosure of Enrollment/Disenrollment Information

The Plan may disclose to the Employer information on whether the individual is participating in the Plan.

A.3 Permitted Uses and Disclosure of Summary Health Information

The Plan may disclose Summary Health Information to the Employer, provided that the Employer requests the Summary Health Information for the purpose of modifying, amending, or terminating the Plan.

"Summary Health Information" means information (a) that summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom a plan sponsor had provided health benefits under a health plan; and (b) from which the information described at 42 CFR Section 164.514(b)(2)(i) has been deleted, except that the geographic information described in 42 CFR Section 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit ZIP code.

A.4 Permitted and Required Uses and Disclosure of PHI for Plan Administration Purposes

Unless otherwise permitted by law, and subject to the conditions of disclosure described in Section A.5 and obtaining written certification pursuant to Section A.7, the Plan may disclose PHI to the Employer, provided that the Employer uses or discloses such PHI only for Plan administration purposes. "Plan administration purposes" means administration functions

performed by the Employer on behalf of the Plan, such as quality assurance, claims processing, auditing, and monitoring. Plan administration functions do not include functions performed by the Employer in connection with any other benefit or benefit plan of the Employer, and they do not include any employment-related functions.

Notwithstanding the provisions of this Plan to the contrary, in no event will the Employer be permitted to use or disclose PHI in a manner that is inconsistent with 45 CFR Section 164.504(f).

A.5 Conditions of Disclosure for Plan Administration Purposes

The Employer agrees that with respect to any PHI (other than enrollment/disenrollment information and Summary Health Information, which are not subject to these restrictions) disclosed to it by the Plan, the Employer will:

- not use or further disclose the PHI other than as permitted or required by the Plan or as required by law;
- ensure that any agent, including a subcontractor, to whom it provides PHI received from the Plan agrees to the same restrictions and conditions that apply to the Employer with respect to PHI;
- not use or disclose the PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Employer;
- report to the Plan any use or disclosure of the information that is inconsistent with the uses or disclosures provided for of which it becomes aware;
- make available PHI to comply with HIPAA's right to access in accordance with 45 CFR Section 164.524;
- make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR Section 164.526;
- make available the information required to provide an accounting of disclosures in accordance with 45 CFR Section 164.528;
- make its internal practices, books, and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of Health and Human Services for purposes of determining compliance by the Plan with HIPAA's privacy requirements;
- if feasible, return or destroy all PHI received from the Plan that the Employer still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
- ensure that the adequate separation between the Plan and the Employer (i.e., the "firewall"), required in 45 CFR Section 504(f)(2)(iii) is satisfied.

The Employer further agrees that if it creates, receives, maintains, or transmits any electronic PHI (other than enrollment/disenrollment information and Summary Health Information, which are not subject to these restrictions) on behalf of the Plan, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality,

integrity, and availability of the electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agree to implement reasonable and appropriate security measures to protect the information. The Employer will report to the Plan any security incident of which it becomes aware.

A.6 Adequate Separation Between Plan and Employer

The Employer will allow the following persons access to PHI: Director of Finance, Accounting Manager, Senior Accountant, Accountant, the Plan Administrator, and any other Employee who needs access to PHI in order to perform Plan administration functions that the Employer performs for the Plan (such as quality assurance, claims processing, auditing, and monitoring). No other persons will have access to PHI. These specified employees (or classes of employees) will only have access to and use PHI to the extent necessary to perform the plan administration functions that the Employer performs for the Plan. In the event that any of these specified employees does not comply with the provisions of this Section, that employee will be subject to disciplinary action by the Employer for non-compliance pursuant to the Employer's employee discipline and termination procedures.

The Employer will ensure that the provisions of this Section A.6 are supported by reasonable and appropriate security measures to the extent that the designees have access to electronic PHI.

A.7 Certification of Plan Sponsor

The Plan will disclose PHI to the Employer only upon the receipt of a certification by the Employer that the Plan incorporates the provisions of 45 CFR Section 164.504(f)(2)(ii), and that the Employer agrees to the conditions of disclosure set forth in Section A.5. Execution of the Plan by the Employer will serve as the required certification.

A.8 Privacy Official

The Employer will designate a Privacy Official, who will be responsible for the Plan's compliance with HIPAA. The Privacy Official may contract with or otherwise utilize the services of attorneys, accountants, brokers, consultants, or other third party experts as the Privacy Official deems necessary or advisable. In addition and notwithstanding any provision of this Plan to the contrary, the Privacy Official will have the authority to and be responsible for:

- accepting and verifying the accuracy and completeness of any certification provided by the Employer under this Appendix;
- transmitting the certification to any third parties as may be necessary to permit them to disclose PHI to the Employer;
- establishing and implementing policies and procedures with respect to PHI that are designed to ensure compliance by the Plan with the requirements of HIPAA;
- establishing and overseeing proper training of personnel who will have access to PHI; and
- any other duty or responsibility that the Privacy Official, in his or her sole capacity, deems necessary or appropriate to comply with the provisions of HIPAA and the purposes of this Appendix A.

A.9 Interpretation and Limited Applicability

This Appendix serves the sole purpose of complying with the requirements of HIPAA and will be interpreted and construed in a manner to effectuate this purpose. Neither this Appendix nor the duties, powers, responsibilities, and obligations listed herein will be taken into account in determining the amount or nature of the benefits provided to any person covered under the Plan, nor will they inure to the benefit of any third parties. To the extent that any of the provisions of this Appendix A are no longer required by HIPAA or do not apply to the Plan because the Plan is otherwise excepted from HIPAA, they will be deemed deleted and will have no force or effect.

A.10 Service Performed for the Employer

Notwithstanding any other provisions of this Plan to the contrary, all services performed by a business associate for the Plan in accordance with the applicable service agreement will be deemed to be performed on behalf of the Plan and subject to the administrative simplification provisions of HIPAA contained in 45 C.F.R. Parts 160 through 164, except services that relate to eligibility and enrollment in the Plan. If a business associate of the Plan performs any services that relate to eligibility and enrollment in the Plan, these services will be deemed to be performed on behalf of the Employer in its capacity as Plan Sponsor and not on behalf of the Plan.



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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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Farid Javandel, Mayor

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Joyce R. Starosciak, Councilmember

Executive Director
Arthur L. Dao

ALAMEDA COUNTY TRANSPORTATION COMMISSION

RESOLUTION NO XX-XXX

APPROVING AND ADOPTING A CAFETERIA PLAN FOR ACTIVE EMPLOYEES AND A HEALTH REIMBURSEMENT ARRANGEMENT FOR RETIREES OF THE ALAMEDA COUNTY TRANSPORTATION COMMISSION

WHEREAS, current employees of the Alameda County Transportation Improvement Authority (ACTIA), and the Alameda County Congestion Management Agency (CMA) will officially transition to and become employees of Alameda County Transportation Commission (hereinafter referred to as the Alameda CTC), effective January 1, 2012;

WHEREAS, in October 2010, the Board of Commissioners (the "Commission") reviewed and conceptually approved a benefits package for the transitioned and new employees of the Alameda CTC;

WHEREAS, this benefits package included health benefits for active employees and eligible retirees under the Public Employees' Medical and Hospital Care Act ("PEMHCA" or "CalPERS Health"), as well as a cafeteria plan for active employees and a health reimbursement arrangement (HRA) for eligible retirees;

WHEREAS, the Alameda CTC's contract with CalPERS under PEMHCA is effective February 1, 2012;

WHEREAS, the Alameda CTC has established its initial CalPERS Health benefit rate for all eligible employees and retirees at the minimum required employer contribution rate under PEMHCA (\$112 per month in 2012 for every eligible active employee and retiree, indexed each year for inflation), in accordance with CalPERS requirements;

WHEREAS, the Commission has determined it to be in Alameda CTC's best interests to adopt a cafeteria plan within the meaning of section 125 of the Internal Revenue Code to (1) provide active employees with amounts that they can use for basic health premiums, dental and vision premiums and other insurance benefits; (2) provide employees with the ability to purchase certain benefits on a pre-tax basis; and (3) enable employees to receive pre-tax reimbursements of certain medical and dependent care expenses through flexible spending accounts; and

WHEREAS, the Commission has also determined it to be in the Commission's best interests to adopt an HRA within the meaning of IRS Notice 2002-45 to reimburse eligible retirees and their eligible surviving beneficiaries for all or some portion of their CalPERS Health premium costs.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Alameda CTC as follows:

A. Adoption of Cafeteria Plan

Section 1. Effective February 1, 2012, the Commission hereby adopts the Alameda County Transportation Commission Cafeteria Plan (the "Cafeteria Plan"), substantially in the form attached as Exhibit A.

Section 2. From February 1, 2012 through December 31, 2012, for each eligible active employee, the Alameda CTC will contribute: (a) \$1,743 to the Cafeteria Plan for CalPERS Health insurance, and (b) 100% of the cost of coverage for all other insurance benefits the employee elects under the Cafeteria Plan. Employees who waive CalPERS Health coverage for any year will be paid \$400 per month in taxable compensation in lieu of any Alameda CTC contributions for CalPERS Health. These contribution rates will remain the same for 2012 and each subsequent calendar year, until and unless the Board establishes different contribution rates by Board resolution.

Section 3. The amounts described above under Section 2 are in addition to any minimum employer contribution required to be made by Alameda CTC directly to CalPERS Health for an employee's CalPERS Health coverage.

Section 4. Any health care flexible spending account or dependent care flexible spending account elected under the Cafeteria Plan by an employee will be funded solely through voluntary pre-tax payroll deductions from the employee's Alameda CTC compensation.

B. Adoption of Health Reimbursement Arrangement

Section 1. Effective February 1, 2012, the Commission hereby adopts the Alameda County Transportation Commission Retiree Health Reimbursement Arrangement (the "Retiree HRA"), substantially in the form attached as Exhibit B, to reimburse eligible retirees and their eligible surviving beneficiaries for all or some portion of their CalPERS Health premium costs.

Section 2. From February 1, 2012 through December 31, 2012, for each eligible retiree (or eligible beneficiary), Alameda CTC will contribute \$1,109 to the Retiree HRA, in addition to the amount contributed by Alameda CTC directly to CalPERS Health for that retiree's (or eligible beneficiary's) coverage. This contribution rate will remain the same for each subsequent calendar year, until and unless the Board establishes a different contribution rate by Board resolution.

Section 3. Alameda CTC may make contributions to a trust in order to prefund benefits under the Retiree HRA.

C. General Authorization

Section 1. Alameda CTC is hereby designated as the Plan Administrator for the Cafeteria Plan and the Retiree HRA.

Section 2. The Executive Director is authorized to add, at any time, new benefit options to the Cafeteria Plan provided these changes can be accomplished without increasing Alameda CTC's costs or adversely affecting any participant.

Section 3. The Executive Director of Alameda CTC is further authorized to amend the Cafeteria Plan and Retiree HRA as necessary or desirable to obtain or maintain the plans' compliance with applicable laws; no amendment, however, will be effective without the Commission's prior written approval if the amendment increases the Alameda CTC's costs or adversely affects any participant.

Section 4. The Executive Director is further authorized and directed, for and on behalf of the Commission, to take such further action and execute such additional documents as he or she deems necessary or appropriate to carry out the provisions of the above resolutions, including execution of the Cafeteria Plan and Retiree HRA plan documents, as effective February 1, 2012.

Duly passed and adopted by the Alameda County Transportation Commission at the regular meeting of the Board held on Thursday, January 26, 2012 in Oakland, California by the following votes:

AYES: NOES: ABSTAIN: ABSENT:

SIGNED:

Mark Green, Chairperson

ATTEST:

Vanessa Lee, Commission Secretary

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Memorandum

DATE: December 27, 2011

TO: Finance and Administration Committee

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

SUBJECT: **Approval of Modification to the Organizational Structure Upgrading One Senior Accountant Position to an Accounting Manager Position**

Recommendation

It is recommended that the Commission approve a modification to the organizational structure which would upgrade one senior accountant position to an accounting manager position.

Summary

In February, 2011, the Commission approved the organizational structure of the Alameda County Transportation Commission (Alameda CTC) which included 27 full time equivalent (FTE) positions. (The 27 positions were described in more detail in an attachment provided to the Commission during closed session.) Of the 27 positions approved, six were included in the finance and procurement area; one director of finance, one accounting manager, two senior accountants, one accountant and one contract procurement analyst. In anticipation of the abundance and nature of the work expected from the finance team, staff is recommending that one of the senior accountant positions be upgraded to an accounting manager position.

In the coming months, the finance group will continue to take the lead on consolidation related efforts already taking place such as implementing the California Public Employees' Retirement System (CalPERS) pension contract, Public Employees' Medical and Health Care Act (PEMHCA) medical plans, cafeteria plan for active employees and Health Reimbursement Arrangement for retirees. The finance team also will work towards consolidating the Other Postemployment Benefits (OPEB) and 457 Deferred Compensation trusts and updating policies on investments, procurement and debt. Over the next year, the finance team plans to assess financing needs and develop a financing strategy to fund projects, update and create budget projections, complete the request for proposals (RFP) process for audit services and undergo the first consolidated Alameda CTC financial audit.

Background

As the two finance departments of the Alameda County Congestion Management Agency (ACCMA) and the Alameda County Transportation Improvement Authority (ACTIA) were combined, staff continued to work under their current titles and rolls. As staff reassesses work flow, it is evident that more skilled help is required for some of the higher level activities required of the finance group. By upgrading one of the senior accountant positions to accounting manager, it is believed that staff will

be better able to accomplish the required tasks.

Fiscal Impact

There is no fiscal impact associated with this approval. The salary of the accounting manager position was previously adopted by the Commission and will remain unchanged.



Memorandum

DATE: December 28, 2011

TO: Finance and Administration Committee

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

SUBJECT: **Approval of the Annually Renewed Contracts Plan for Administrative Services for Fiscal Year 2012-2013**

Recommendation:

It is recommended that the Committee review and approve the Annually Renewed Contracts Plan for the administrative services contracts for fiscal year 2012-2013. Specifically, the Committee is requested to approve the following recommendations:

- A. Authorize the Executive Director to issue Request for Proposals (RFP) or solicit quotations, negotiate with top-ranked firms, and execute contracts for the following services:
 - 1. Legal Counsel Services
 - 2. Independent Financial Audit Services (approved for issuance by the Commission at its December 1, 2011 meeting)
- B. Authorize the Executive Director to negotiate new one-year contracts for the following services:
 - 1. Federal Legislative Advocacy Services
 - 2. State Legislative Advocacy Services
 - 3. Media and Public Relations Services
 - 4. Information Technology Services
 - 5. Project Control Services
 - 6. Investment Advisor Services
 - 7. Human Resources Services
 - 8. Programs Management Support Services
 - 9. Bicycle and Pedestrian Coordination Services
 - 10. Paratransit Coordination Services
 - 11. Local Business Contract Equity Program Services

Summary:

Staff recommends renewing eleven of the thirteen annually renewed administrative contracts and issuing two separate RFP's for fiscal year 2012-2013. Issuance of an RFP for the Independent Financial Audit Services was approved by the Commission on December 1, 2011, and staff is

currently in the process of procuring a contract for these services. The goal is to have all thirteen contracts start at the beginning of the fiscal year on July 1, 2012.

Discussion:

Since implementing the Consolidated Annually Renewed Contracts Plan for Administrative Services in May 26, 2011, the Alameda County Transportation Commission (Alameda CTC) has combined administrative services of both predecessor agencies under one single group of annually renewed contracts, thereby eliminating duplicative services and redundancies, reducing contract services to reflect completion of projects and programs, adjusting contracted level of efforts and resources to align with Commission priorities, maximizing internal resources and expertise, when possible and as appropriate, and preserving continuity of services in areas that will transition to the Commission in the future.

The Alameda CTC contracts on an annual basis with various professional services consultant firms to assist staff in administering the Measure B sales tax program and providing a range of general administrative services, as discussed in detail below. In January of each year, staff outlines the proposed Contract Rotation Plan for the upcoming fiscal year and seeks input from the Committee and Commission regarding continuation and/or modification of the contracts, or, when applicable, initiation of a competitive procurement process for specific services. Following a Commission approval in January, staff begins negotiations with firms to renew and/or modify contracts then brings forward contract recommendations to the Committee and Commission for approval at its meeting in May.

The background and recommendations for each of the annually renewed contracts are discussed below and summarized in Table 1 that follows. The specific terms and conditions of the proposed services will be developed based on revised scope of work for the next fiscal year.

1. Independent Financial Auditing Services – An RFP to retain a consultant to provide independent financial audit services was issued on December 9, 2011. These services include providing the required independent audits of Alameda CTC, ACTIA, ACCMA, and Sunol SMART Carpool Lane Joint Powers Authority, issuance of separate audited financial reports, completion of the Federal Single Audit report, if applicable, and a report on ACTIA's Limitations Worksheet, which attests that ACTIA has complied with the administrative cost limitation required by the Transportation Expenditure Plan. Currently, ACTIA contracts with Maze and Associates for its independent audit, and the ACCMA uses Kevin W. Harper, CPA for its independent audit. The current term for both of these contracts covers the separate audits through the fiscal year ending June 30, 2011. The Commission, at its December 1, 2011 meeting, authorized the issuance of an RFP for the combined audit services for Alameda CTC for a term of up to three years, with an option to renew for an additional two years.

No further action is recommended at this time.

2. Legal Counsel – The legal counsel services for Alameda CTC include attendance at committee and commission meetings, contracts and personnel related matters, ongoing eminent domain activities, as well as other general legal services. Zack Wasserman of Wendel, Rosen, Black & Dean, LLP, an ACTIA certified Local Business Enterprise (LBE) firm, has been the lead counsel

for ACTA and ACCMA since July 1987 and January 1996, respectively, and has continued in that role for the Alameda CTC. An RFP for these services is scheduled for a formal RFP process in January 2012.

Staff recommends issuing an RFP in January for these services to begin July 1, 2012.

3. Federal Legislative Advocacy Services – The federal legislative advocate, CJ Lake, LLC, provides monthly updates to staff on policy and legislative actions at the federal level for the Alameda CTC. They also provide access to federal legislators and their staff when necessary to support project and program implementation efforts at Alameda CTC. CJ Lake, LLC has provided these services since 2004, and staff anticipates issuing an RFP in early 2013.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

4. State Legislative Advocacy Services – The state legislative advocate, Suter, Wallauch, Corbett & Associates, provides monthly updates for the Commission and staff on policy and legislative actions. They also provide access to state legislators and their staff when necessary to support project and program implementation efforts. Suter, Wallauch, Corbett & Associates have provided these services since 1989, and staff anticipates issuing an RFP in early 2013.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

5. Financial Investment Advisors – The financial advisors independently manage a \$170 million portfolio in line with the ACTIA Board approved Investment Policy. These services are performed at a cost of about seven to eight basis points (one-hundredth of one percent) times the invested amount. ACCMA utilizes the State Local Agency Investment Fund (LAIF) cash pool for its investment needs due to a smaller investment balance. An RFP for these services was last issued in January 2008 and the two incumbent investment advisors, PFM Asset Management, LLC and Chandler Asset Management, Inc., an ACTIA certified Small Local Business Enterprise (SLBE) firm, were contracted for investment services on behalf of ACTIA.

Staff recommends renewal of these contracts for a term of one year starting July 1, 2012.

6. Human Resources and Personnel Management Services – The human resources and personnel management services include developing a common compensation policy, complete review/integration of the Human Resources Manual, personnel counseling services, staff development, review of internal processes such as performance reviews, and other services to improve human resources functions. ACTIA and ACCMA staff jointly issued an RFP for these services in August 2009 that resulted in the hiring of Koff and Associates, Inc., an ACTIA certified Very Small Local Business Enterprise (VSLBE) firm, as the common Human Resources Consultant.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

7. Information Technology (IT) Services – The information technology services include upgrade and maintenance of the central servers, local area network support, and general IT support for up

to 60 individual workstations, including those required for the operations of the Sunol SMART Carpool Lane. The current computer systems services contract was awarded to Novani, LLC after undergoing an RFP process in March 2011.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

8. Programs Management Services – Acumen Building Enterprises, Inc., an ACTIA certified SLBE firm, has been providing program management services since undergoing an RFP process in January 2008. These services include administrative support for local pass-through programs and related compliance process, program grants support, community advisory committees meetings coordination, website maintenance and various other services.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

9. Bicycle and Pedestrian Coordination Services – The bicycle and coordination services include administrative and professional support for the Bicycle and Pedestrian Safety Program. After a formal RFP process in January 2008, Rochelle Wheeler, an ACTIA certified VSLBE firm, was contracted to provide these services.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

10. Paratransit Coordination Services – Nelson\Nygaard Consulting Associates, an ACTIA certified LBE firm, has provided paratransit coordination services for ACTIA since September 2002. Nelson\Nygaard provides local, state, and national expertise in the field of paratransit to Alameda CTC staff, PAPCO and the Commission. The paratransit coordination services underwent a formal RFP process in January 2009.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

11. Media and Public Relations Services – These services include providing public and media relations services, hosting and maintenance of the Alameda CTC website, preparation of press materials, assistance at public meetings and events, and development of a strategic communications plan for the Alameda CTC. A formal RFP process in March 2011 awarded a contract to Moore Iacofano Goltsman, Inc. (MIG), an ACTIA certified LBE firm, to provide these services.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

12. Project Controls and Project Delivery Management Services – The project controls team's function is to provide project management, project monitoring, project controls, utility coordination, and other related management activities to ensure the efficient, effective, and successful delivery of the Measure B and ACCMA capital projects. After undergoing a formal RFP process in March 2011, a team of 16 firms led by Moffatt & Nichols was selected as the consultant to provide these services.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

13. Local Business Contract Equity Program Supportive Services for Non-Construction Contracts –

These services support ACTIA's Local Business Contract Equity (LBCE) Program. The main tasks included in the services are certifying LBE, SLBE and VSLBE firms, providing outreach to local and small-local and minority businesses, and review of the LBCE utilization reports on a semi-annual basis. The Alameda CTC also utilizes regional certification programs and performs these compliance services through staff. Luster and Associates, Inc., an ACTIA certified VSLBE firm, was chosen after a formal RFP process in August 2008.

Staff recommends renewal of this contract for a term of one year starting July 1, 2012.

Fiscal Impact:

Approval of this item will have no fiscal impact at this time. Contracts recommended for renewal would be negotiated and brought forward to the Committee for approval in May 2012. Contracts recommended for an RFP process would undergo a competitive procurement process and the Committee would receive an update at the conclusion of the procurement process, which is anticipated in May 2012.

TABLE 1 – CONTRACT ROTATION PLAN

Services	Current Firm	Contract Budget for FY 2011-12	Year of Last RFP Issuance	Recommended Action
Legal Counsel Services	Wendel, Rosen, Black & Dean, LLP	\$800,000	2007	Issue RFP
Project Controls and Project Delivery Management Services	Moffatt & Nichols	\$3,300,000	2011	Renew
State Legislative Advocacy Services	Suter, Wallaich, Corbett & Associates	\$60,000	2007	Renew
Federal Legislative Advocacy Services	CJ Lake, LLC	\$63,000	2004	Renew
Media and Public Relations Services	Moore Iacofano Goltsman, Inc.	\$350,140	2011	Renew
Paratransit Coordination Services	Nelson\Nygard Consulting Associates	\$339,280	2009	Renew
Bicycle and Pedestrian Coordination Services	Rochelle Wheeler	\$280,640	2008	Renew
Human Resources Consulting Services	Koff and Associates, Inc.	\$65,000	2009	Renew
Independent Financial Audit Services	Maze and Associates/ Kevin W. Harper, CPA	\$56,570/ \$31,700	2009	RFP Issued 12/9/11
Investment Advisors	PFM Asset Management, LLC/ Chandler Asset Management, Inc.	\$120,000/ \$120,000	2008	Renew
Information Technology Services	Novani, LLC	\$110,000	2011	Renew
Programs Management Services	Acumen Building Enterprise, Inc.	\$830,690	2008	Renew
Local Business Contract Equity Program Supportive Services	L. Luster & Associates	\$63,240	2008	Renew