



Memorandum

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1111 Broadway, Suite 800, Oakland, CA 94607 • 510.208.7400 • www.AlamedaCTC.org

DATE: November 1, 2021

TO: Finance and Administration Committee

FROM: Patricia Reavey, Deputy Executive Director of Finance and Administration

SUBJECT: Approve an Amendment to Agreement with the California Department of Tax and Fee Administration for State Administration of District Transactions and Use Taxes for Measure BB, an Agreement for Preparation to Administer and Operate Alameda CTC's Transaction and Use Tax Ordinance, and an Agreement for State Administration of District Transaction and Use Taxes, and adopt related resolutions

Recommendation

It is recommended that the Commission approve agreements and an amendment with the California Department of Tax and Fee Administration (CDTFA) related to the administration of Measure BB transaction and use taxes for the period from April 1, 2022 through March 31, 2045, and adopt resolutions authorizing the Executive Director to execute the amendment and these agreements as follows:

- An Amendment to the Agreement for State Administration of District Transactions and Use Taxes with the California Department of Tax and Fee Administration, originally entered into with the State Board of Equalization (BOE)
- A Resolution Authorizing the Executive Director to Execute an Amendment to the Agreement with the CDTFA for Implementation of a Local Transaction and Use Tax
- An Agreement for Preparation to Administer and Operate Alameda CTC's Transaction and Use Tax Ordinance
- An Agreement for State Administration of District Transaction and use Taxes
- A Resolution Authorizing the Executive Director to Execute Agreements with the CDTFA for Implementation of a Local Transaction and Use Tax
- A Resolution Authorizing Examination of Sales or Transaction and Use Tax Records

Summary

Following the voters' approval of Measure BB in 2014, Alameda CTC entered into an agreement with the Board of Equalization (BOE) so that the BOE could administer the

Measure BB sales tax. The original Measure BB agreement covered the BOE's administration of both the initial ½ cent sales tax to be collected through March 31, 2045, as well as the additional ½ cent augmentation to be collected from April 1, 2022 through March 31, 2045. This additional ½ cent tax will take effect immediately after the expiration of the current Measure B sales tax, so that the rate paid by Alameda County taxpayers will remain at one percent. The CDTFA, as successor to the BOE, disagreed with the BOE's interpretation and application of the Measure BB ordinance, and does not believe it is legally possible to collect the current Measure BB ½ cent sales tax and the Measure BB ½ cent augmentation starting next year in a single account. They are instead requiring that these ½ cent sales tax segments be collected in two separate accounts. Finance staff, with assistance from legal counsel, held multiple meetings and held follow-up discussions to determine the most efficient means to address CDTFA's concerns without overly complicating either agency's procedures.

To meet CDTFA's requirements while ensuring that revenues are properly tracked and accounted for under two separate accounts, Alameda CTC must first amend the original BOE agreement to remove references to the ½ cent sales tax augmentation, as well as to update the contact information to show the CDTFA rather than the BOE for all communications related to this agreement. The Commission must also adopt a resolution authorizing the Executive Director to execute this amendment, to comply with CDTFA requirements.

Alameda CTC must then enter into new agreements with the CDTFA in order to implement the collection of the additional ½ cent sales tax, including one for preparation to administer and operate the transaction and use tax ordinance and one for State administration of the transaction and use tax. The Commission also is required to adopt a resolution authorizing the Executive Director to execute these agreements.

In addition, the Commission must adopt a resolution which authorizes the examination of sales or transaction and use tax records for the additional ½ cent sales tax in order to be able to receive and review the data related to the sales tax revenues on a monthly basis as the agency currently does for current active sales tax collections for both Measure B and Measure BB.

Background

On November 4, 2014, more than 70 percent of Alameda County voters responded positively in support of Alameda CTC's Measure BB, an extension and augmentation by one-half of one percent of the existing Alameda County transaction and use tax through March 31, 2045. The tax authorized by Measure BB, both the initial ½ cent sales tax collected beginning in 2015 along with the additional ½ cent sales tax to be collected starting in April of 2022, was designed to fund the 2014 Transportation Expenditure Plan (TEP). The program authorized by the 2014 TEP and funded by Measure BB is well on its way in its efforts to increase mobility, create jobs, reduce congestion, protect the environment, restore and expand transit services, fix potholes, reduce highway

congestion, expand bicycle and pedestrian access and connect transit with housing and jobs and will continue to do so through March 31, 2045.

Fiscal Impact: Approval of the amendment and agreements with the CDTFE and adoption of the resolutions recommended in this report will allow Alameda CTC to continue to receive Measure BB transaction and use tax revenues, including the additional ½ cent sales tax to be collected under Measure BB beginning April 1, 2022.

Attachments

- A. Amendment to Agreement for State Administration of District Transaction and use Taxes
- B. A Resolution of the Alameda County Transportation Commission Authorizing Executive Director to Execute an Amendment to Agreement with the California Department of Tax and Fee Administration for Implementation of a Local Transactions and Use Tax
- C. Agreement for Preparation to Administer and Operate Alameda CTC's Transaction and Use Tax Ordinance
- D. Agreement for State Administration of District Transaction and Use Tax
- E. A Resolution of the Alameda County Transportation Commission Authorizing Executive Director to Execute Agreements with the California Department of Tax and Fee Administration for Implementation of a Local Transactions and Use Tax
- F. A Resolution of Alameda County Transportation Commission Authorizing Examination of Sales or Transactions and Use Tax Records

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**AMENDMENT TO AGREEMENT FOR STATE ADMINISTRATION
OF DISTRICT TRANSACTIONS AND USE TAXES**

The Alameda County Transportation Commission (“District”) has adopted, and the voters of Alameda County have approved by the required majority vote in November 2014, the Measure BB Transactions and Use Tax Ordinance (“Ordinance”). The State Board of Equalization (“Board”) and the District entered into an agreement in March 2015 to carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance (“Agreement”), and the Ordinance is attached to and incorporated into the Original Agreement. The Agreement was assigned from the Board to the California Department of Tax and Fee Administration (“Department”) on July 1, 2017, and all references to the Board were deemed to mean and refer to the Department on or after that date.

In order to address an ambiguity in the Agreement, the Department and the District agree to amend the Agreement by deleting the subsections referenced below and replacing them with the text shown below.

Except as expressly modified in this Amendment to Agreement for State Administration of District Transactions and Use Taxes, all of the terms, covenants and conditions of the Agreement shall remain in full force and effect and are hereby ratified and confirmed.

ARTICLE V

MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration
P.O. Box 942879
Sacramento, California 94279-0032
Attention: Administrator
Local Revenue Branch

Communications and notices to be sent to the District shall be addressed to:

Alameda County Transportation Commission
1111 Broadway, Suite 800
Oakland, CA 94607
Attention: Deputy Executive Director of Finance and Administration

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on April 1, 2015 with a transaction and use tax rate of one-half (1/2) of one percent through March 31, 2045. This Agreement shall continue until December 31 next following the expiration date of the District Ordinance, and shall thereafter be renewed automatically from year to year until the Board completes all work necessary to the administration of the District Ordinance and has received all District Taxes and disbursed all payments due under that Ordinance.

D. [Intentionally Deleted]

ALAMEDA COUNTY
TRANSPORTATION COMMISSION

CALIFORNIA DEPARTMENT OF TAX
AND FEE ADMINISTRATION

By _____
Tess Lengyel
Executive Director

By _____
Administrator



ALAMEDA COUNTY TRANSPORTATION COMMISSION

RESOLUTION 21-017

AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE AN AMENDMENT TO AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX

Commission Chair

Mayor Pauline Russo Cutter
City of San Leandro

Commission Vice Chair

Councilmember John Bauters
City of Emeryville

AC Transit

Board President Elsa Ortiz

Alameda County

Supervisor David Haubert, District 1
Supervisor Richard Valle, District 2
Supervisor Wilma Chan, District 3
Supervisor Nate Miley, District 4
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BART

Vice President Rebecca Saltzman

City of Alameda

Mayor Marilyn Ezy Ashcraft

City of Albany

Councilmember Rochelle Nason

City of Berkeley

Councilmember Lori Droste

City of Dublin

Mayor Melissa Hernandez

City of Fremont

Mayor Lily Mei

City of Hayward

Mayor Barbara Halliday

City of Livermore

Mayor Bob Woerner

City of Newark

Councilmember Luis Freitas

City of Oakland

Councilmember At-Large
Rebecca Kaplan
Councilmember Sheng Thao

City of Piedmont

Councilmember Jen Cavenaugh

City of Pleasanton

Mayor Karla Brown

City of Union City

Mayor Carol Dutra-Vernaci

Executive Director

Tess Lengyel

WHEREAS, on June 26, 2014, the Alameda County Transportation Commission (Alameda CTC) approved Ordinance No. 2014-1 (Ordinance) providing for a local transactions and use tax; and

WHEREAS, the State Board of Equalization (Board) and the Alameda CTC entered into an agreement in March 2015 to carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance (Agreement); and

WHEREAS, the California Department of Tax and Fee Administration (Department) now administers and collects the transactions and use taxes for all applicable jurisdictions within the state, and the Agreement was assigned from the Board to the California Department of Tax and Fee Administration (Department) on July 1, 2017; and

WHEREAS, in order to address an ambiguity in the Agreement, the Department and Alameda CTC agree to amend the Agreement; and

NOW, THEREFORE, BE IT RESOLVED in order to address an ambiguity in the Agreement, the Department and Alameda CTC agree to amend the Agreement; and

Duly passed and adopted by the Alameda CTC at the regular meeting of the Commission held on Thursday, December 2, 2021, in Oakland, California by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED:

ATTEST:

Pauline Cutter,
Chairperson, Alameda CTC

Vanessa Lee,
Clerk of the Commission

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
ALAMEDA CTC'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the Alameda County Transportation Commission, hereinafter called *Alameda CTC*, and the CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, hereinafter called *Department*, do agree as follows:

1. The Department agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of Alameda County and whose ordinance has been adopted by the governing body of Alameda CTC.

2. Alameda CTC agrees to pay to the Department at the times and in the amounts hereinafter specified all of the Department's costs for preparatory work necessary to administer Alameda CTC's transactions and use tax ordinance. The Department's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Department's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Department. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by Alameda CTC.

4. Any dispute as to the amount of preparatory costs incurred by the Department shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Department shall be billed by the Department periodically, with the final billing within a reasonable time after the operative date of the ordinance. Alameda CTC shall pay to the Department the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by Alameda CTC for the Department's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail. Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration
P.O. Box 942879
Sacramento, California 94279-0027

Attention: Administrator
Local Revenue Branch

Communications and notices to be sent to Alameda CTC shall be addressed to:

Alameda County Transportation Commission
1111 Broadway, Suite 800
Oakland, CA 94607
Attention: Deputy Executive Director of Finance and Administration

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer Alameda CTC's transactions and use tax ordinance has been completed and the Department has received all payments due from Alameda CTC under the terms of this agreement.

ALAMEDA COUNTY TRANSPORTATION
COMMISSION

By _____
Tess Lengyel
Executive Director

CALIFORNIA DEPARTMENT OF TAX
AND FEE ADMINISTRATION

By _____
Administrator

**AGREEMENT FOR STATE ADMINISTRATION
OF DISTRICT TRANSACTIONS AND USE TAXES**

The Alameda County Transportation Commission (hereafter called "District") has adopted, and the voters of Alameda County have approved by the required majority vote, the Alameda County Transportation Commission Transactions and Use Tax Ordinance (hereafter called "Ordinance"), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the California Department of Tax and Fee Administration, (hereinafter called the "Department") and the District do agree as follows:

**ARTICLE I
DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section 180201 Public Utilities Code section 108201, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "District Ordinance" shall mean the District's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. 2014-1, as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II
ADMINISTRATION AND COLLECTION
OF DISTRICT TAXES**

A. Administration. The Department and District agree that the Department shall perform exclusively all functions incident to the administration and operation of the District Ordinance.

B. Other Applicable Laws. District agrees that all provisions of law applicable to the administration and operation of the State Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the District Ordinance. District agrees that money collected pursuant to the District Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Department pursuant to Article IV of this Agreement, and transmitting to District the amount to which District is entitled.

C. Transmittal of money.

1. For the period during which the tax is in effect, and except as otherwise provided herein, all District taxes collected under the provisions of the District Ordinance shall be transmitted to District periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax, whether by District's self-imposed limits or by final judgment of any court of the State of California holding that District's ordinance is invalid or void, all District taxes collected under the provisions of the District Ordinance shall be transmitted to District not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the District designated and authorized by District. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

D. Rules. The Department shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the District Ordinance and the distribution of the District taxes collected thereunder.

E. Preference. Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Department shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and District transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and District as their interests appear.

F. Security. The Department agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of the District for District taxes owing to it as its interest appears. The Department shall not be required to change the terms of any security now held by it and District shall not participate in any security now held by the Department.

G. Records of the Department.

When requested by resolution of the legislative body of the District under section 7056 of the Revenue and Taxation Code, the Department agrees to permit authorized personnel of the District to examine the records of the Department, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the District, pertaining to the ascertainment of transactions and use taxes collected for the District. Information obtained by the District from examination of the Department's records shall be used by the District only for purposes related to the collection of transactions and use taxes by the Department pursuant to this Agreement.

H. Annexation. District agrees that the Department shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Department. The notice shall include the name of the county or counties annexed to the extended District boundary. In the event the District shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the District showing the area annexed and the location address of the property nearest to the extended District boundary on each side of every street or road crossing the boundary.

ARTICLE III

ALLOCATION OF TAX

A. Allocation. In the administration of the Department's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion of the Department, to all districts with which the Department has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Department, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund, or credit applies.

B. Vehicles, Vessels, and Aircraft. For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Department in determining the place of use.

ARTICLE IV COMPENSATION

The District agrees to pay to the Department as the Department's cost of administering the District Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Department for the District.

ARTICLE V MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration
P.O. Box 942879
Sacramento, California 94279-0032

Attention: Administrator
Local Revenue Branch

Communications and notices to be sent to the District shall be addressed to:

Alameda County Transportation Commission
1111 Broadway, Suite 800
Oakland, CA 94607

Attention: Deputy Executive Director of Finance and Administration

Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on April 1, 2022. This Agreement shall continue until December 31 next following the expiration date of the District Ordinance, and shall thereafter be renewed automatically from year to year until the Department completes all work necessary to the administration of the District Ordinance and has received and disbursed all payments due under that Ordinance.

C. Notice of Repeal of Ordinance. District shall give the Department written notice of the repeal of the District Ordinance not less than 110 days prior to the operative date of the repeal.

ARTICLE VI
ADMINISTRATION OF TAXES IF THE
ORDINANCE IS CHALLENGED AS BEING INVALID

A. Impoundment of funds.

1. When a legal action is begun challenging the validity of the imposition of the tax, the District shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the District shall transmit to the Department the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

B. Costs of administration. Should a final judgment be entered in any court of the State of California, holding that District's Ordinance is invalid or void and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Department may retain all payments made by District to Department to prepare to administer the District Ordinance.

2. District will pay to Department and allow Department to retain Department's cost of administering the District Ordinance in the amounts set forth in Article IV of this Agreement.

3. District will pay to Department or to the State of California the amount of any taxes plus interest and penalties, if any, that Department or the State of California may be required to rebate or refund to taxpayers.

4. District will pay to Department its costs for rebating or refunding such taxes, interest, or penalties. Department's costs shall include its additional cost for developing procedures for processing the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Department's staff for use in making these rebates or refunds and any other costs incurred by Department which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Department's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Department. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by District.

6. Any dispute as to the amount of costs incurred by Department in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Department in connection with such refunds shall be billed by Department on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding District's Ordinance invalid or void becomes final. Thereafter Department shall bill District on or before the 25th of each month for all costs incurred by Department for the preceding calendar month. District shall pay to Department the amount of such costs on or before the last day of the succeeding month and shall pay to Department the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Department costs incurred in making those refunds.

ALAMEDA COUNTY TRANSPORTATION
COMMISSION

CALIFORNIA DEPARTMENT OF TAX
AND FEE ADMINISTRATION

By _____
Tess Lengyel
Executive Director

By _____
Administrator

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ALAMEDA COUNTY TRANSPORTATION COMMISSION

RESOLUTION 21-018

AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX

WHEREAS, on June 26, 2014, the Alameda County Transportation Commission (Alameda CTC) approved Ordinance No. 2014-1 providing for a local transactions and use tax; and

WHEREAS, the California Department of Tax and Fee Administration (Department) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

WHEREAS, the Department will be responsible to administer and collect the transactions and use tax for Alameda CTC; and

WHEREAS, the Department requires that Alameda CTC enter into a "Preparatory Agreement" and an "Administration Agreement" prior to implementation of said taxes, and

WHEREAS, the Department requires that Alameda CTC authorize the agreements;

NOW, THEREFORE, BE IT RESOLVED by the governing body of Alameda CTC (Commission) that the attached "Preparatory Agreement" and "Administrative Agreement" are hereby approved and the Executive Director is hereby authorized to execute each agreement.

Commission Chair

Mayor Pauline Russo Cutter
City of San Leandro

Commission Vice Chair

Councilmember John Bauters
City of Emeryville

AC Transit

Board President Elsa Ortiz

Alameda County

Supervisor David Haubert, District 1
Supervisor Richard Valle, District 2
Supervisor Wilma Chan, District 3
Supervisor Nate Miley, District 4
Supervisor Keith Carson, District 5

BART

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Councilmember Rochelle Nason

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Councilmember Lori Droste

City of Dublin

Mayor Melissa Hernandez

City of Fremont

Mayor Lily Mei

City of Hayward

Mayor Barbara Halliday

City of Livermore

Mayor Bob Woerner

City of Newark

Councilmember Luis Freitas

City of Oakland

Councilmember At-Large
Rebecca Kaplan
Councilmember Sheng Thao

City of Piedmont

Councilmember Jen Cavenaugh

City of Pleasanton

Mayor Karla Brown

City of Union City

Mayor Carol Dutra-Vernaci

Executive Director

Tess Lengyel

Duly passed and adopted by the Alameda CTC at the regular meeting of the Commission held on Thursday, December 2, 2021, in Oakland, California by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED:

ATTEST:

Pauline Cutter,
Chairperson, Alameda CTC

Vanessa Lee,
Clerk of the Commission



ALAMEDA COUNTY TRANSPORTATION COMMISSION

RESOLUTION 21-019

Authorizing Examination of Sales or Transactions and Use Tax Records

Commission Chair

Mayor Pauline Russo Cutter
City of San Leandro

Commission Vice Chair

Councilmember John Bauters
City of Emeryville

AC Transit

Board President Elsa Ortiz

Alameda County

Supervisor David Haubert, District 1
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Mayor Barbara Halliday

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Mayor Bob Woerner

City of Newark

Councilmember Luis Freitas

City of Oakland

Councilmember At-Large
Rebecca Kaplan
Councilmember Sheng Thao

City of Piedmont

Councilmember Jen Cavenaugh

City of Pleasanton

Mayor Karla Brown

City of Union City

Mayor Carol Dutra-Vernaci

Executive Director

Tess Lengyel

WHEREAS, pursuant to Ordinance Number 2014-1, Alameda County Transportation Commission (Alameda CTC) entered into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of sales and use taxes; and

WHEREAS, pursuant to Revenue and Taxation Code section 7270, the City entered into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of transactions and use taxes; and

WHEREAS, Alameda CTC's governing body (Commission) deems it desirable and necessary for authorized officers, employees and representatives of Alameda CTC to examine confidential sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected by the Department for Alameda CTC pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Department records, and Section 7056.5 of the California Revenue and Taxation Code establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales or transactions and use tax records of the Department;

NOW, THEREFORE, BE IT RESOLVED:

Section 1. That the Deputy Executive Director of Finance and Administration and the Director of Finance, or other officer or employee of Alameda CTC designated in writing by Executive Director to the California Department of Tax and Fee Administration is hereby appointed to represent Alameda CTC with authority to examine sales or transactions and use tax records of the Department pertaining to sales or transactions and use taxes collected for Alameda CTC by the Department pursuant to the contract between Alameda CTC and the Department.

Section 2. The information obtained by examination of Department records shall be used only for purposes related to the collection of Alameda CTC sales or transactions and use taxes by the Department pursuant to that contract, and for purposes related to the following governmental functions of Alameda CTC:

- (a) Revenue Projections and Analysis

The information obtained by examination of Department records shall be used only for those governmental functions of Alameda CTC listed above.

BE IT FURTHER RESOLVED that the information obtained by examination of Department records shall be used only for purposes related to the collection of Alameda CTC sales or transactions and use taxes by the Department pursuant to the contract between Alameda CTC and the Department and for those purposes relating to the governmental functions of Alameda CTC listed in section 2 of this resolution.

Section 3. That this resolution supersedes all prior resolutions of Alameda CTC Commission adopted pursuant to subdivision (b) of Revenue and Taxation Code section 7056.

Duly passed and adopted by the Alameda CTC at the regular meeting of the Commission held on Thursday, December 2, 2021, in Oakland, California by the following votes:

AYES: **NOES:** **ABSTAIN:** **ABSENT:**

SIGNED:

ATTEST:

Pauline Cutter,
Chairperson, Alameda CTC

Vanessa Lee,
Clerk of the Commission