



Transportation Expenditure Plan Steering Committee Meeting Agenda Thursday, June 26, 2014, 12 p.m.

1111 Broadway, Suite 800, Oakland, CA 94607 • PH: (510) 208-7400 • www.AlamedaCTC.org

Chair: Supervisor Scott Haggerty,
Alameda County, District 1
Vice Chair: Councilmember Rebecca Kaplan,
City of Oakland
Commissioners: Ruth Atkin, Tom Blalock,
Laurie Capitelli, Keith Carson, Michael Gregory,
Bill Harrison, John Marchand, Nate Miley,
Elsa Ortiz, Marvin Peixoto, Tim Sbranti
Executive Director: Arthur L. Dao
Clerk: Vanessa Lee

1. Pledge of Allegiance		
2. Roll Call		
3. Public Comment		Page A/I*
4. Steering Committee Meeting Minutes	1	A
Recommendation: Approve the March 27, 2014 Transportation Expenditure Plan (TEP) Steering Committee meeting minutes.		
5. Review of Polling Results		I
6. Final 2014 Transportation Expenditure Plan Ordinance and Placement on the Ballot	5	A
6.1. Ballot Language		
Recommendation: Approve the Final 2014 Plan Ordinance and recommend that the full Commission approve the ordinance and request the Board of Supervisors place it on the November 2014 ballot.		
7. Next Steps		I
8. Member Reports (Verbal)		I
9. Adjournment		

Next meeting: July 24, 2014 at 12 p.m.

All items on the agenda are subject to action and/or change by the Commission.

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Transportation Expenditure Plan Steering Committee Meeting Minutes Thursday, March 27, 2014, 1:00 p.m.

4.0

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510.208.7400

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1. Pledge of Allegiance

2. Roll Call

Chair Scott Haggerty called the meeting to order. The clerk conducted a roll call and confirmed a quorum. All Steering Committee members were present, except the following: Commissioner Gregory and Commissioner Harrison.

3. Public Comment

There were no public comments.

4. Steering Committee Minutes

Commissioner Kaplan moved to approve the February 27, 2014 minutes as written. Commissioner Marchand seconded the motion. The motion passed unanimously 7-0 (Blalock, Gregory, Harrison, and Miley were absent during the vote).

5. Discussion and Provide Input on Draft Polling Questions

5.1. Draft April 2014 TEP Polling Questions

Tess Lengyel stated that the Commission authorized Alameda CTC to perform additional research to test whether the public opinion has shifted on the Transportation Expenditure Plan (Plan) and to refine the ballot language.

Alex Evans of EMC Research, Inc. gave a presentation on a draft questionnaire for a telephone survey that Alameda CTC wants to conduct in early April 2014. He reviewed the following objectives of the survey:

- Evaluate general voter attitudes about local transportation issues.
- Measure voter reaction to ballot language for a potential 2014 measure.
- Understand specific strengths and weaknesses of ballot question elements.
- Test the potential impact of information on measure support.

Alex mentioned that the survey will test two versions of the ballot question. He noted that both questions are the same; however, the approach to the ballot question is different. He stated that question A is question-led, which begins with "Shall voters authorize implementing the Alameda County 30 year Transportation Expenditure Plan to ..." This approach was used in 2000 and 2012. Question B is objectives-led, which first states what the Plan will do.

A Commissioner asked if the website can be included on the ballot in either a separate line or as part of the word count. Legal counsel will follow up on this question. Alex noted that the ballot language versions are 67 and 68 words, and conceivably the website could be added, since the maximum number of words allowed is 75; however, Alex doesn't think using all of the words is the best approach. Alex informed the committee that he will provide the polling results at the April 24 meeting.

6. Update on City Council Approvals and Schedule

Tess Lengyel gave an update on city council approvals of the Plan. She stated that eight cities have unanimously approved the Plan:

- Fremont
- Hayward
- San Leandro
- Oakland
- Livermore
- Berkeley
- Dublin
- Union City

Tess informed the committee that Alameda CTC would go to Newark that evening (March 27). She stated that the approval by Union City on Tuesday, March 25 marked two thresholds necessary to place a sales tax measure on the ballot, approval from the majority of cities in Alameda County and approval from the majority of the population.

Tess reiterated additional key messages about the Plan:

- Enhanced accountability
- The jobs focus of the Plan
- Local transportation solutions in the Plan that will help today and tomorrow
- Affordable transportation for seniors and people with disabilities
- Affordable transportation for youth
- Bicycle and pedestrian paths and safety improvements

In April and May, Tess stated that Alameda CTC will go to the following cities: Emeryville on April 1, Piedmont on April 21, Albany on May 5, and Pleasanton on May 20. The aim is to go to the Board of Supervisors in July. Tess mentioned the United Seniors of Oakland and Alameda County has supported the Plan. She mentioned that the Plan is supported in many ways and explained that an article was written in the "Bay Area" section of the Chronicle about the I-80/Gilman Interchange Study project and how the Plan will help fund the project.

7. Update on TEP Communications Materials and Educational Outreach Opportunities

Tom Clifford of Clifford Moss stated that Alameda CTC is testing the communications materials with our partners, and they are providing great feedback. Tom mentioned that conversation is continuing with key advocate groups to garner support of the Plan.

Tess mentioned that the fact sheets were revised based on the cities' comments, and they are on the website.

The Commission requested information on the Economic Analysis Report by the Bay Area Council Economic Institute. Tess stated Alameda CTC anticipates delivery of a draft Economic Analysis Report in late spring. She informed the committee that Alameda CTC will forward the report to the Commission for review and a presentation will be made to the Commission with its findings by the Bay Area Council Economic Institute.

8. Next Steps

Tess Lengyel stated that in April Alameda CTC will bring the polling results to the Commission. She mentioned that Alameda CTC is continuing with extensive outreach efforts at fairs and other events and encourages the Commissioners to work with staff at these events and to request materials from staff for other events.

9. Member Reports

Director Blalock suggested that many of the BART riders are interested in station upgrades, and it's possible Alameda CTC can garner votes from that, if it's mentioned in the questionnaire.

10. Adjournment

The meeting adjourned at 1:40 p.m. The next meeting is scheduled for April 24, 2014 at 11:30 a.m. at the Alameda CTC offices.

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Memorandum

6.0

1111 Broadway, Suite 800, Oakland, CA 94607 • PH: (510) 208-7400 • www.AlamedaCTC.org

DATE: June 19, 2014

SUBJECT: 2014 Transportation Expenditure Plan Ordinance and Placement on the Ballot

RECOMMENDATION: Approve the Final 2014 Plan Ordinance and recommend that the full Commission approve the ordinance and request the Board of Supervisors place it on the November 2014 ballot.

Summary

The Alameda County Transportation Commission (Alameda CTC) has prepared a 2014 Transportation Expenditure Plan (2014 Plan) that will fund almost \$8 billion in transportation investments for BART modernization and expansion, bus operations and maintenance, affordable transportation for seniors, people with disabilities and youth, local street repairs and maintenance, bicycle and walking safety programs, and highway efficiency projects to relieve traffic, provide commuter choices and improve goods movement.

For over 25 years, Alameda CTC has successfully delivered voter-approved projects and programs funded through a local transportation sales tax measure, creating good quality, local jobs while delivering transportation solutions. The 2014 Plan is estimated to create 150,000 jobs over the 30-year term of the Plan, and the \$8 billion investment in the Plan will generate over \$20 billion in economic activity. The 2014 Plan supports an environmentally sustainable future and will transform Alameda County's transportation network over the coming decades to meet growing needs, while supporting local, good quality jobs.

This recommendation includes approval of an ordinance for the extension and augmentation by ½ cent of the transactions and use tax, and a formal request to the Board of Supervisors to place the measure on the November 4, 2014 ballot. If needed, this recommendation also includes delegation of final ballot language selection to the Commission Chair and Vice-Chair.

This item will be discussed and acted upon at the June 26, 2014 Steering Committee meeting for a recommendation that the Commission approve the above referenced action items. The recommendation from the Steering Committee will be presented to the Commission at its meeting on June 26, which directly follows the Steering Committee meeting.

Background

Alameda CTC developed the 2014 Plan in conjunction with the long-range Countywide Transportation Plan (CWTP), which is updated every four years and serves as Alameda County's input into the long-range Regional Transportation Plan. These long-range plans guide federal, state, and regional funding investments. The 2014 Plan will provide significant investments in projects and program funding and each of the projects and programs included in the Plan have also been incorporated into the CWTP. The ballot measure supporting the 2014 Plan will augment and extend the existing half-cent sales tax for transportation in Alameda County, authorizing an additional half-cent sales tax through 2045. As required by law, the 2014 Plan must be approved by a majority of the cities representing the majority of the population in Alameda County and the Board of Supervisors. Alameda CTC has reached and exceeded this target. An ordinance must also be approved by the Commission and placed on the ballot as part of the measure authorizing the extension and augmentation of the transaction and use tax for transportation in Alameda County as described below. The 2014 Plan can be found at www.alamedactc.org/2014Plan

During February, March, April and May, staff made presentations and sought support from all cities in Alameda County, as well as many other organizations. The following city councils unanimously approved the 2014 Plan and requested placement of the measure on the November 4, 2014 ballot by the Board of Supervisors:

- City of Albany
- City of Berkeley
- City of Dublin
- City of Emeryville
- City of Fremont
- City of Hayward
- City of Newark
- City of Livermore
- City of San Leandro
- City of Oakland
- City of Piedmont
- City of Pleasanton
- City of Union City

The remaining city scheduled to take action on the 2014 Plan is the City of Alameda on July 1, 2014.

Ordinance

Placement of the measure on the ballot also requires approval by the Commission of an ordinance that authorizes the imposition and collection of an additional half-cent transaction and use tax for transportation and the extension of the existing tax. Attachment A includes the proposed ordinance authorizing the tax augmentation and extension. The Commission is requested to approve the ordinance, allow the Chair and Vice-Chair to make a final determination on ballot language if necessary, and request that the Board of Supervisors place the Measure on the November 4, 2014 ballot. The Board of Supervisors is scheduled to take action on the 2014 Plan and measure at its July 8, 2014 meeting.

2014 Plan Benefits

The vision of the 2014 Plan approved by the Alameda CTC Commission on January 23, 2014 is to develop a premier transportation system that supports a vibrant and livable Alameda County. The Plan's key features are:

- **Expand BART, bus, and commuter rail for reliable, safe, and fast services**, including BART expansion and improvements within Alameda County, bus service expansion, and commuter rail service improvements.
- **Keep fares affordable for seniors, youth, and people with disabilities**, including affordable senior shuttles, vans, and services that help keep seniors independent, and critical funding for student transit passes to ensure youth can affordably get to school. The Plan also funds reliable and inexpensive transportation for people with disabilities.
- **Provide traffic relief**, including funds to every city in the county to repave streets, fill potholes, and upgrade local transportation infrastructure. The Plan also invests in aging highway corridors to upgrade on- and off-ramps, using modern technology to manage traffic and improve safety.
- **Improve air quality and clean transportation** by reducing pollution using innovative technology and expanding bike and pedestrian paths, and BART, bus, and commuter rail expansion and operations.
- **Create good jobs within Alameda County** by requiring local contracting that supports residents and businesses in Alameda County.

Plan Development Process

Both the 2014 Plan and CWTP were developed with the guidance from a steering committee of elected officials and input from two advisory committees (community and technical), and incorporated key findings from polling and public outreach. Public engagement and transparency were the foundations of the development of the CWTP and the expenditure plan. Over 40 public meetings were held specifically for development of the plans, and two public opinion polls were conducted. A wide variety of stakeholders, including businesses, technical experts, environmental and social justice organizations, and seniors and people with disabilities, helped shape the plans to ensure that they serve the county's diverse transportation needs.

Thousands of Alameda County residents participated through public workshops and facilitated small group dialogues; a website allowed for online questionnaires, access to all project information, and submittal of comments; and advisory committees that represent diverse constituencies were integrally involved in the plan development process from the beginning. Development also included performance measures and analysis of over 300 applications submitted as part of call for projects to determine if projects supported the CWTP vision and goals. The Transportation Expenditure Plan was developed through this process for placement on the November 2012 ballot.

2012 Election

On November 6, 2012, the Alameda County ballot included Measure B1, a measure to increase the existing half-cent county transaction and use tax for transportation by an additional half-cent cent, and maintain it in perpetuity. If approved by 66.67 percent of voters in Alameda County, Measure B1 would have continued a steady stream of local funding for important transportation projects and programs, specified in the 2012 Transportation Expenditure Plan. Measure B1 received 66.53 percent of voter support, not enough to surpass the state's two-thirds requirement for passage of voter-approved taxes. Alameda County's existing sales tax, Measure B, was first approved by voters in 1986, and reauthorized in 2000 with the support of 81.5 percent of Alameda County voters.

Because of the on-going and increasing need to fund transportation in Alameda County to support mobility and economic vitality, Alameda CTC evaluated the election results, conducted additional polling and made changes to the 2012 Transportation Expenditure Plan to bring it back to voters in November 2014. The following changes were incorporated into the 2014 Plan.

Changes in the 2014 Plan

The changes in the 2014 Plan include minor text changes and corrections to increase clarity, readability and understanding by the public, as well as the following specific changes:

- **Addition of a sunset date:** The new 30-year sunset date provides that the sales tax collection will be made from 2015 through 2045, based on voter approval of a measure in November 2014.
- **Addition of performance measures and cost effectiveness included in “Implementing Guidelines” chapter, with watchdog committee review and annual reports directly to the public.**
- **Strengthening of the requirement for open and transparent public meetings for all funding decisions, including Alameda CTC and all funding recipients.**
- **Changing a project description from “Dumbarton Rail Corridor Implementation project” to “Dumbarton Corridor Area Transportation Improvement projects:”** The project description was revised to remove rail and to add transit operations across the Dumbarton Bridge, transit oriented development and priority development areas, local streets, and bicycle/pedestrian infrastructure investments within the Cities of Fremont, Newark, and Union City.
- **Clarification of the use of express lane funds:** Language was included to specify that funds generated by the express lanes are for reinvestment in the corridor and to fund transit projects and operations.
- **Addition of shuttles as eligible for funding to the “Community Development Investments” section.**
- **Addressing non-displacement in the “Community Development Investments” section.**

- **Strengthening pollution reduction objectives:** Language was strengthened regarding reducing air pollution and emissions.
- **Addition of “Good quality jobs” language.**
- **Inclusion of an “Introduction” that highlights priority investments and accountability measures.**

There are no changes to project or program funding amounts.

Strict Accountability Measures in 2014 Plan

The 30-year Plan includes strict accountability measures to ensure all \$8 billion for county transportation improvements are spent on approved projects. It requires open and transparent public processes to allocate funds, annual independent audits, an independent watchdog committee made up of people who live in Alameda County, and annual compliance reports distributed to the public that detail costs and how specific performance measures are met.

The 2014 Plan includes accountability measures developed during the extensive public engagement process, including, but not limited to, the following:

- **Accountability and performance measures:** To ensure the long-term success of the 2014 Plan, all recipients of funds will be required to enter into agreements with Alameda CTC that will include accountability and performance measures.
- **All decisions made through open, transparent public processes:** Alameda CTC is given the fiduciary duty of administering the transportation sales tax proceeds in accordance with all applicable laws and with the Plan. Alameda CTC will conduct its activities in a public process according to state law, through publicly noticed meetings. Alameda CTC’s annual budgets, strategic plans, and annual reports will all be prepared for public review. The interests of the public will be further protected by an independent watchdog committee. All funds will be allocated through open and transparent public processes, and all fund recipients will be required to have an annual audit conducted by an independent certified public accountant to ensure that funds are managed and spent according to the requirements of the 2014 Plan.
- **All users of the transportation system benefit (complete streets):** All transportation investments will be in Alameda County and will consider the needs of all types of transportation and all users. All investments will conform to complete streets requirements and Alameda County guidelines to ensure that funding is provided to projects and programs appropriate to the function and context of facilities that will be constructed and services that will be provided.
- **Annual Audits and Independent Watchdog Committee review:** Transportation sales tax expenditures are subject to an annual independent audit and review by an Independent Watchdog Committee. The Independent Watchdog Committee will prepare an annual report on spending and progress in implementing the plan that will be published and distributed throughout Alameda County.

- **Environmental and equity reviews:** All projects funded by sales tax proceeds are subject to laws and regulations of federal, state, and local government, including but not limited to the requirements of the California Environmental Quality Act and Title VI of the Civil Rights Act, as applicable. All projects and programs funded with sales tax funds will be required to conform to the requirements of these regulations, as applicable. All projects that go through environmental review analyses will select the most efficient and effective project alternative and technology for implementation to meet the project objective and will have clearly defined project descriptions, limits, and locations as a result of the environmental process.
- **Geographic equity:** Alameda CTC will revisit funding formulas for all programs within the first five years of the Plan to ensure overall geographic equity based on population and/or other equity factors. Funding for capital projects will be evaluated through the biennial capital improvement planning process that will include an evaluation of geographic equity by planning area.
- **Strict project deadlines:** To ensure that the projects promised in the 2014 Plan can be completed in a timely manner, each project will be given a period of seven years from the first year of revenue collection (up to December 31, 2045) to receive environmental clearance approvals and to have a full funding plan for each project.
- **Timely use of funds:** Jurisdictions receiving funds for transit operations, ongoing road maintenance, services for seniors and people with disabilities, and bicycle and pedestrian safety projects and programs must expend the funds expeditiously and report annually on the expenditures, their benefits, and future planned expenditures. Alameda CTC will make these reports available to the public at the beginning of each calendar year.

Fiscal Impact

Costs for placement of the measure on the ballot are included in the 2014-2015 budget which is scheduled for adoption by the Commission at its June 26, 2014 meeting.

Attachments

- A. Ordinance Number 2014-1 Alameda County Transportation Commission Transaction and Use Tax Ordinance

Staff Contact

[Tess Lengyel](#), Deputy Director of Planning and Policy

FULL TEXT OF MEASURE _____**ORDINANCE NO. 2014-1**

**AN ORDINANCE PROVIDING FOR AN EXTENSION OF AN EXISTING AND AUGMENTATION
BY ONE-HALF OF ONE PERCENT OF ALAMEDA COUNTY'S TRANSACTIONS AND USE TAX
UNTIL MARCH 31, 2045 BY THE ALAMEDA COUNTY TRANSPORTATION COMMISSION
FOR TRANSPORTATION PURPOSES, FOR THE ISSUANCE OF LIMITED TAX BONDS,
AND FOR OTHER PURPOSES**

The Governing Body of the Alameda County Transportation Commission ("Alameda CTC") does ordain as follows:

**ARTICLE I
General**

Section 1. Title

This ordinance shall be known as the "Alameda County Transportation Commission Transaction and Use Tax Ordinance" and may also be referenced as the "Ordinance" herein. This ordinance shall be applicable in the incorporated and unincorporated territory of the County of Alameda.

Section 2. Period of Tax

This Ordinance is intended to extend the imposition and collection in Alameda County of an existing one-half of one percent transactions and use tax for transportation purposes, which will expire as of March 31, 2022, and augment such transaction and use tax by one-half of one percent resulting in a total of one percent through March 31, 2045. The augmentation by one-half of one percent tax authorized by this ordinance shall be imposed beginning at the close of polls on the day of the election at which the measure is adopted by two-thirds vote of the electors voting on the measure or as soon thereafter as the tax may be lawfully imposed until March 31, 2045, and the extension of the existing transaction and use tax will be imposed beginning April 1, 2022 through March 31, 2045.

Section 3. Purpose

Alameda CTC is the result of a merger of the Alameda County Transportation Improvement Authority, which formerly administered the existing half-cent transaction and use tax, and the Alameda County Congestion Management Agency, which was formerly responsible for long-range planning and programming of transportation funds. Pursuant to Division 19 of the Public Utilities Code (commencing with Section 180000), Alameda CTC, the Board of Supervisors and the cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro and Union City have approved the 2014 Transportation Expenditure Plan adopted by the Alameda CTC Governing Body and have

recommended that a measure be submitted to the voters of the County for their endorsement which would, if passed, authorize Alameda CTC to augment by one half of one percent and extend an existing one-half of one percent transactions and use tax scheduled to sunset in 2045, and authorize Alameda CTC to issue limited tax bonds to finance the transportation improvements set forth in the 2014 Transportation Expenditure Plan.

The purposes of this ordinance are as follows:

a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Revenue and Taxation Code Section 7251) of Division 2 of the Revenue and Taxation Code and Division 19 of the Public Utilities Code which directs the County Board of Supervisors to place the tax ordinance on the ballot for voter approval, exercising the taxing power granted to the Alameda CTC pursuant to Public Utilities Code Division 19.

b) To adopt a retail transactions and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

c) To adopt a retail transactions and use tax ordinance which imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Retail Transactions and Use Tax

d) To adopt a retail transactions and use tax ordinance which can be administered in a manner that will, to the greatest degree possible consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

e) To improve, construct, maintain, and operate certain transportation projects and facilities contained in the 2014 Transportation Expenditure Plan, which Plan is incorporated here by this reference as though fully set forth herein, and as that Plan may be amended from time to time pursuant to applicable law and as provided in the 2014 Transportation Expenditure Plan. Any amendment must be adopted by a two-thirds vote of the Alameda CTC Governing Body. All jurisdictions within the county will be given a minimum of 45 days to comment on any proposed Transportation Expenditure Plan amendment.

f) To set a term for the tax augmentation which will begin at the close of polls on the day of the election at which the measure is adopted by two-thirds vote of the electors voting on the measure or as soon thereafter as the tax may be lawfully

imposed until March 31, 2045, and the extension of the existing transaction and use tax beginning April 1, 2022 through March 31, 2045.

Section 4. Contract with State.

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

Section 5. Transactions Tax Rate of An Additional One-Half Percent until 2022 and One Percent Thereafter.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in this County at the rate of an additional one-half of one percent until March 31, 2022, which tax shall be imposed concurrently with the existing one-half percent tax, and imposed at the rate of one percent thereafter, of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this County on and after the operative date. This tax shall be imposed through March 31, 2045, unless terminated by voters.

Section 6. Place of Sale.

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

Section 7. Use Tax Rate of An Additional One-Half Percent until 2022 and One Percent Thereafter.

An excise tax is hereby imposed on the storage, use or other consumption in this County of tangible personal property purchased from any retailer on and after the operative tax date for storage, use or other consumption in this County at the rate of an additional one-half of one percent until March 31, 2022, which tax shall be imposed concurrently with the existing one-half percent tax, and imposed at the rate of one percent of the sales price of the property until March 31, 2045, unless otherwise terminated by the voters of Alameda County. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 8. Adoption of Provisions of State Law.

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

Section 9. Limitations on Adoption of State Law and Collection of Use Taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code: (a) Wherever the State of California is named or referred to as the taxing agency, the name of Alameda CTC shall be substituted therefor. The substitution, however, shall not be made when:

(i) The word State is used as part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California

(ii) The substitution would require action to be taken by or against Alameda CTC or any agency, officer or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance;

(iii) The substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior borders of the State of California, where the result of the substitution would be to:

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

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

(iv) The substitution shall not be made in sections 6701, 6702, (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code. (a) The name of the County shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

A retailer engaged in business in the County shall not be required to collect use tax from the purchaser of tangible personal property unless the retailer ships or delivers the property into the County or participates within the County in making the sale of the property, including, but not limited to soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the County or through any

representative, agent, canvasser, solicitor, subsidiary or person in the County under authority of the retailer. "A retailer engaged in business in the County" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the County.

Section 10. Permit Not Required.

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

Section 11. Exemptions, Exclusions and Credits.

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

b) There are exempted from the computation of the amount of transactions tax gross receipts from:

1) Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside Alameda County and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

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

(i) with respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840 of the Vehicle Code, by registration to an out-of-County address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence, and

(ii) with respect to commercial vehicles by registration to a place of business out-of-county, and a declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

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

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

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

c) There is exempted from the use tax imposed by this ordinance the storage, use or other consumption in this County of tangible personal property:

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

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

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

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

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

6) Except as provided in subparagraph (7), a retailer engaged in business in the County shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County or participates within the County in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business or the retailer in the County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer.

7) "A retailer engaged in business in the County" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 45000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) or the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the County.

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

Section 12. Propositions.

There shall be proposed to the voters of Alameda County the following proposition:

"Shall voters authorize implementing the Alameda County 30 year Transportation Expenditure Plan to:

- Expand and modernize BART in Alameda County;
- Improve transit connections to jobs and schools;
- Fix roads, improve highways and increase bicycle and pedestrian safety;
- Reduce traffic congestion and improve air quality;
- Keep senior, student, and disabled fares affordable?

Approval augments by ½ cent and extends the existing County sales tax, with independent oversight and audits. All money will benefit local residents."

Section 13. Limitation on Issuance of Bonds.

Unless approved by the Alameda CTC Governing Body and by the voters, Alameda CTC shall not have outstanding at any one time in excess of \$1,000,000,000 in limited tax bonds.

Section 14. Use of Proceeds.

The proceeds of the transaction and use tax imposed by this ordinance shall be used solely for the projects and purposes set forth in the 2014 Transportation Expenditure Plan, as it may be amended from time to time, and for the administration thereof.

Section 15. Appropriations Limit.

For purposes of Article XIII B of the State Constitution, the appropriations limit for Alameda CTC for fiscal year 2014-2015, including activities, projects and programs funded by the transaction and tax authorized hereby along with activities, projects and programs funded by other local, state and federal funds, shall be \$800,000,000, and thereafter that amount should be amended pursuant to applicable law.

Section 16. Amendments.

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

Section 17. Enjoining Collection Forbidden

Any action or proceedings in any court questioning the validity of the adoption of this transactions and use tax ordinance or issuance of any bonds thereunder or any proceeding related thereto shall commence within six months from the date of the election at which this ordinance is approved. Otherwise, the bonds and all proceedings related thereto, including the adoption and approval of this ordinance, shall be held valid and in every respect legal and incontestable.

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

Section 18. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 19. Effective Date.

This ordinance relates, in substantial part, to the continuation and expansion of the authority for Alameda CTC to levy and collect the transactions and use taxes to support the 2014 Transportation Expenditure Plan and shall take effect at the close of the polls on the day of election at which the proposition is adopted by two-thirds vote of the electors voting on the measure, or as soon thereafter as the tax may be lawfully imposed.

PASSED AND ADOPTED by the Members of the Alameda County Transportation Commission on June 26, 2014 by the following vote:

AYES:

NOES:

EXCUSED:

ATTEST: _____, Clerk
of Alameda CTC

s/ _____

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