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May 11, 2020

Via email to: vlee@alamedactc.org

Hon. Elsa Ortiz, Chair, and Members of the Planning, Policy and Legislation (PP&L) Committee
Alameda County Transportation Commission (ACTC)
1111 Broadway, Suite 800
Oakland, CA 94607

RE: PP&L Agenda item #5.1 – Approve Tri-Valley- San Joaquin Valley Regional Rail Authority (TVSJVRRA, aka Valley Link) Request for a 2014 Measure BB Transportation Plan Expenditure (TEP) Amendment

Dear Chair Ortiz and Members of the PP&L Committee:

On behalf of our more than 13,500 members in Alameda County, the Sierra Club writes to respectfully express great concern about Item #5.1 on your Agenda for Monday May 11, 2020. We believe that there are far too many issues and questions that should be addressed before the recommended actions move forward.

We recognize that the proposed actions before your Committee are just the beginning of a process to reprogram the sales tax funds that were approved by voters for "BART to Livermore." But as set forth in the staff memo, the proposed actions, and their timing, would establish dangerous precedents for lack of planning and financial responsibility. There is simply no need to rush into the proposed actions, particularly in the context of the current health and financial crises being faced by the State and local communities. Why not first take time for responsible analysis and an opportunity to see if-how-and-when recovery is able to occur, before committing funds that may not materialize for years to come?

Every responsible forecast is anticipating that "the future of work" will be different, post-pandemic, than we have ever been experiencing previously. Why base such a massive investment of public funds on what is already and at best "old data?"

The first Agenda request is that the TVSJVRRA be acknowledged as a new agency in Alameda County that can be an eligible recipient of Measure BB funds. While this

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should be the least controversial element of the requests, nothing in the staff memo identifies the potential magnitude of impacts on other Measure BB transit recipients. There is no operating budget provided in the Committee materials. Can taxpayers and pre-pandemic passengers be assured that this new system will not become a drain on other, voter-approved transit agencies in the County?

The second and third requests would remove "BART to Livermore" from the TEP and substitute Valley Link with no consideration of possible alternatives – why? The project list for Measure BB was the result of years of input and deliberation by Community and Technical Working Groups. Why not have a full and fair competition for alternative uses of these funds, throughout the full list of "BART, Bus, Senior, and Youth Transit" options identified as the relevant "Type" on page 3 of the TEP (page 24 of the Committee packet), especially with the enormous uncertainties facing projections for both traffic and funding revenues?

Implementing Guideline 22 of the Measure BB TEP is surprisingly omitted from the staff memo, but supports this broadened approach, stating:

> **22. Fund Allocations**: Should a planned project become undeliverable, infeasible, or unfundable due to circumstances unforeseen at the time this Plan was created, or should a project not require all funds programmed for that project or have excess funding, funding for that project will be allocated to another project or program of the same type, such as Transit, Streets, Highways, Community Development Investments, or Bicycle and Pedestrian Safety, at the discretion of Alameda CTC.

Even the language from AB 758 (Eggman/Baker, PUC section 132658) that is quoted in the "superseded" request dated September 11, 2019, recognized that there was no entitlement to the "local funds controlled by the Alameda County Transportation Commission."

It should also be noted that the proposed description and conditions regarding Valley Link delete and/or change significant descriptive and cautionary language (which was carefully negotiated and voter-approved) before funds may actually be "used." The text below sets forth full "before and after" language in a single view for the information of Commissioners and the public:

> ~~BART to Livermore ($400 M)~~
> Valley Link rail in Alameda County ($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~~ 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.

> Funds are for construction for any element of this first phase project and shall not be used until full funding commitments are identified and approved for the initial operating segment that most effectively meets the adopted project goals, and a project-specific environmental clearance is obtained. The project-specific environmental process will include an ~~detailed~~ alternative assessment of ~~all~~ fundable and feasible alternatives, and be consistent with mandates, policies and guidance of federal, state, and regional agencies that have jurisdiction over the environmental and project development process.

Why are voter and environmental protections proposed to be removed for this new project? Do Commissioners really think this is wise and appropriate? Why not, at a minimum, wait until the requisite Environmental Review is both released in draft form and then completed? – This critical document is already a year behind the previous schedule.

Where is the San Joaquin County commitment to support their own residents who are likely to be the primary beneficiaries of this project? The proposed resolution merely states that:

> SJCOG: In April 2020, the SJCOG Board approved an amendment to its 2018 Regional Transportation Plan to include the Valley Link project, including identification of $163.9 million for the project in the plan from ***future*** measures and state funds**. (emphasis added)**

Any ACTC action should be conditioned on a firm commitment of adequate funds for both capital and operations for this multi-county project. “Leveraging” of other funds should, at a minimum, be based on full and fair participation from designated “partners.”

Several places in the proposed “amendments” describe Valley link as “Commuter Rail," despite the fact that it is proposed to operate throughout the day. Subsection 49 CFR 37.3 in relevant part defines “commuter rail” as

> *Commuter rail transportation* means short-haul rail passenger service operating in metropolitan and suburban areas, whether within or across the geographical boundaries of a state, usually characterized by reduced fare, multiple ride, and commutation tickets and by morning and evening peak period operations. This term does not include light or rapid rail transportation.

Is this an attempt to obviate or avoid an obligation for ADA complementary paratransit service for passengers, or attempted passengers, who may have difficulty using the train service?

We must also ask if ACTC or Valley Link have informed MTC and ABAG that the proposed project will facilitate inter-regional commuting, contrary to the intent of SB 375 and the Bay Area's Sustainable Communities Strategy.

This message sets forth only some of the most obvious concerns about the proposed Measure BB actions. There are certain to be more, but disclosure by ACTC and Valley Link should not be delayed until the end of the requisite "public comment" period. The Sierra Club respectfully requests, and urges at a minimum, that the questions and issues noted above be addressed before any Commission action to consider Valley Link's requests. To do any less would call into question Commissioners' significant public service obligations to Alameda County voters, taxpayers, and residents. We look forward to working with you and ACTC staff to consider a full range of responsible uses of Measure BB funds. If you have any questions, or desire further information, please do not hesitate to contact Matt Williams at mwillia@mac.com.

Sincerely,

ss/
Matt Williams
Chair, Chapter Transportation and Compact Growth Committee

ss/
Dick Schneider
Chair, Chapter Tri–Valley Group Executive Committee

ss/
Eric Parfrey
Volunteer Leader, Mother Lode Chapter

Cc: Sierra Club California Director Phillips
San Francisco Bay Chapter Executive Committee Chair Bolotina
San Francisco Bay Chapter Director Berbeco