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May 28, 2020

Alameda County Transportation Commission
1111 Broadway, Suite 800
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VIA E-MAIL TO contact@alamedactc.org; vlee@alamedactc.org

Re: May 28, 2020 Meeting: Agenda Item 8.1: Opposition to Measure BB TEP Amendent

To Chair Cutter and Commissioners:

This office represents Alameda County citizens opposed to a request by the Tri-Valley-San Joaquin Valley Regional Rail Authority for a 2014 Measure BB Transportation Expenditure Plan Amendment.

This $400 million revision of the Measure BB TEP would completely change the largest capital expenditure in Measure BB. It is an epic "bait-and-switch" against Alameda County voters while they are distracted by a global state of emergency.

A major amendment of a voter-passed ballot measure is a major decision that should not be made during the COVID-19 emergency. Commissioners should carefully consider the Statement on Government Coronavirus Emergency Transparency by 140-plus organizations:

> Government bodies should not opportunistically take advantage of the public's inability to attend large gatherings to make critical decisions affecting the public's interest if those decisions can reasonably be postponed. Just as citizens are being asked to defer nonessential travel and errands, so should government agencies defer noncritical policy-making decisions until full and meaningful public involvement can be guaranteed.

The voter-approved text of Measure BB Transportation Expenditure Plan (TEP) states, "BART to Livermore ($400 M) This project funds the first phase of a BART Extension within the I -580 Corridor freeway alignment to the vicinity of the I-580/Isabel Avenue interchange using the most effective and efficient technology."

This proposed amendment would substantially revise the TEP to state, "Valley Link Rail in Alameda County ($400 M) This project funds the first phase of a Valley Link rail extension from the existing Dublin/Pleasanton BART station within the Tri-Valley and Altamont Pass in Alameda County using the most effective and efficient technology."

"Valley Link Rail" to Altamont Pass is a drastically different project than BART within I-580 to western Livermore. Your Commission is constrained by this implementing guideline: "Under no

circumstances may the proceeds of this transportation sales tax be applied to any purpose other than for transportation improvements benefitting Alameda County." Alameda County receives little or no benefit by paying for a very costly rail line through Altamont Pass. Very few people live in Altamont Pass. There will be no station in Altamont Pass. A rail line funded by Alameda County taxpayers through Altamont Pass effectively is a gift of Alameda County funds to San Joaquin Valley real estate development interests. This is not what Alameda County voters contemplated in the 2014 election. Valley Link is a much different project than was sold to voters in 2014 – a BART line that ends in western Livermore. As such, it is akin to a "revision" of Measure BB, not a mere "amendment."

Moreover, this proposed $400 million amendment upsets the "overall geographic equity" consensus that underpins the Measure BB TEP. Measure BB spending on Valley Link in Altamont Pass does not "benefit" the Tri-Valley to the same extent that BART to Isabel Avenue would. Measure BB claims to distribute local street and road funding based on population and road miles, but ACTC manipulates the formula to reward certain cities and punish others based on other parts of the TEP. This $400 million amendment affects other funding formulas in the TEP and effectively revises them. The "geographic equity" is thrown off. To ensure "overall geographic equity," local street and road funding and other formulas need to be re-visited as part of this amendment process, pursuant to Implementing Guideline Nos. 12 and 13 and other authorities.

Your Commission would acting prematurely if it were to undertake this drastic revision of the Measure BB TEP today. "Valley Link" is an unproven and unknown project in many respects. Too little is known about it. A much-anticipated environmental impact report is not yet released. A 2003 Caltrans I-580 widening analysis stated that there is insufficient existing right-of-way to accommodate both a rail line and HOV lanes. Even if more freeway right-of-way were obtained, the new HOT lanes would need to be destroyed. The financing of Valley Link is questionable, which likely is why Valley Link wants to use this $400 million for construction in the Altamont Pass, which would not benefit Alameda County.

Before approving the TEP amendment, careful consideration also must be made about the impacts on BART. Before the COVID-19 emergency, the Dublin/Pleasanton BART line trains had been packed during commute hours. During the morning commute, many passengers board at West Dublin/Pleasanton, ride backwards to (East) Dublin/Pleasanton, and then jockey for space in the crowded trains.

Your Commission first should consider alternatives to Valley Link. The 2003 Caltrans I-580 widening study included an express bus alternative that deserves careful consideration. That 2003 analysis considered an express bus connection directly from I-580's HOV lanes to and from (East) Dublin/Pleasanton BART station. That likely would be the most cost-effective solution and could be implemented many years before an I-580 rail concept.

Your Commission also should re-consider the "t-BART" proposals that were much discussed in the early 2000s (sister project to "e-BART" in eastern Contra Costa County). There was a "t-BART" proposal that utilized the existing rail corridor in the Tri-Valley with a link to (East) Dublin/Pleasanton BART via Hacienda Business Park and the former Southern Pacific (Iron

Horse Trail) corridor, with a possible extension to Bishop Ranch in San Ramon. The "t-BART" proposals could be less costly and more effective to solving Tri-Valley transportation challenges than Valley Link. Your Commission should not rush into giving $400 million to Valley Link.

Voters in the Tri-Valley communities of Livermore, Pleasanton and Dublin did not support the Measure BB sales tax increase in the November 2014. Attached please find a map generated by the County Registrar of Voters that illustrates the depth of disapproval of Measure BB in eastern and southern Alameda County. The Tri-Valley is a sea of red. Measure BB won in just one precinct in Livermore, one precinct in Pleasanton, and maybe one or two precincts in Dublin. Measure BB won just 49 percent of the vote in Livermore. One solution could be for voters in the Tri-Valley to vote on whether or not the $400 million should be reallocated.

This major $400 million revision should not be decided by "lame duck" ACTC commissioners. A new county supervisor will be elected in November in eastern Alameda County. All three Tri-Valley cities could have new mayors after November. Let this controversial issue be publicly debated during these campaigns.

Livermore voters should feel especially betrayed. They have paid BART property taxes since circa 1962. They have paid the BART sales tax since circa 1970. They have paid a special Alameda County transportation sales tax since 1987. In 2014, after all those years of paying for BART service everywhere else, they were promised $400 million for BART to Livermore through Measure BB. Livermore got stuck with yet another ½ percent sales tax increase through Measure BB. Then ACTC manipulated the Measure BB local street and road funding formula to give Livermore much less than its "fair share" of funds based on population and road miles. Now Livermore would be stuck with higher taxes, no BART, diminished local street and road funding, and a forced subsidy of a costly and ineffective railroad through Altamont Pass.

Alameda County Transportation Commission and Measure BB beneficiaries jointly engaged in one of the most sordid political campaigns in county history to persuade voters – especially Tri-Valley voters – to support the Measure BB in 2014:

- The "Yes on BB" campaign literally was headquartered out of your general counsel's law office. ACTC more than doubled the size of your general counsel's contract after the "BB" passed.
- Another ACTC attorney was married to the Yes on BB campaign manager, who had earlier received a special ACTC consulting contract to develop Measure BB.
- Tess Lengyel, ACTC's current executive director, managed ACTC's supposedly neutral "public information" efforts concerning Measure BB. Ms. Lengyel was unavailable during the final weeks of the Measure BB campaign to fulfill her official duties. She failed to answer Public Records Act and other inquiries about Measure BB before the election. It was later revealed that Ms. Lengyel had been preoccupied with engaging in partisan, pro-BB propaganda. Video of a "Yes on BB" campaign fundraiser shows Ms. Lengyel openly participating in pro-BB election activities. The video shows Ms. Lengyel leading "Yes on BB" campaign donors in a pro-BB cheer. See: https://www.youtube.com/watch?v=GdjuU6DrURs

- With ACTC's legal advisors and ACTC's "Public Information" officer (Ms. Lengyel) working for the "Yes on BB" campaign, ACTC effectively (and illegally) became an arm of the "Yes on BB" campaign.
- ACTC used public funds to hire the Bay Area Council Economic Institute to conduct a supposedly "independent" economic analysis of Measure BB benefits. The Bay Area Council endorsed Measure BB.
- In August 2014, an official dedication ceremony for the ACTC Iron Horse Trail project in Pleasanton was inappropriately transformed into a "Yes on BB" campaign rally. Speeches expressly advocated for passage of Measure BB. A "Yes on BB" campaign sign was hung prominently behind the dais and at the ribbon cutting location.
- In October 2014, just a few days before the Measure BB election, ACTC's official dedication ceremony for the State Route 84 widening project in Livermore was inappropriately transformed into a "Yes on BB" campaign rally. As the ribbon was cut, the backdrop was a crowd of Building and Construction Trades union members waving "Yes on BB" campaign signs.
- Any semblance of a "firewall" between ACTC and the "Yes on BB" campaign was demolished. Just before election day, "Yes on BB" transferred thousands of dollars to arms of the Democratic Party to aid distribution of "slate cards" that not only boosted Measure BB, but also "picked winners" in mayoral and city council races around the county. This raises the concern the ACTC staff and contractors engaged in partisan political activities that altered the composition of ACTC itself.

Many of these same parties, including the Bay Area Council and Building and Construction Trades unions, are today advocating for amendment of Measure BB.

For these reasons, your Commission should not take this major action today to reallocate $400 million to a controversial, unproven project that voters have not approved.

Sincerely,

JASON A. BEZIS

11/4/2014 – General Election
Measure BB – Alameda County

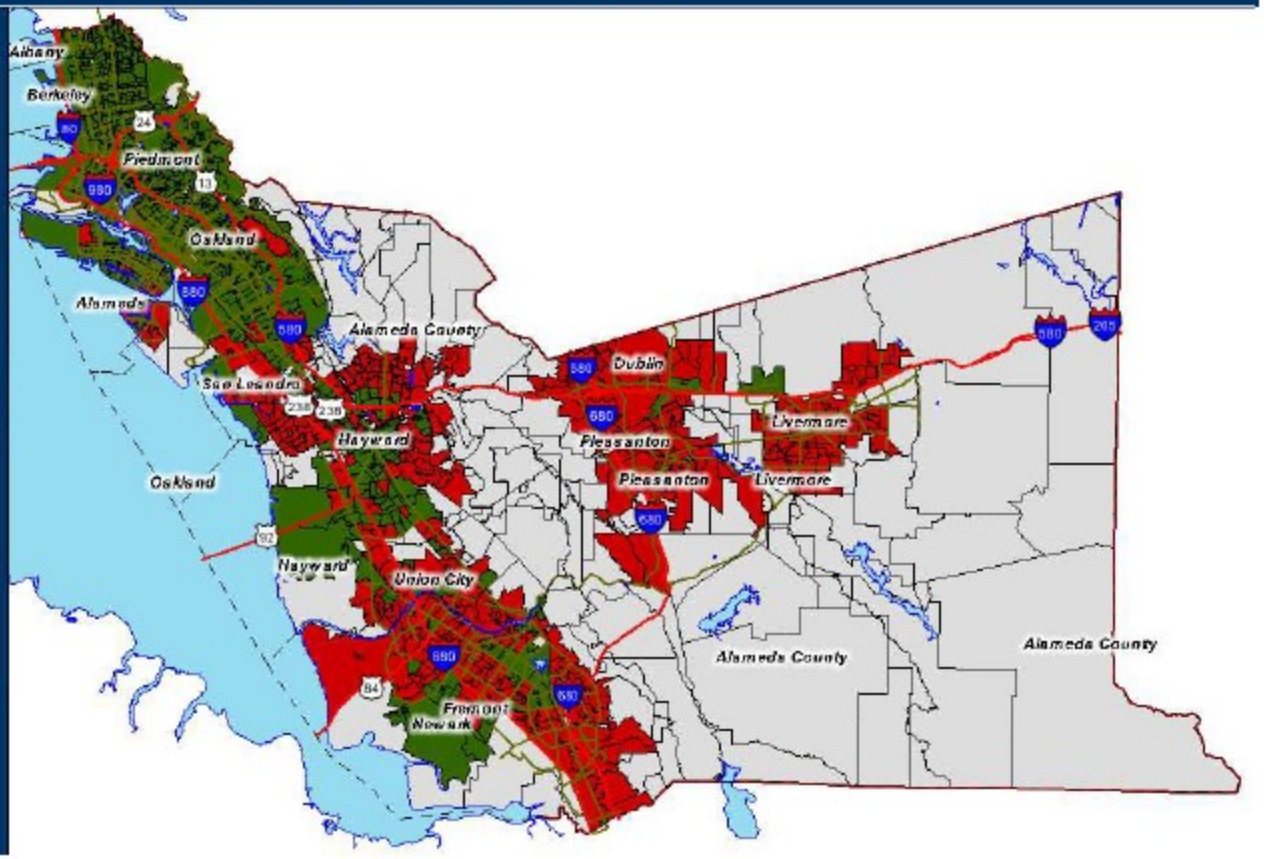
Measure BB - Alameda County

- Yes
- No
- Not in this Race
- Not Reported
- Vote by Mail Precinct
- Tie Vote

Race Totals

66.67% required for passsage

Candidate/Race	Votes	%
Yes	240557	70.76%
No	99417	29.24%

Map Legend

- Map Legend
  - Highway
  - City Limits
  - Water
  - Major Road
  - Alameda County
  - Board Of Supervisers
  - Context Road
  - Precincts
  - Precinct Numbers