



Planning, Policy and Legislation Committee Meeting Agenda Monday, July 9, 2018, 10:30 a.m.

Committee Chair:	John Bauters, City of Emeryville	Executive Director:	Arthur L. Dao
Vice Chair:	Rebecca Kaplan, City of Oakland	Staff Liaison:	Tess Lengyel
Members:	Jesse Arreguin, Keith Carson, Scott Haggerty, Barbara Halliday, John Marchand, Lily Mei, Elsa Ortiz	Clerk of the Commission:	Vanessa Lee
Ex-Officio:	Richard Valle, Pauline Cutter		

1. Call to Order/Pledge of Allegiance

2. Roll Call

3. Public Comment

4. Consent Calendar

Page/Action

- | | | |
|--|---|---|
| 4.1. Approve June 11, 2018 PPLC Meeting Minutes | 1 | A |
| 4.2. Congestion Management Program (CMP): Summary of the Alameda CTC's Review and Comments on Environmental Documents and General Plan Amendments Update | 5 | I |

5. Regular Matters

- | | | |
|--|----|-----|
| 5.1. Legislative Update | 9 | A/I |
| 5.2. Approve the California Office of Traffic Safety (OTS) Pedestrian and Bicycle Safety Program Grant Funding Award | 23 | A |

6. Committee Member Reports

7. Staff Reports

8. Adjournment

Next Meeting: Monday, September 10, 2018

Notes:

- All items on the agenda are subject to action and/or change by the Commission.
- To comment on an item not on the agenda (3-minute limit), submit a speaker card to the clerk.
- Call 510.208.7450 (Voice) or 1.800.855.7100 (TTY) five days in advance to request a sign-language interpreter.
- If information is needed in another language, contact 510.208.7400. Hard copies available only by request.
- Call 510.208.7400 48 hours in advance to request accommodation or assistance at this meeting.
- Meeting agendas and staff reports are available on the [website calendar](#).
- Alameda CTC is located near 12th St. Oakland City Center BART station and AC Transit bus lines. [Directions and parking information](#) are available online.

**Alameda CTC Schedule of Upcoming Meetings:****Commission Chair**

Supervisor Richard Valle, District 2

Commission Vice ChairMayor Pauline Cutter,
City of San Leandro**AC Transit**

Board President Elsa Ortiz

Alameda CountySupervisor Scott Haggerty, District 1
Supervisor Wilma Chan, District 3
Supervisor Nate Miley, District 4
Supervisor Keith Carson, District 5**BART**

Director Rebecca Saltzman

City of Alameda

Mayor Trish Spencer

City of Albany

Councilmember Peter Maass

City of Berkeley

Mayor Jesse Arreguin

City of Dublin

Mayor David Haubert

City of Emeryville

Mayor John Bauters

City of Fremont

Mayor Lily Mei

City of Hayward

Mayor Barbara Halliday

City of Livermore

Mayor John Marchand

City of Newark

Councilmember Luis Freitas

City of OaklandCouncilmember At-Large
Rebecca Kaplan
Councilmember Dan Kalb**City of Piedmont**

Vice Mayor Teddy Gray King

City of Pleasanton

Mayor Jerry Thorne

City of Union City

Mayor Carol Dutra-Vernaci

Executive Director

Arthur L. Dao

Description	Date	Time
Alameda County Technical Advisory Committee (ACTAC)	September 6, 2018	1:30 p.m.
Finance and Administration Committee (FAC)	September 10, 2018	8:30 a.m.
I-680 Sunol Smart Carpool Lane Joint Powers Authority (I-680 JPA)		9:30 a.m.
I-580 Express Lane Policy Committee (I-580 PC)		10:00 a.m.
Planning, Policy and Legislation Committee (PPLC)		10:30 a.m.
Programs and Projects Committee (PPC)		12:00 p.m.
Independent Watchdog Committee (IWC)	November 19, 2018	5:30 p.m.
Paratransit Technical Advisory Committee (ParaTAC)	September 11, 2018	9:30 a.m.
Alameda CTC Commission Meeting	July 26, 2018	2:00 p.m.
Paratransit Advisory and Planning Committee (PAPCO)	September 24, 2018	1:30 p.m.
Bicycle and Pedestrian Community Advisory Committee (BPAC)	September 20, 2018	5:30 p.m.

All meetings are held at Alameda CTC offices located at 1111 Broadway, Suite 800, Oakland, CA 94607. Meeting materials, directions and parking information are all available on the [Alameda CTC website](http://www.AlamedaCTC.org).



Planning, Policy and Legislation Committee
Meeting Minutes
Monday, June 11, 2018, 10:30 a.m.

4.1

1111 Broadway, Suite 800, Oakland, CA 94607

• 510.208.7400

• www.AlamedaCTC.org

1. Call to Order/Pledge of Allegiance

2. Roll Call

A roll call was conducted. All members were present with the exception of Commissioner Carson, Commissioner Cutter, Commissioner Kaplan, Commissioner Mei, and Commissioner Valle.

Subsequent to the roll call:

Commissioner Kaplan and Commissioner Carson arrived during item 5.1.

3. Public Comment

There were no public comments.

4. Consent Calendar

4.1. Approval of the May 14, 2018 PPLC Meeting Minutes

4.2. Congestion Management Program (CMP): Summary of the Alameda CTC's Review and Comments on Environmental Documents and General Plan Amendments Update

Commissioner Marchand moved to approve the Consent Calendar. Commissioner Haggerty seconded the motion. The motion passed with the following votes:

Yes: Arreguin, Bauters, Haggerty, Halliday, Marchand, Ortiz

No: None

Abstain: None

Absent: Carson, Cutter, Kaplan, Mei, Valle

5. Regular Matters

5.1. Legislative Update

Tess Lengyel provided an update on federal, state, and local legislative activities. She updated the Commission on the June 5, 2018 election results with the passing of Regional Measure (RM) 3, which passed overall with 54 percent support and in Alameda County with 53.8 percent support. Ms. Lengyel discussed the benefits for Alameda County as the result of the RM3 passing and the projects that will receive funding. She provided an update on Senate Bill (SB) 1 Repeal efforts and the supermajority approval to expand the requirement for a two-thirds vote on taxes and fees. Ms. Lengyel noted that random sampling of signatures to verify that sufficient signatures are valid to place the SB1 Repeal on the ballot has not been met.

Commissioner Halliday stated that it appears that the SB1 Repeal is not meeting the threshold to be placed on the ballot. She asked will the review of the three large

counties make a difference. Ms. Lengyel said that we need to see when the due date arrives for the random sampling. The due date for the two-thirds is June 28th and the due date for the SB 1 Repeal is June 25th.

Commissioner Bauters stated that random sampling approach to reach the minimal requirements to certify is a very improbable path to get items certified. He noted however that the SB 1 Repeal may succeed with this method.

Commissioner Ortiz asked how many signatures have been turned in for the SB 1 Repeal to qualify for the ballot. Ms. Lengyel said 964,000 and that if 110 percent of verified signatures are received, they would need 643,948 valid signatures. Currently they have 213,990 valid signatures.

Commissioner Kaplan asked if SB1 Repeal goes on the subsequent year election what is the status of implementation. Ms. Lengyel said that it would go on the 2020 ballot.

Commissioner Kaplan asked will the money continue to flow if it's not on the 2018 ballot. Ms. Lengyel said yes.

Commissioner Haggerty asked if SB 1 does not make it on the 2018 ballot, will the momentum go away for 2020. Art Dao said that in terms of 2020 we do not know the level of motivation and we must continue to work to make sure that the repeal efforts are not successful.

Commissioner Ortiz asked what will happen if SB 1 is repealed and cities or counties borrowed from internal funds to advance projects. Ms. Lengyel stated that the California Transportation Commission will be cautious to establish future borrowing until more information is received on the repeal.

Commissioner Halliday asked regarding the budget about property taxes being paid this year and if there would be a shortfall next year.

5.2. BART Livermore Valley Extension Project Update

Tess Lengyel stated this item is to provide the Commission with an update on the BART Livermore Valley Project. She stated that two representatives are present from BART, Andrew Tang and Val Menotti. Andrew Tang presented this item as the Project Manager. Mr. Tang provided an update on the BART to Livermore Project, its history and recent BART Board actions. He stated that the BART Board did not select an alternative to move forward with this project.

Commissioner Haggerty asked if Alameda CTC and the Metropolitan Transportation Commission (MTC) are no longer sending money to BART for studies. Mr. Dao stated that Alameda CTC has not allocated Measure BB monies to any other BART efforts. He stated that the current EIR effort is funded by MTC funds.

Commissioner Marchand requested a correction to the staff report to say that the City Council adopted an initiative to keep BART in the median of I-580.

Commissioner Marchand stated that BART can only use the \$400 million from Measure BB for projects in the corridor.

Commissioner Haggerty asked if RM 2 has money for the BART to Livermore project. Mr. Dao stated that RM 2 has \$65 million however, most of the funds were used for the construction of the I-580 carpool lanes.

The Commissioners agreed that transit needs to expand but the alternative is not to use buses.

Mr. Dao stated that Measure BB stated that the \$400 million was to be used specifically for the BART to Livermore project within the I-580 freeway alignment to the vicinity of the I-580/Isabel Avenue Interchange and the funding is for construction only. He noted that the money is locked into this project unless there is a replacement project or a planned amendment. Mr. Dao said that AB 758 created the Tri-Valley San Joaquin Valley Regional Rail Authority (TVSJVRRA) to plan, develop and deliver a BART extension to Isabel and gave them a deadline to July 1, 2018. If the BART Board doesn't adopt an alternative, TVSJVRRA has an opportunity to take over.

Commissioner Ortiz asked what will be the choices if BART said they want to use the \$400 million for another alternative. Mr. Dao said that the TVSJVRRA study will be complete in July 2019 and the Commission could then consider if it would make a plan amendment to address a new agency and a newly defined project that could be eligible for the \$400 million.

This item is for Information only.

5.3. Metropolitan Transportation Commission Regional Express Lane Network Update

Art Dao provided a context of the express lane in the Bay Area. He stated that MTC has proposed a plan to unify governance of the Bay Area Express Lanes Network under Bay Area Infrastructure Financing Authority (BAIFA) and has been in discussion with several members of its Board regarding a unified concept. Mr. Dao noted that MTC is interested in utilizing express lanes as a congestion management tool. He introduced Liz Rutman who presented this item. Ms. Rutman provided an update on the Regional Express Lane Network. She highlighted the current planned 500-mile Bay Area Express Lane Network with lanes operated by BAIFA, Alameda CTC and Santa Clara Valley Transportation Authority (VTA). Ms. Rutman reviewed MTC staff's proposal of a unified governance under BAIFA, including the proposal for corridor definition, financial enterprise consolidation, and net revenue distribution.

Commissioner Kaplan asked who the decision makers are on this item. Mr. Dao said that BAIFA, which is an enterprise of MTC. Lisa Klein with MTC stated that this decision was motivated by activity on the Highway 101 corridor on the Peninsula. At this point, there is no action or decision on this item. Ms. Klein stated that San Mateo County needs to make a decision if they want to proceed on their own and have VTA operate their express lanes or if they want to join the BAIFA Network. If they are interested in joining the BAIFA Network then there will be more activity on this discussion. She noted that the existing lanes that are authorized under AB 2032 will continue to be independent unless the operating agency wanted to join BAIFA.

Commissioner Kaplan stated that the program currently described would not work for Alameda County and a message should be carried to MTC. Mr. Dao responded that Commissioner Haggerty has carried this message to MTC. Mr. Dao acknowledged that there is some merit in the concept MTC is proposing to unify certain aspects of a regional express lane network, provided the funding remains in the county and that Alameda CTC remains a decision maker. He stated that staff will bring information to the Commissioners as soon as possible if this regional concept is considered further.

Commissioner Ortiz stated that buses on the freeway are unreliable due to congestion. She stated that AC Transit has been working with several agencies to get express lanes on the Bay Bridge. Tess Lengyel responded that staff will bring an express lane and corridor discussion to the Commission in the fall. Mr. Dao stated that Alameda CTC is working with MTC on getting a dedicated lane for AC Transit. He said that RM 3 could be a funding source.

Commissioner Haggerty stated that it's a good idea to have a Regional Express lanes Network.

This item is for Information only.

6. Committee Member Reports

There were no member reports.

7. Staff Reports

There were no staff reports.

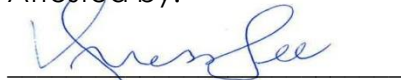
8. Adjournment/ Next Meeting

The next meeting is:

Date/Time: July 9, 2018 at 10:30 a.m.

Location: Alameda CTC Offices, 1111 Broadway, Suite 800, Oakland, CA 94607

Attested by:



Vanessa Lee,
Clerk of the Commission



Memorandum

4.2

1111 Broadway, Suite 800, Oakland, CA 94607

• PH: (510) 208-7400

• www.AlamedaCTC.org

DATE: July 2, 2018

TO: Planning, Policy and Legislation Committee

FROM: Saravana Suthanthira, Principal Transportation Planner
Chris G. Marks, Associate Transportation Planner

SUBJECT: Congestion Management Program (CMP): Summary of the Alameda CTC's Review and Comments on Environmental Documents and General Plan Amendments

Recommendation

This item is provide the Commission with an update on the summary of Alameda CTC's review and comments on Environmental Documents and General Plan Amendments. This item is for information only.

Summary

This item fulfills one of the requirements under the Land Use Analysis Program (LUAP) element of the Congestion Management Program (CMP). As part of the LUAP, Alameda CTC reviews Notices of Preparations (NOPs), General Plan Amendments (GPAs), and Environmental Impact Reports (EIRs) prepared by local jurisdictions and comments on them regarding the potential impact of proposed land development on the regional transportation system.

Since the last update on June 11, 2018, the Alameda CTC reviewed one Draft EIR. A response was submitted and is included in Attachment A.

Fiscal Impact: There is no fiscal impact associated with the requested action.

Attachment:

- A. Response to the 2580 Bancroft Way Mixed-use Project DEIR in Berkeley

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June 1, 2018

Leslie Mendez
City of Berkeley, Planning and Development Department
Land Use Planning Division, 1947 Center Street, 2nd Floor
Berkeley, CA 94704

SUBJECT: Response to the 2580 Bancroft Way Mixed-use Project Draft Environmental Impact Report (DEIR) in Berkeley

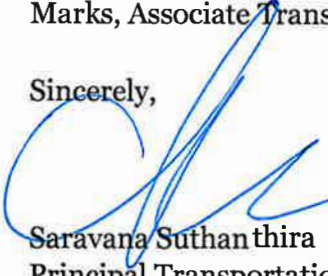
Dear Ms. Mendez,

Thank you for the opportunity to respond to the Notice of Availability of the Draft Environmental Impact Report (DEIR) and Notice of Public Hearing for the 2580 Bancroft Way Mixed-use Project. The project is located on a 0.67-acre site in the City of Berkeley on Bancroft Way, mid-block between Telegraph Avenue and Bowditch Street. The project will replace a 44-space subterranean parking garage and 25,650 square feet of retail and restaurant commercial space with a 37-space parking garage, 122 new residential units, and 11,000 square feet of retail and restaurant space.

The proposed project is estimated to generate 26 net new pm-peak hour trips before applying any reductions for pass by and non-auto trips (trips anticipated to be shifted to other modes). We have reviewed the DEIR and determined that this project is exempt from review under the Congestion Management Program Land Use Analysis Program as it will not generate 100 p.m. peak-hour trips in excess of existing land use designations. We have no further comments.

Thank you for the opportunity to respond to this DEIR. Please contact me at (510) 208-7426 or Chris G. Marks, Associate Transportation Planner at (510) 208-7453 if you have any questions.

Sincerely,


Saravana Suthanthira
Principal Transportation Planner

CHRIS MARKS
for SARAVANA
SUTHANTHIRA

cc: Chris G. Marks, Associate Transportation Planner

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Memorandum

5.1

1111 Broadway, Suite 800, Oakland, CA 94607

• 510.208.7400

• www.AlamedaCTC.org

DATE: July 2, 2018

TO: Planning, Policy and Legislation Committee

FROM: Tess Lengyel, Deputy Executive Director of Planning and Policy

SUBJECT: July Legislative Update

Recommendation

It is recommended that the Commission approve legislative positions and receive an update on federal, state, and local legislative activities.

Summary

The July 2018 legislative update provides information on federal and state legislative activities.

Background

The Commission approved the 2018 Legislative Program in December 2017. The purpose of the legislative program is to establish funding, regulatory, and administrative principles to guide Alameda CTC's legislative advocacy. The final 2018 Legislative Program is divided into six sections: Transportation Funding; Project Delivery and Operations; Multimodal Transportation, Land Use, and Safety; Climate Change and Technology; Goods Movement; and Partnerships. The program is designed to be broad and flexible to allow Alameda CTC the opportunity to pursue legislative and administrative opportunities that may arise during the year, and to respond to political processes in the region as well as in Sacramento and Washington, DC.

Each month, staff brings updates to the Commission on legislative issues related to the adopted legislative program, including recommended positions on bills as well as legislative updates.

Federal Update

Alameda CTC staff will provide a verbal update on federal legislative activities if there are pertinent activities to report.

State Update

Platinum Advisors, Alameda CTC's state lobbying firm, provided the following summary of state activities.

Senate Bill 1 (SB 1) repeal: The initiative to repeal SB 1 through a constitutional amendment was successful in getting enough signatures to qualify for the November 2018 ballot and will appear as Proposition 6. Over 960,000 signatures were collected and over 685,000 were verified through random sampling. The number required to place the initiative on the ballot was 585,000. Below summarizes SB1 funding categories as well as funding for cities and transit operators in Alameda County. Attachment A illustrates Alameda CTC projects funded by Measure BB that will need to leverage external funds for full delivery. Attachment B includes two examples of SB1 educational materials from Fremont and AC Transit. At the Commission meeting, staff will provide an overview of SB 1 and educational efforts regarding the impact of SB 1 on local and state transportation improvements.

SB 1 Summary: SB 1, known as the "Road Repair and Accountability Act of 2017", was approved by the legislature and signed by the Governor in April 2017. SB 1 provides the first significant, stable, and ongoing increase in state transportation funding in more than two decades. The last time the gas tax was increased was over 20 years ago and has not kept pace with inflation. The estimated funding backlog for transportation maintenance is over \$130 billion for road, highway and bridge repairs. Alameda CTC, local jurisdictions and transit operators receive formula funds and are also eligible for several SB 1 competitive funding categories. If SB 1 is repealed in November 2018, no future SB 1 funds will be available; however, existing allocated funds are able to be expended until the funding is exhausted. If the repeal occurs, funding allocations made by the California Transportation Commission for competitive grant programs for future years are at risk. Below is a summary of SB 1 funding categories.

Local Streets and Roads Program: SB 1 provides an increase of \$1.5 billion annually, (beginning in November 2017) towards the Local Streets and Roads (LSR) program. This funding will be used by local governments to maintain and rehabilitate existing local roadway transportation infrastructure. Table 1 illustrates the estimated Fiscal Year (FY) 18-19 increase in local road repair funding as a result of SB 1 funding for Alameda County and cities.

Table 1: SB 1 Local Streets and Roads (LSR) Estimates for FY 18-19

Jurisdiction in Alameda County	State HUTA¹	State Estimated FY 18-19 SB-1²	Total
Alameda	\$1,854,242	\$1,343,689	\$3,197,931
Albany	\$447,765	\$320,223	\$767,988
Berkeley	\$2,800,936	\$2,032,474	\$4,833,410
Dublin	\$1,344,761	\$972,025	\$2,316,786
Emeryville	\$280,129	\$198,663	\$478,792
Fremont	\$5,342,973	\$3,886,879	\$9,229,852
Hayward	\$3,708,698	\$2,694,683	\$6,403,381
Livermore	\$2,060,121	\$1,493,876	\$3,553,997
Newark	\$1,050,138	\$758,193	\$1,808,331
Oakland	\$9,839,545	\$7,167,109	\$17,006,654
Piedmont	\$268,465	\$190,154	\$458,619
Pleasanton	\$1,754,451	\$1,270,892	\$3,025,343
San Leandro	\$2,049,944	\$1,486,453	\$3,536,397
Union City	\$1,707,285	\$1,236,485	\$2,943,770
County of Alameda	\$25,838,702	\$17,231,773	\$43,070,475
TOTAL	\$60,348,155	\$42,283,571	\$102,631,726

Notes: 1. Highway User Tax Account (HUTA); Cities and County receive Allocations directly from State; 2. Data Source: <http://californiacityfinance.com/>

Public Transit and Intercity Rail: SB 1 provides an additional \$350 million in public transit funding each year, including \$250 million annually for transit capital and operation costs through the State Transit Assistance (STA), and \$105 million annually for State of Good Repair funds, using the STA formula for distribution. Table 2 illustrates estimated FY 18-19 SB 1 funding for Alameda County transit operators. In addition, SB 1 funds an additional \$300 million per year for Transit and Intercity Rail Capital Program (TIRCP) to fund commuter and intercity rail modernization and expansion. Lastly, SB 1 provides new revenue for intercity and commuter rail operators through a formula program to improve services across the state.

Table 2: SB 1 Transit Funding Estimates for FY 18-19

Alameda County Transit Operators	Base STA Distribution (A)	STA SB 1 Augmentation (B)	State of Good Repair (SGR) Program (C)	Total SB 1 Augmentation (STA + SGR) (D) = (B+C)	Total (E) = (A+D)
AC Transit	\$8,309,164	\$8,309,164	\$3,149,541	\$11,458,705	\$19,767,869
BART	\$16,098,558	\$16,098,558	\$6,102,066	\$22,200,624	\$38,299,182
LAVTA	\$146,790	\$146,790	\$55,640	\$202,430	\$349,220
Union City	\$45,153	\$45,153	\$17,115	\$62,268	\$107,421
ACE (Ala. Co.)	\$98,681	\$98,681	\$37,404	\$136,085	\$234,766
Total	\$24,698,346	\$24,698,346	\$9,361,766	\$34,060,112	\$58,758,458

Local Partnership Program: SB 1 directs \$200 million in new revenues per year to a new Local Partnership Program (LPP), which rewards agencies with voter-approved taxes, tolls, and fees dedicated solely to transportation. For Alameda CTC, this equates to approximately \$4 million/year in new revenue for transportation improvements.

Trade Corridors Enhancement Program: SB 1 provides an ongoing source of state funding dedicated to freight-related projects by establishing the new Trade Corridor Enhancement Account (TCEA). The TCEA will provide approximately \$300 million per year in state funding for projects which more efficiently enhance the movement of goods along corridors that have a high freight volume. Alameda CTC and the City

of Emeryville were awarded over \$191 million from TCEP for the construction phase of the 7th Street Grade Separation (East) project (\$175 million), Freight Intelligent Transportation System (\$12.4 million) and Emeryville grade crossing improvements (\$4.2 million).

Solutions for Congested Corridors Program: This program provides \$250 million per year for projects that implement specific transportation performance improvements and are part of a comprehensive corridor plan by providing more transportation choices while preserving the character of local communities and creating opportunities for neighborhood enhancement. Alameda CTC has many projects that are eligible for this program as shown in Attachment A.

Active Transportation Program: SB 1 provides an increase of \$100 million annually for the existing Active Transportation Program (ATP). This represents an 80% increase in the size of this on-going program.

State Highway Operations and Protection Program (SHOPP): SB 1 provides an increase of approximately \$1.9 billion annually (beginning in November 2017) to fund maintenance and operations of the State Highway System.

State Transportation Improvement Program (STIP): The STIP is a multi-year capital improvement program of transportation projects on and off the State Highway System, funded with revenues from the State Highway Account and other State and federal funding sources. SB 1 provides a significant increase in STIP funding.

Budget: The Legislature adopted the 2018-19 Budget Act on June 14th and sent it to the governor for his approval. Governor Jerry Brown signed the budget on June 27, 2018. The budget fully funds the Rainy Day fund, and provides direction to use excess Rainy Day Fund revenue for infrastructure projects, including rail projects. The relevant transportation related trailer bills are summarized below. The Legislature can continue sending the governor trailer bills until the end of session on August 31st.

SB 840 – 2018-19 Budget Act: The Budget Act appropriates \$138.6 billion in general fund revenue, \$57 billion in special fund revenue, and \$3.9 billion in bonds for a 2018-19 total of \$199 billion. While this is the largest budget in California's history, it also includes the largest amount of reserve funding to address future economic downturns. The Budget fully funds the Prop 2 Rainy day Fund at \$13.8 billion, places \$2 billion in the traditional reserve for economic uncertainties, and sets aside \$200 million to protect safety net programs such as CalWORKS and Medi-Cal. The Budget Act also includes the following member's requests:

- Appropriates \$5 million in General Fund revenue for a passenger rail planning and feasibility analysis. These funds will enable the Metropolitan Transportation Commission (MTC) to evaluate alternatives, and conceptual engineering and initial design, that includes intermodal connectivity, station

evaluation, and a potential new station in the Shinn Park region of Fremont connecting Bay Area Rapid Transit, the Altamont Corridor Express, and the Alameda-Contra Costa Transit District, and other station areas identified through the study with a focus on central and southern Alameda County.

- Appropriates \$1 million in General Fund revenue to AC Transit to assist with transportation services for Oakland Unified School District students.

SB 848 Transportation Trailer Bill: This measure includes several statutory changes relevant to Alameda CTC, including:

- Caps the amount that Caltrans can charge self-help counties for indirect costs to 10% for three years.
- Allows cities and counties to borrow from internal revenue streams and reimburse themselves with future year apportionments from SB 1 revenue.
- Increases the number of clean air vehicles that are eligible to utilize HOV lanes until January 1, 2022.

AB 1831 State government: appointments: infrastructure: Creates the Infrastructure Stabilization Fund to allocate funding dedicated for infrastructure pursuant to Proposition 2 of 2014 (the Rainy Day fund). Under this bill once the Rainy Day Fund reaches the Constitutional maximum of 10% of the general fund any excess revenue would be deposited into the Infrastructure Stabilization Account. The revenue would be allocated as follows:

- Allocates the first \$415 million to the State Infrastructure and Maintenance Fund for improvements to the State Capitol.
- Splits the remainder between the Rail Modernization program for rail corridor improvements identified by the State Transportation Agency and the Housing Rehabilitation Loan Fund for Multifamily Housing Program infrastructure investments.

This is an uncertain funding source and it is questionable if these funds would materialize. However, the Department of Finance projects that a total of \$300 million could be available for rail projects over the next few years.

Cap & Trade: The following summarizes the proposed appropriations to transportation related programs for FY 18-19:

- \$20 million to the Natural Resources Agency for Urban Greening Programs.
- \$18 million to the Strategic Growth Council for research grants on reducing carbon emissions, including clean energy, adaptation, and resiliency.

- \$2 million to the Strategic Growth Council to provide technical assistance to disadvantaged communities.
- \$40 million to the Office of Planning & Research for the Transformative Climate Communities Program.
- \$134.5 million from the Alternative & renewable Fuel and Vehicle Technology Fund to the California Energy Commission for zero emission vehicle infrastructure.
- \$12.5 million to the California Energy Commission for Low Carbon Fuel Production programs.
- \$64 million to the California Energy Commission for loans and grants to food processors to implement greenhouse gas reduction projects.
- \$50 million to the California Air Resources Board (CARB) for supporting local air districts implementation of AB 617.
- \$112 million to CARB for reducing emissions from the agricultural sector.
- \$125 million to CARB for the Hybrid and Zero Emission Truck and Bus Voucher Incentive Project.
- \$75 million to CARB for Enhanced Fleet Modernization Program and Plus-Up Pilot Project.
- \$55 million to CARB for the Freight Equipment Advanced Demonstration and Pilot Commercial deployment Project.
- \$245 million to CARB for incentives to reduce emissions and implementation of AB 617.
- \$200 million to CARB for the Clean Vehicle Rebate Program, of which \$25 million shall be used for rebates to low income recipients.

Fiscal Impact: There is no fiscal impact associated with the requested action.

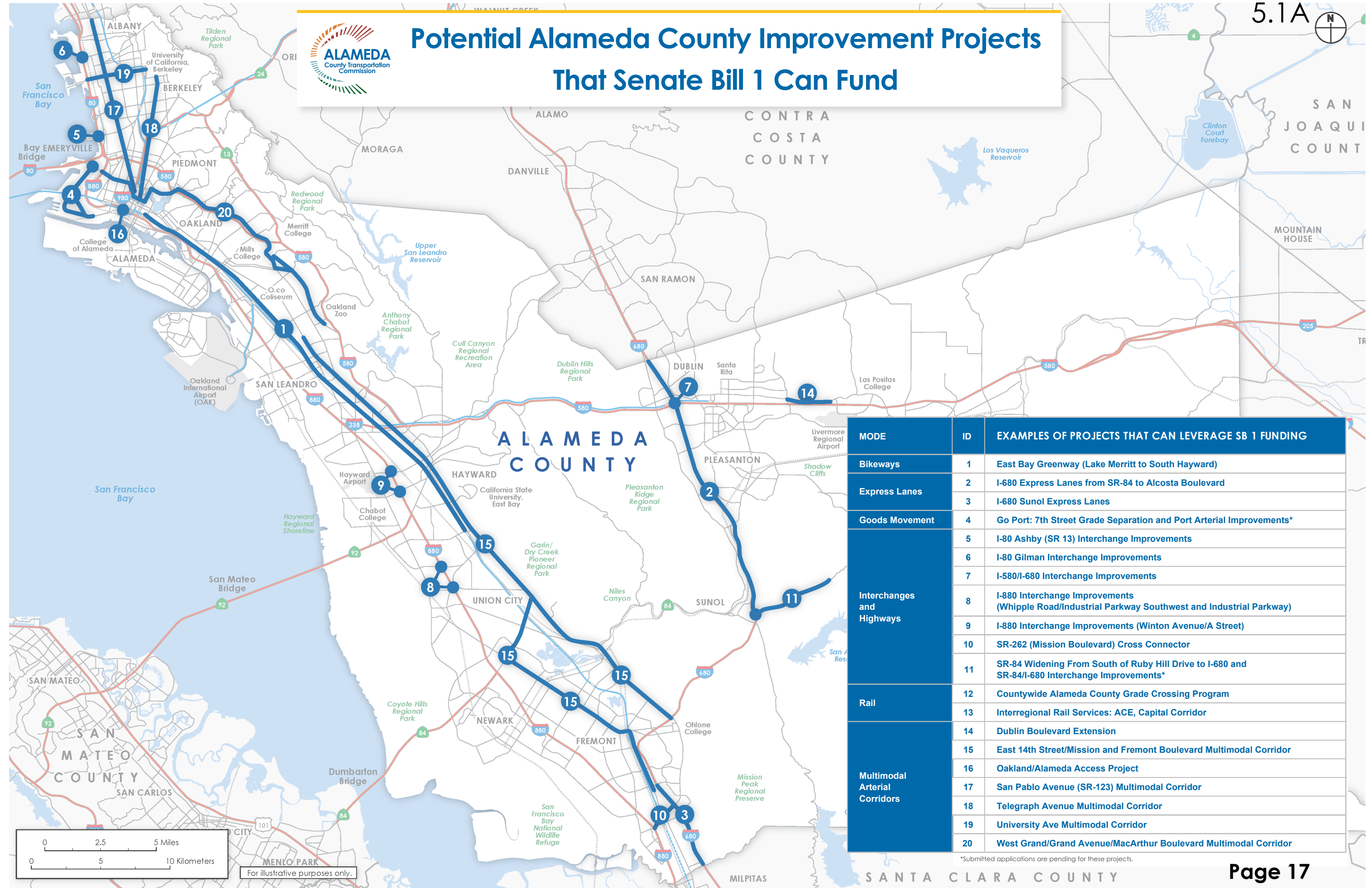
Attachments:

- A. Alameda CTC SB 1 Fact Sheet
- B. Example SB 1 Fact Sheets: City of Fremont and AC Transit

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Potential Alameda County Improvement Projects That Senate Bill 1 Can Fund

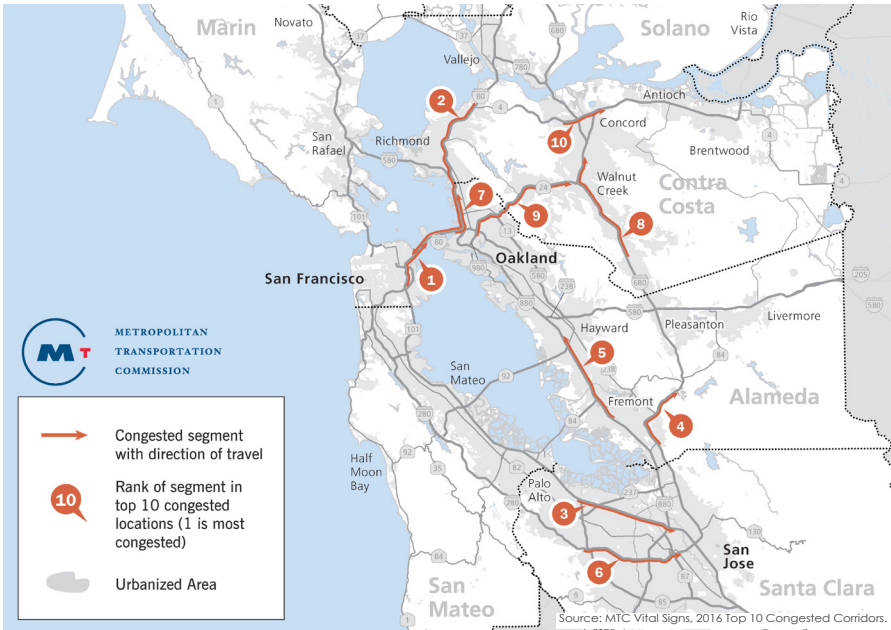


MODE	ID	EXAMPLES OF PROJECTS THAT CAN LEVERAGE SB 1 FUNDING
Bikeways	1	East Bay Greenway (Lake Merritt to South Hayward)
	2	I-680 Express Lanes from SR-84 to Alcosta Boulevard
Express Lanes	3	I-680 Sunol Express Lanes
	4	Go Port: 7th Street Grade Separation and Port Arterial Improvements*
Goods Movement	5	I-80 Ashby (SR 13) Interchange Improvements
	6	I-80 Gilman Interchange Improvements
Interchanges and Highways	7	I-580/I-680 Interchange Improvements
	8	I-880 Interchange Improvements (Whipple Road/Industrial Parkway Southwest and Industrial Parkway)
	9	I-880 Interchange Improvements (Winton Avenue/A Street)
	10	SR-262 (Mission Boulevard) Cross Connector
	11	SR-84 Widening From South of Ruby Hill Drive to I-680 and SR-84/I-680 Interchange Improvements*
	12	Countywide Alameda County Grade Crossing Program
Rail	13	Interregional Rail Services: ACE, Capital Corridor
	14	Dublin Boulevard Extension
Multimodal Arterial Corridors	15	East 14th Street/Mission and Fremont Boulevard Multimodal Corridor
	16	Oakland/Alameda Access Project
	17	San Pablo Avenue (SR-123) Multimodal Corridor
	18	Telegraph Avenue Multimodal Corridor
	19	University Ave Multimodal Corridor
	20	West Grand/Grand Avenue/MacArthur Boulevard Multimodal Corridor

*Submitted applications are pending for these projects.

Investments Will Reduce Congestion and Improve Safety

SB 1 can fund a number of key projects and programs within Alameda County, including road maintenance, transit, bicycle and pedestrian safety projects, major trails, relief for congested corridors including highways and major arterials, as well as programs such as the very popular Safe Routes to Schools Program and Student Transit Pass Programs. These investments will reduce congestion, improve safety and expand mobility for people and goods throughout the region.



ALAMEDA COUNTY HAS HALF OF THE REGION'S TOP 10 MOST CONGESTED CORRIDORS



INTERSTATE 880 IN ALAMEDA COUNTY



A SAFE ROUTES TO SCHOOLS PROGRAM WALKING SCHOOL BUS

ACCOUNTABILITY AND TRANSPARENCY

- Cities and counties must publically adopt and submit to the state a planned list of projects and year-end reporting that accounts for every single dollar of SB 1 revenue they receive.

OVERSIGHT

- SB 1 establishes an independent Inspector General who is appointed by the Governor to oversee programs to ensure all funds are spent as promised.
- The Inspector General is also required to report annually to the state legislature.

PROTECTING FUNDS

- Proposition 69 on the June 2018 ballot ensures that all SB 1 resources go to transportation and the funding cannot be used for other purposes.
- SB 1 funds will not be used to fund high-speed rail.



Senate Bill 1 Expanding Mobility in Alameda County



In April 2017, Governor Jerry Brown signed into law Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017. This landmark funding program invests approximately \$5.4 billion annually in state and local roads, public transit and active transportation programs.

WHAT DOES SB 1 DO?

- Enables cities and counties to address significant maintenance, rehabilitation and safety needs on the local street and road system.
- Provides funding for every community to rehabilitate, repair and maintain local roads, repair and replace aging bridges and culverts, reduce congestion and increase mobility options, including bicycle and pedestrian facilities.
- Allows cities and counties to accelerate the delivery of projects.

HOW SB 1 CAN SUPPORT MOBILITY EXPANSION IN ALAMEDA COUNTY



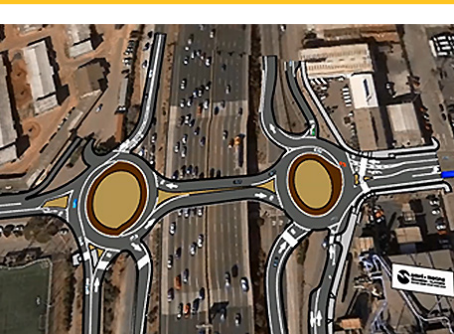
BIKEWAYS such as the East Bay Greenway connecting Oakland to Hayward will give bicyclists safe access to jobs, education, transit and other important destinations.



EXPRESS LANES along I-580 and I-680 increase highway efficiency for commuters, transit and freight, using existing capacity to reduce congestion and improve air quality.



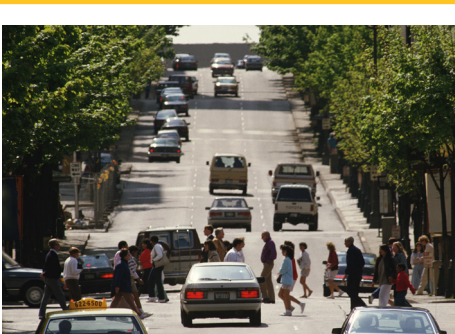
GOODS MOVEMENT improvements in Alameda County can support jobs and local communities, supporting the Bay Area economy.



INTERCHANGES AND HIGHWAYS provide critical connections throughout the county. I-80/Gilman Street and the I-80/Ashby Avenue interchange projects will improve navigation and traffic flow.



INTERREGIONAL RAIL SERVICES support freight and passenger services in Alameda County and Northern California.



MULTIMODAL ARTERIAL CORRIDORS planning underway for transit priority and pedestrian/ bicycle improvements will increase safety for all travelers, reduce travel conflicts and accommodate future growth.



5.1B REBUILDING CALIFORNIA REBUILDING FREMONT

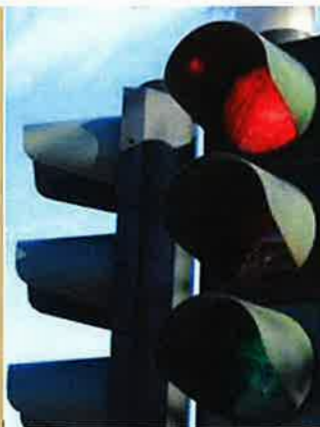
The Road Repair and Accountability Act of 2017

A New source of State funding to enhance Highway, Transit, and Local Roads statewide

\$42 M

THE TOTAL AMOUNT
FREMONT WILL
RECEIVE OVER THE
NEXT 10 YEARS

TO REPAIR AND
MAINTAIN LOCAL
ROADS, REDUCE
CONGESTION AND
INCREASE MOBILITY
OPTIONS INCLUDING
BICYCLE AND
PEDESTRIAN
FACILITIES



12

 NEW
HIGH
IMPACT
PROJECTS

PEDESTRIAN
TRAFFIC
SAFETY
IMPROVEMENTS

4 TRAFFIC SIGNALS
8 FLASHING BEACONS



\$4.9 M

FUNDS DEDICATED TO
PROJECT CONSTRUCTION
WORK TO BEGIN SUMMER
2018



39 Miles

NUMBER OF MILES THAT
WILL BE REPAVED AND
SEALED IN 2018

COMPLETE
STREET
INVESTMENT

BART WAY
WALNUT AVENUE

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SENATE BILL 1 (SB1)

Rebuilding California



freeways & bridges

neighborhood streets

public transit

commute & trade corridors

congestion

WHAT IS SB1?

SB 1 is a landmark transportation investment to rebuild California by fixing neighborhood streets, freeways and bridges in communities across California and targeting funds toward transit and congested trade and commute corridor improvements. SB 1 is expected to generate \$5.2 billion annually in new revenues from various taxes and fees including more than \$750 million a year in new funding for transit.

WHY SB1?

SB 1 provides a significant infusion of funding for public transit. It will allow for critical investment in transit operations and capital projects directly benefiting AC Transit's efforts to modernize its service and upgrade deteriorating facilities. AC Transit will use funds to replace diesel-powered buses with low or zero-emission buses and rehabilitate our customer service center.

BENEFITS TO AC TRANSIT

Local Partnership Program (LPP)

50% Formula &
50% Competitive

**\$200
million
per year**

AC Transit will receive a \$1.068 million grant from the formula program to partially fund our Customer Service Center Rehabilitation Project.

Additionally, a portion of the grant will be used as matching funds to replace up to 59 diesel-powered buses with modern, hybrid buses. These vehicles will help AC Transit maintain fleet and service levels in the East Bay while decreasing air pollution.

AC Transit applied for an additional \$15 million grant from the competitive program for further matching funds to continue to replace up to 59 diesel-powered buses with modern, hybrid buses.

Transit & Intercity Rail Capital Program (TIRCP)

Competitive

**\$355
million
per year**

AC Transit applied for a \$13.5 million grant for 15 zero-emission buses to replace diesel-powered buses, which will make a significant impact on reducing greenhouse gases.

This will not only contribute to the achievement of California's greenhouse gas reduction goals, but also reduce local air pollutants.

Improving the air quality of local neighborhoods would directly benefit many Disadvantaged Communities that are within AC Transit's service area.

State Assistance Program (STA)

Formula

**\$300
million
per year**

AC Transit will receive an additional \$7 million in STA operating funds by the end of this fiscal year.

AC Transit will receive \$3.1 million in State of Good Repair funds for the East Bay Bus Rapid Transit Project. BRT will bring better transit to one of the East Bay's most diverse corridors.

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Memorandum

5.2

1111 Broadway, Suite 800, Oakland, CA 94607

• 510.208.7400

• www.AlamedaCTC.org

DATE: July 2, 2018

TO: Planning, Policy and Legislation Committee

FROM: Tess Lengyel, Deputy Executive Director of Planning and Policy
Leslie Lara-Enríquez, Associate Program Analyst

SUBJECT: California Office of Traffic Safety (OTS) Pedestrian and Bicycle Safety Program Grant Funding Award

Recommendation

It is recommended the Commission approve Resolution No. 18-005, which authorizes the Executive Director, or his designee, to execute a grant agreement to receive \$200,000 in grant funding awarded by the California Office of Traffic Safety (OTS) for Alameda CTC to implement a Pedestrian and Bicyclist Rail Safety Education Program.

Summary

On June 20, 2018, the California OTS awarded Alameda CTC \$200,000 in grant funding under the OTS's Pedestrian and Bicycle Safety Program. The funding will allow staff to develop a Pedestrian and Bicyclist Rail Safety Education Program to raise awareness among Alameda County K-12 students about the dangers of distracted walking and bicycling on and near active rail routes, as well as trespassing on railroad rights-of way. The Pedestrian and Bicyclist Rail Safety Education Program will be fully integrated into the Alameda County Safe Routes to Schools Program.

Background

The OTS is California's lead traffic safety organization and is tasked with developing and implementing an annual Highway Safety Program that addresses the behavioral factors that impact safety on the road. Every year, the California Office of Traffic Safety must develop a Highway Safety Program with the goal of preventing serious injury and death resulting from collisions so that all roadway users arrive at their destination safely. Using Federal Highway Safety Administration (FHWA) program funds and housed within the California State Transportation Agency (CalSTA), the OTS works to address California's highway safety needs at the state, county and local level.

The OTS reviews local, county and state crash data to identify roadway users (such as motorists, pedestrians, bicyclists, etc.) with a statistically higher crash risk. These data, combined with citation, licensing, vehicle miles traveled, and demographic information, are analyzed to help the OTS understand what is prompting crashes and the resulting injuries and fatalities on California's roadways. This information is then used to develop the annual Highway Safety Plan, which details the extent of California's crash problem and how federal highway safety dollars will be distributed into priority behavioral safety programs during the following federal fiscal year (October 1 – September 30). The distribution of federal highway safety dollars, which does not require a match from local agencies, is conducted via a competitive statewide grant award process, which opens in late December with an application submittal deadline of January 30. The OTS has identified ten areas of concentration regarding safety, including pedestrian and bicycle safety with the goal of increasing "safety awareness among pedestrians, bicyclists and motorists through various approaches including education, enforcement and engineering," which was the focus of the grant application submitted to OTS by Alameda CTC.

In Alameda County, addressing trespass collisions involving pedestrians along railroad rights-of-way are a high-priority for the Commission due to their frequency and high fatality rate. Since 2011, there have been 47 trespass collisions — 33 (or 70 percent) of which have resulted in fatalities — yielding an average of 7.8 trespass collisions and 5.5 fatalities per year. This is slightly higher than the 6.9 annual collisions that occur at actual rail-street crossings and the 3.1 fatalities that occur annually at rail-street crossings in the county. As such, trespass collisions require a different set of strategies to address compared to rail-street crossings collisions because specific rail-street crossing locations can be improved with standard safety treatments such as gates. However, to address trespassing and distracted walking and bicycling specifically, a combination of education and outreach must be advanced to address trespassing.

Staff identified the funding opportunity through the OTS grant program and submitted an application proposing to implement a Pedestrian and Bicyclist Rail Safety Education Program to teach and raise awareness among Alameda County K-12 students about the dangers of distracted walking and bicycling on and near active rail routes, as well as trespassing on railroad rights-of way. The \$200,000 awarded by OTS will allow Alameda CTC to develop the Pedestrian and Bicyclist Rail Safety Education Program and deliver in-classroom education and training to public school students and their families in Alameda County. The Rail Safety Education Program will be fully integrated into the Alameda County Safe Routes to Schools Program in order to maximize efficiencies in implementation and leverage the funding to reach more students.

It is recommended that the Commission approve and Adopt Resolution No. 18-005, which authorizes the Executive Director, or his designee, to execute a grant agreement to receive \$200,000 in grant funding awarded by the California OTS for the Alameda CTC to implement a Pedestrian and Bicyclist Rail Safety Education Program.

Fiscal Impact: There is no fiscal impact associated with the requested action.

Attachments:

- A. Alameda CTC Resolution No. 18-005
- B. California OTS Grant Assurances

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**ALAMEDA COUNTY TRANSPORTATION COMMISSION****Resolution 18-005****Commission Chair**

Supervisor Richard Valle, District 2

Commission Vice ChairMayor Pauline Cutter,
City of San Leandro**AC Transit**

Board President Elsa Ortiz

Alameda CountySupervisor Scott Haggerty, District 1
Supervisor Wilma Chan, District 3
Supervisor Nate Miley, District 4
Supervisor Keith Carson, District 5**BART**

Director Rebecca Saltzman

City of Alameda

Mayor Trish Spencer

City of Albany

Councilmember Peter Maass

City of Berkeley

Mayor Jesse Arreguin

City of Dublin

Mayor David Haubert

City of Emeryville

Mayor John Bauters

City of Fremont

Mayor Lily Mei

City of Hayward

Mayor Barbara Halliday

City of Livermore

Mayor John Marchand

City of Newark

Councilmember Luis Freitas

City of OaklandCouncilmember At-Large
Rebecca Kaplan
Councilmember Dan Kalb**City of Piedmont**

Vice Mayor Teddy Gray King

City of Pleasanton

Mayor Jerry Thorne

City of Union City

Mayor Carol Dutra-Vernaci

Executive Director

Arthur L. Dao

Authorization for Execution of a Grant Agreement for the Pedestrian and Bicyclist Rail Safety Education Program (FFY2019)

WHEREAS, the mission of the California Office of Traffic Safety (OTS) is to effectively and efficiently administer traffic safety grant funds to reduce traffic deaths, injuries and economic losses; and

WHEREAS, the OTS is tasked with the development and implementation of an annual Highway Safety Program (HSP) that addresses the behavioral factors that impact safety on the road; and

WHEREAS, the HSP details the extent of California's crash problem and how federal highway safety dollars will be distributed into priority behavioral safety programs during the federal fiscal year (October 1–September 30); and

WHEREAS, the OTS administers such funds and awards such funds via a competitive statewide grant award process; and

WHEREAS, the Alameda County Transportation Commission ("Alameda CTC") is eligible to receive OTS funds; and

WHEREAS, the Alameda CTC was awarded \$200,000 in grant funding under the OTS's Pedestrian and Bicycle Safety Program; and

WHEREAS, Alameda CTC recognizes that it is responsible for compliance with all OTS grant assurances, and state and federal laws, including, but not limited to, laws governing the use of such funds; and

WHEREAS, Alameda CTC requires a Governing Body Resolution for the purposes of identifying agent(s) authorized to act on behalf of Alameda CTC to execute actions necessary to obtain OTS grant funds from OTS and ensure continued compliance with OTS assurances, and state and federal laws.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Alameda CTC that the Executive Director, and/or his Designee, is hereby authorized to execute for and on behalf of Alameda CTC, a public entity established

under the laws of the State of California, any actions necessary for the purpose of obtaining financial assistance provided by the California Office of Traffic Safety.

DULY PASSED AND ADOPTED by the Alameda County Transportation Commission at the regular meeting of the Board held on Thursday, July 26, 2018 in Oakland, California, by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED:

ATTEST:

Richard Valle
Chair, Alameda CTC

Vanessa Lee
Clerk of the Commission

CERTIFICATIONS AND ASSURANCES
HIGHWAY SAFETY GRANTS
(23 U.S.C. CHAPTER 4 AND SEC. 1906, PUB. L. 109-59, AS AMENDED)

Failure to comply with applicable Federal statutes, regulations, and directives may subject Grantee Agency officials to civil or criminal penalties and/or place the State in a high-risk grantee status in accordance with 49 CFR §18.12.

The officials named on the grant agreement, certify by way of signature on the grant agreement signature page, that the Grantee Agency complies with all applicable Federal statutes, regulations, and directives and State rules, guidelines, policies and laws in effect with respect to the periods for which it receives grant funding. Applicable provisions include, but are not limited to, the following:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended
- 49 CFR Part 18—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 23 CFR Part 1300—Uniform Procedures for State Highway Safety Grant Programs

NONDISCRIMINATION

(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100)).

The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;
- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;
- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

“During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

- a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
- c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding

recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and

- e. To insert this clause, including paragraphs (a) through (e), in every subcontract and sub agreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

POLITICAL ACTIVITY (HATCH ACT)

(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING

(applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

RESTRICTION ON STATE LOBBYING

(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

(applies to subrecipients as well as States)

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Tier Covered Transactions

- (1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, civil judgment, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR parts 180 and 1200.
You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT

(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

LAW ENFORCEMENT AGENCIES

All subrecipient law enforcement agencies shall comply with California law regarding profiling. Penal Code section 13519.4, subdivision (e), defines “racial profiling” as the “practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.” Then, subdivision (f) of that section goes on to provide, “A law enforcement officer shall not engage in racial profiling.”

Appendix B

General Terms & Conditions State Certifications (As referenced in the grant agreement)

Terms and conditions, when applicable, are incorporated by reference and made a part of, but not necessarily limited to, the following documents: grant agreements, subgrants, contracts, subcontracts, interagency agreements, invitations for bid, and requests for proposal for goods or services for which OTS grant funding reimbursement is requested. It is understood and agreed by the subrecipient that grant funds received as a result of this grant agreement are subject to all applicable federal and state regulations, rules, guidelines, policies and laws and to the following applicable controls, terms and consideration expressed in the OTS Grant Program Manual.

1. **Amendment.** No amendment or variation of the terms of this agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the grant agreement is binding on any of the parties. (Reference: DGS Standard Agreement “General Terms and Conditions,” form GTC610). Grant agreement revisions are allowed in accordance with the guidelines detailed in the OTS GPM. All appropriate documentation required to request a grant revision must be submitted timely to Grantor.
2. **Antitrust Claims.** The subrecipient by signing this grant agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the subrecipient shall comply with the requirements of the Government Code sections set out below.
 - a. The Government Code chapter on antitrust claims contains the following definitions:
 - (1) “Public purchase” means a purchase by means of competitive bids of goods, services, or materials by the state or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - (2) “Public purchasing body” means the state or the subdivision or agency making a public purchase. (Reference: GC § 4550)
 - b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC 15 [Title 15 Commerce and Trade, Chapter 1, Monopolies and Combinations in Restraint of Trade, Section 15, Suits by Persons Injured]) or under the Cartwright Act (Chapter 2) commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. (Reference: GC §4552)

- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (Reference: GC §4553)
 - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. (Reference: GC §4554)
3. **Approval.** This grant agreement is of no force or effect until signed by both parties and approved by the Office of Traffic Safety. Subrecipient or contractor may not commence performance until such approval has been obtained. (Reference: California Department of General Services (DGS) Standard Agreement “General Terms and Conditions,” form GTC610)
 4. **Assignment.** This grant agreement is not assignable by the subrecipient, either in whole or in part, without the consent of the Office of Traffic Safety in the form of a formal written amendment. (Reference: DGS Standard Agreement “General Terms and Conditions,” form GTC610)
 5. **Audits and Access to Records.** Subrecipient agrees that the California Office of Traffic Safety, the National Highway Traffic Safety Administration, or their designated representative(s), shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this grant agreement. Subrecipient agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Suprecipient agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, subrecipient agrees to include a similar right of the state to audit records and interview staff in any subcontract related to the performance of this agreement. (Reference: GC § 8546.7, Public Contract Code (PCC) 10115 et seq., California Code of Regulations (CCR) Title 2, §1896).

Availability of Funds. Reimbursement of approved grant expenditures is contingent upon the subrecipient complying with all **grant requirements** and the appropriation of sufficient funds by the federal government and the California Office of Traffic Safety. OTS does not represent or guarantee the availability of federal highway safety funds for initial or subsequent year funding. If during the term of the grant federal funds are reduced or eliminated, OTS may immediately terminate or reduce the grant award upon written notice to the subrecipient’s grant director.

Once a grant has been awarded and becomes effective, OTS reimburses the subrecipient for expenditures related to approved activities. Only costs incurred within the approved grant period and that do not exceed the federally obligated funds as indicated in the agreement are reimbursed. The

goals and objectives outlined in the grant should be accomplished during the grant period and within the approved budget.

OTS has the option to void the agreement under the thirty-day cancellation clause or to amend the contract to reflect any reduction in funds (Reference: SCM, Vol. I, 3.11.) Funds are awarded under Catalog of Federal Domestic Assistance (CFDA) Numbers. The specific funding source is identified on the grant budget.

6. **Byrd Anti-Lobbying Amendment (31 USC 1352).** Subrecipients who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 USC 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier-to-tier up to the recipient.
7. **Contracts.** Subrecipients may enter into contract(s) to perform applicable provisions of this grant agreement. The subrecipient is responsible for ensuring that all activities delegated to contractors are in support of this grant agreement.

- (1) Consultants and/or contractors shall be selected in accordance with the subrecipient agency procurement policies and procedures in order to comply with the terms of this Agreement and in accordance with the OTS GPM.

The subrecipient consultant and/or contractor are subject to all applicable terms and conditions and are bound by the applicable certifications of the grant agreement and 2 CFR Part 200.

CA OTS is not obligated to make any payment under any agreement prior to final execution or outside the terms of the contract period. Contractor/subrecipient agency expenditures incurred prior to final contract execution are taken at the risk of that contractor/subrecipient agency and will be considered unallowable if that agreement/contract is not executed.

- (2) Nothing contained in this grant agreement shall create any contractual relation between the State and any contractors, and no contract shall relieve the subrecipient of its responsibilities and obligations hereunder. Subrecipient agrees to be as fully responsible to the State for the acts and omissions of its contractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the subrecipient. The subrecipient's obligation to pay its contractors is an independent obligation from the State's obligation to make payments to the subrecipient. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any contractor.

8. **Child Support Compliance Act.** “For any grant agreement in excess of \$100,000, the subrecipient acknowledges in accordance with Public Contract Code (PCC) § 7110, that:
- a. The subrecipient recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. The subrecipient, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.” (Reference: DGS Standard Agreement “General Terms and Conditions,” form GTC610)
9. **Clean Air Act (42 USC 7401 et seq.) and the Federal Water Pollution Control Act (33 USC 1251 et seq.), as amended.** Grants of amounts in excess of \$100,000 shall contain a provision that requires the subrecipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 USC 1251 et seq.). Violations shall be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
10. **Compensation.** The consideration to be paid subrecipient, as provided herein, shall be in compensation for all of subrecipient’s expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided. (Reference: DGS Standard Agreement “General Terms and Conditions,” form GTC610)
11. **Loss Leader.** If this grantee agreement involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code (PCC 10344(e)).
12. **Consultant/Contracts.**
- Competition:** No subrecipient shall draft, or cause to be drafted, any invitation to bid or request for proposal, in connection with the awarding of a consulting services contract, in such a manner as to limit the bidding directly to any one bidder. At least three competitive bids or proposals shall be secured for each consulting services contract. (Reference: PCC §§ 10372 and 10373)
- Contractor:** Contractor, and the agents and employees of contractor, in the performance of this grant agreement, shall act in an independent capacity and not as officers or employees or agents of the state. (Reference: DGS Standard Agreement “General Terms and Conditions,” form GTC610)

Progress schedule: Subrecipients entering into a contractual agreement for consultant services totaling five thousand dollars (\$5,000) or more shall include detailed criteria and a mandatory progress schedule. (Reference: PCC § 10371)

Progress payments: Subrecipients may provide for progress payments to consultants/contractors for work performed or costs incurred in the performance of the contract. Not less than ten percent of the contract amount shall be withheld pending final completion of the contract and an evaluation of the contractor's performance. If the contract consists of the performance of separate and distinct tasks, then any funds so withheld with regard to a particular task may be paid upon completion of that task and an evaluation of the contractor's performance. (Reference: PCC § 10379)

13. **Contract Work Hours and Safety Standards Act (40 USC 327-333)**. Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
14. **Convict/Forced Labor**. No foreign-made equipment, materials, or supplies furnished pursuant to this contract may be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. (Reference: PCC § 6108)
15. **Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 276c)**. All grants and contracts in excess of \$2,000 for construction or repair awarded by recipients and sub recipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USC 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the federal awarding agency.
16. **Copyrights (41 CFR 105-71.134)**. The federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) The copyright in any work developed under a grant or contract; and (b) Any rights of copyright to which a subrecipient or a contractor purchases ownership with grant support.

17. **Davis-Bacon Act, as amended (40 USC 276a to a-7).** When required by federal program legislation, all construction contracts awarded by the recipients and sub recipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the federal awarding agency.
18. **Disadvantaged Business Enterprise/Small Business Affirmative Steps.** Subrecipients and contractors will take all necessary affirmative steps to assure that disadvantaged business enterprises (DBE), as defined in 49 CFR Section 26.5, and labor surplus area firms are used when possible. Affirmative steps shall include:
- a. Placing qualified DBEs and small businesses on solicitation lists.
 - b. Assuring that DBEs and small businesses are solicited whenever they are potential sources.
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and DBEs.
 - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and DBEs.
 - e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.
 - f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above. (Reference: 49 CFR 18)
19. **Disclosure Requirements.**
- a. Any document or written report prepared for or under the direction of a state or local agency, which is prepared in whole or in part by non-employees of such agency, shall contain the contract numbers and the dollar amounts of all contracts and subcontracts relating to the preparation of such document or written report when the total cost for such work performed by non-employees of the agency exceeds five thousand dollars (\$5,000). The contract and subcontract numbers and dollar amounts shall be set forth in a separate section of each such document or written report.

- b. When multiple documents or written reports are the subject or product of the contract, the total contract amount is deemed to represent the compensation for those multiple documents or written reports. (Reference: GC § 7550)
20. **Disputes.** Contractor shall continue with the responsibilities under this grant agreement during any dispute. (Reference: DGS Standard Agreements “General Terms and Conditions,” form GTC610)
21. **Document Retention and Access.** The subrecipient certifies that it will comply with the retention and access requirements for records established by 49 CFR Part 18.42. The required records and documentation relating to the grant and/or sub-contract shall be retained for a minimum of three years after the starting date of the retention period as defined in Section 18.42. The OTS or their authorized representative shall have the right of access to any books, documents, papers, or other records of subrecipients or contractors which are pertinent to the grant and/or contract, in order to make audits, examinations, excerpts, and transcripts. The right of access is not limited by the required retention period and shall last as long as the records are retained.
22. **Equipment.** Equipment acquired under this grant agreement for use in highway safety program areas shall be used and kept in operation for highway safety purposes by the state; or the state, by formal agreement with appropriate officials of a political subdivision or state agency, shall cause such equipment to be used and kept in operation for highway safety purposes. (Reference: 23 CFR 1200.21)
23. **Equal employment Opportunity.** All grant agreements shall contain a provision requiring compliance with E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor.” (Reference: OMB Circular A-110, Appendix A reference applies to Clauses 31 through 37)
24. **Financial Management System.** The subrecipient or contractor, will comply with all applicable state, local, and federal procurement procedures and will maintain a financial management system that complies with the minimum requirements of 49 CFR 18.20.
25. **Governing Law.** This contract is governed by and shall be interpreted in accordance with the laws of the State of California. (Reference: DGS Standard Agreement “General Terms and Conditions,” form GTC610)
26. **Indemnification.** Subrecipient agrees to indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by contractor in the performance of this agreement. (Reference: DGS Standard Agreement “General Terms and Conditions,” form GTC610). Institutes of Higher Education see #44.

27. Intangible Property.

- a. The subrecipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under award. The California Office of Traffic Safety and the National Highway Traffic Safety Administration reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.
- b. Subrecipients are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements."
- c. The federal government has the right to:
 - (1) obtain, reproduce, publish or otherwise use the data first produced under an award; and
 - (2) authorize others to receive, reproduce, publish, or otherwise use such data for federal purposes.
- d. Freedom of Information Act
 - (1) In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under an award that were used by the federal government in developing an agency action that has the force and effect of law, the federal awarding agency shall request, and the subrecipient shall provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the federal awarding agency obtains the research data solely in response to a FOIA request, the agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the agency, the recipient, and applicable sub recipients. This fee is in addition to any fees the agency may assess under the FOIA (5 USC 552(A)(4)(a)).
 - (2) The following definitions apply for purposes of paragraph (d) of this section:
 - (i) Research data is defined as the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This "recorded" material excludes physical objects (e.g., laboratory samples). Research data also do not include:
 - (A) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and

(B) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

(ii) Published is defined as either when:

(A) Research findings are published in a peer-reviewed scientific or technical journal; or

(B) A federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

(iii) Used by the federal government in developing an agency action that has the force and effect of law is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

e. Title to intangible property and debt instruments acquired under a grant or contract vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of the federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of OMB Circular A-110, paragraph 34(g).

(Reference: Office of Management and Budget (OMB) Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and OMB Circular A-102 Grants and Cooperative Agreements with State and Local Governments)

28. **Logos.** The OTS logo will appear on all promotional materials where appropriate and practical. Contact the appropriate OTS Coordinator for copies.

29. **Non-discrimination Clause.**

State requirements: During the performance of this grant agreement, subrecipient and its contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Subrecipient and contractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Subrecipient and contractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Subrecipient and its contractors shall

give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

Subrecipients shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the agreement.

Priority Hiring Considerations. For agreements in excess of \$200,000, the subrecipient, in accordance with the California Public Contracting Code § 10353, shall consider filling vacancies in positions funded by the agreement to qualified recipients of aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, in accordance with Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

This section and Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code shall not be applicable to any contracts for a grant as defined in Section 10105. (Section 10105 defines a grant as “. . . the erection, construction, alteration, repair or improvement of any state structure, building, road, or other state improvement of any kind which will exceed a total cost calculated pursuant to subdivision (b).”

This section and Article 3.9 (commencing with Section 11349) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code shall not be construed so as to do any of the following:

- a. Interfere with or create a violation of the terms of valid collective bargaining agreements.
- b. Require the subrecipient to hire an unqualified recipient of aid.
- c. Interfere with, or create a violation of, any federal affirmative action obligation of a contractor for hiring disabled veterans or veterans of the Vietnam era.
- d. Interfere with, or create a violation of, the requirements of Section 12990 of the Government Code. (Reference: PCC § 10353)

30. **Independent Contractor.** Subrecipient/contractor, and the agents and employees of subrecipient/contractor, in the performance of this grant agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

31. **Recycling Certification.** The subrecipient shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this agreement, regardless of whether the produce meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (Reference: PCC § 10233, 10308.5, 10354)

32. **Rights to Inventions Made Under a Contract or Agreement.** Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the

rights of the federal government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

33. **Single Audit Act Certification.** The OTS is the agency responsible for administering California's federal highway safety funds on behalf of the Governor. Federal funds are provided for this grant by the United States Department of Transportation. The records and supportive documentation for all completed grants are subject to an on-site audit and OTS reserves the right to inspect and review during normal working hours the work product of any independent auditor in support of their audit.

The subrecipient certifies that it will comply with the Single Audit Act of 1984 (31 U.S.C. 7501 et seq.), as amended, which requires the following:

- a. State or local governments that receive \$750,000 or more a year in federal financial assistance shall have an audit made in accordance with the Office of Management and Budget (OMB) Circular No. A-133.
- b. State or local governments that receive less than \$750,000 a year shall be exempt from compliance with the Act and other federal audit requirements.
- c. Nothing in this paragraph exempts State or local governments from maintaining records of federal financial assistance or from providing access to such records to Federal Agencies, as provided for in federal law or in Circular A-133 "Audits of States, Local Governments and Non-Profit Organizations".
- d. The State Controller's Office notifies OTS of those cities, counties, and special districts that have not submitted an audit report or have not indicated to SCO that they are exempt each fiscal year. Grantee agencies that are not in compliance will be notified and required to provide verification of compliance or be subject to sanctions including, reimbursement withholding or grant cancellation.

34. **Solicitation.** No employee of the applicant agency, the contractor, or any agency acting on behalf of the agency, may solicit or accept gratuities, favors, or anything of monetary value from contractors or potential contractors.

35. **Termination for Cause.** The State may terminate this grant agreement and be relieved of any payments should the subrecipient fail to perform the requirements of this grant agreement at the time and in the manner herein provided.

36. **Termination without Cause.** Either party may terminate without cause upon thirty days written notice to the other party. All work performed pursuant to the contract and prior to the date of termination may be claimed for reimbursement (Reference: State Contracting Manual, Chapter 7.85).

37. **Timeliness.** Time is of the essence in this grantee agreement (Reference: DGS Standard Agreement "General Terms and Conditions," form GTC610).

38. **Unenforceable Provision.** In the event that any provision of this grantee agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions

of this agreement have force and effect and shall not be effected thereby. (Reference: DGS Standard Agreement "General Terms and Conditions," form GTC610)

Traffic Enforcement Agencies Only

Full-time subrecipient traffic enforcement personnel and any equipment funded under this grant agreement shall be dedicated solely to grant supported enforcement tasks unless a criminal offense is committed in the officer's presence; a response to an officer in distress is initiated, and or a riot requires that all available enforcement personnel be committed in response.

Nothing in this grant agreement shall be interpreted as a requirement, formal or informal, that a particular police officer issue a specified or predetermined number of citations in pursuance of the goals and objectives hereunder.

Institutions of Higher Education

1. **Subcontracts.** Subrecipient may enter into contract(s) to perform applicable provisions of this grant agreement. The subrecipient is responsible for ensuring that all activities delegated to contractors are in support of this grant agreement.

Consultants and/or contractors shall be selected in accordance with the subrecipient agency procurement policies and procedures in order to comply with the terms of this grant agreement and in accordance with the OTS GPM.

The subrecipient, consultant or contractor are subject to all applicable terms and conditions and are bound by the applicable certifications of the grant agreement and 49 CFR Part 18, and/or CFR Part 19 whichever is applicable.

OTS is not obligated to make any payment under any grant agreement prior to final execution or outside the terms of the contract period. Contractor expenditures incurred prior to final contract execution are taken at the risk of that contractor agency and will be considered unallowable if that agreement/contract is not executed.

2. **Indemnification.** The University shall defend, indemnify and hold harmless the State, its officers, employees and agents from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages arising out of the performance of this grant agreement but only the proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the University, its respective officers, agents or employees.

In accordance with Government Code Section 895.4, the State shall defend, indemnify and hold harmless the University, its officers, employees and agents from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the State, its respective officers, agents or employees.

State Certifications (Revised 5/15)

Federal certifications and assurances are included in [Appendix A](#) of this *Grants Management Manual*. The following laws apply to persons or entities doing business with the State of California.

1. **Statement of Compliance.** Subrecipient has, unless exempted, complied with the nondiscrimination program requirements (GC 12990 (a-f) and CCR, Title 2, Section 8103). (Not applicable to public entities.)
2. **National Labor Relations Board Certification.** Subrecipient or contractor certifies that no more than one (1) final unappealable finding of contempt of court by a federal court has been issued against subrecipient or contractor within the immediately preceding two-year period because of subrecipient or contractor's failure to comply with an order of a federal court which orders subrecipient or contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)
3. **Expatriate Corporations.** Subrecipient or contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract code Section 10286 and 10286.1, and is eligible to contract with the State of California.
4. **Sweat Free Code of Conduct.** All subrecipients contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The subrecipient further declares under penalty of perjury that they adhere to the Sweat Free Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

The subrecipient agrees to cooperate fully in providing reasonable access to the subrecipient's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

5. **Domestic Partners.** For agreements over \$100,000 executed or amended after January, 1, 2007, the subrecipient certifies that it is in compliance with Public Contract Code section 10295.3
6. **CONFLICT OF INTEREST.** Subrecipient or contractor needs to be aware of the following provisions regarding current or former state employees. If subrecipient or contractor

has any questions on the status of any person rendering services or involved with the agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410)

- i. No officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity, or enterprise is required as a condition of regular state employment.
- ii. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411)

- i. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- ii. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve-month period prior to his or her leaving state service.

If subrecipient or contractor violates any provisions of above paragraphs, such action by subrecipient or contractor shall render this agreement void. (PCC 10420)

Members or boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430(e))

- 7. **Labor Code/Workers' Compensation.** Subrecipient or contractor needs to be aware of the provisions which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions, and subrecipient or contractor affirms to comply with such provisions before commencing the performance of the work of this agreement. (Labor Code Section 3700)
- 8. **Americans With Disabilities Act.** Subrecipient or contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 USC 12101 et seq.)
- 9. **Subrecipient/Contractor Name Change.** An amendment is required to change the subrecipient or contractor's name as listed on this grant agreement. Upon receipt of

legal documentation of the name change an amendment will be processed. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

10. **Corporate Qualifications to Do Business in California.** When agreements are to be performed in the State by corporations, the authorizing agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the State are fulfilled.

“Doing business” is defined in Revenue and Taxation Code (R&TC) Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

11. **Resolution.** Upon request, a county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the grant agreement.
12. **Air or Water Pollution Violation.** Under the State laws, the subrecipient or contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.
13. **Non-Duplication of Grant Funding.** The grant applicant has no ongoing or completed grants under agreement with other federal funding sources which duplicate or overlap any work contemplated or described in this traffic safety grant. It is further agreed that any pending or proposed request for other federal grant funds which would duplicate or overlap work under this traffic safety grant will be revised to exclude any such duplication of grant fund expenditures. It is understood that any such duplication of federal fund expenditures subsequently determined by audit will be subject to recovery by the Office of Traffic Safety.
14. **Energy Efficiency.** It is understood the grant applicant will purchase only energy efficient equipment, whenever possible and appropriate.
15. **Limited English Proficiency.** The grant applicant will take reasonable steps to ensure meaningful access by persons with limited English proficiency to the information and services provided through federal financial assistance.

16. **Administrative Support and Statement of Intent.** This program has full support of the authorizing agency, and every effort will be made to continue the activities after the grant conclusion. If required by local governance, the city council or the board of supervisors will endorse this grant through a resolution.
17. **Non-Enforcement Supplanting Avoidance.** Non-enforcement salaried and hourly personnel assigned to this grant are conducting a new traffic safety program not previously funded with city, county or State funding or were previously in a grant-funded position.