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CITY OF OAKLAND



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May 10, 2018

HONORABLE CITY COUNCIL
Oakland, California

**Re: Legality of Proposed Ordinance Allocating Five Percent of
Capital Improvement Project Costs to Provide Funding for
Local Job Training Programs – Item 11 on the May 15, 2018
City Council Meeting Agenda**

Dear President Reid and Members of the City Council:

I. INTRODUCTION

Pursuant to Rule 7(8) of the Council's Rules of Procedure Resolution No. 87044, the referenced ordinance was pulled out of the Community and Economic Development Committee and placed on the Council's May 15th open session agenda. The proposed ordinance, among other things, would require a five percent set aside of capital improvement project costs from various fund sources for the Cypress Mandela Training Program, the Men of Valor Academy, the Laborers Community Training Foundation, and Citywide job centers for training, job readiness, and job placement of City residents.

This public legal opinion addresses the legal uses and limitations that apply to the various set-aside funding sources referenced in the proposed legislation, as well as Council's independent authority to allocate funds to specific job training service providers. We have consulted with outside bond counsel on the use of bond proceeds and they concur with our analysis.

II. QUESTIONS AND BRIEF ANSWERS

Question No. 1:

May the City may set aside five percent of "capital improvement project costs", which include general obligation bond proceeds, special tax revenues, and other specified funding sources, for the Cypress Mandela Training Program, the Men of Valor Academy, the Laborers Community Training Foundation, and Citywide job centers for training, job readiness, and job placement of City residents?

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Brief Answer:

The answer depends on the funding source. To answer this question, a case-by-case analysis of each funding source must be performed to identify any legal or contractual restrictions on the particular funding source.

Unrestricted General Purpose Fund Revenues - The Council has discretion to appropriate unrestricted General Purpose Fund revenues for any legitimate governmental purpose, including job training programs, unless the funds have been restricted or committed by Council action or contract.

General Obligation Bond Revenues - These funds can be used only for the purposes authorized by state and federal law and the applicable voter-approved measure(s). Under the California Constitution, general obligation bond proceeds, including the Measure DD and Measure KK bonds, can be used only to finance "the acquisition or improvement of real property." Job training programs, job centers, and related administrative activities are not real property acquisition or real property improvements eligible for general obligation bond financing.

Gas Tax Funded Capital Improvements -These revenues from per gallon excise taxes on gasoline and diesel fuel, sales taxes on diesel fuel, and motor vehicle registration fees ("gas tax revenues") are available for transportation purposes only. The use of gas tax revenues for job training or the other non-transportation purposes is unlawful.

Measure B and Measure BB Special Tax Revenues – These revenues can be used only for purposes authorized by state and federal law, and the applicable voter approved measure(s). The attached letter from the law firm representing ACTC advises that training programs are not a permissible use for Measure B and Measure BB Special Tax Revenues. (See Exhibit 1.)

City Parking Revenues – These revenues are general fund revenues as to which the Council has discretion to appropriate for any legitimate governmental purpose, including job training programs, unless the funds have been restricted or committed by Council action or contract.

Question No. 2:

Does the Council have sole authority to allocate funds under the proposed ordinance to specific programs?

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Brief Answer:

No. The allocation of funds under the proposed ordinance to designated job training agencies is subject to the review and approval of the Oakland Workforce Development Board, as well as Council. As a condition of receiving federal job training funds, the City has agreed to maintain a comprehensive workforce development system that includes the Oakland Workforce Development Board as the oversight body with the responsibility to select job training service providers and approve workforce development budgets. This requirement applies whether or not the funding comes from federal or local sources.

III. BACKGROUND

The proposed ordinance, among other things, would create a five percent mandated set-aside of "capital improvement project costs" to be held in a Cypress Mandela Training Program, the Men of Valor Academy, the Laborers Community Training Foundation, and Citywide job centers project account. The five percent capital improvement project allocations would be used by the designated agencies for training, job readiness, and job placement for local residents. (Proposed Ordinance, Section 2). Regarding appropriations to fund the five percent set-aside account, Section 3 of the proposed legislation provides:

"All appropriations for City capital improvement projects, including all bond projects and all other capital projects funded from other sources excluding sewer repairs funded from sewer service charge fees shall include an amount equal to five-percent (5%) of the total capital improvement project cost to be dedicated to the Cypress Mandela Training Program & Citywide Job Centers Project Account. Funds appropriated will be used for the Cypress Mandela Training Program, Citywide Job Centers, and administrative costs to manage the program.

The 5% appropriation shall include but not be limited to General Fund funded capital improvements, gas tax funded capital improvements, Measure KK funded projects, Measure DD funded projects; Measure B funded capital improvements, off street parking funded capital improvements and any and all other capital improvements funded from other revenues including grants which may be so appropriated." (Proposed Ordinance, Section 3, Funding, Appropriations)

The proposed ordinance excludes funding from the set aside in cases where the source of funding or other applicable law prohibits or restricts the use of such funds for this purpose. The proposed ordinance mandates that grant applications for capital improvement projects include amounts for construction training, job readiness and job placement "where permitted."

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The Cypress Mandela Training Program, the Men of Valor Academy, and the Laborers Community Training Foundation, referred to in the proposed ordinance are operated by private nonprofit organizations. Citywide job centers are defined by the proposed ordinance as “job centers which provide accessible, high-quality training and employment services to local residents and employers” in the construction, transportation, distribution and logistics sectors, but particular job centers are not designated by the proposed ordinance for funding.

City capital improvement projects are subject to the City’s Local Employment Program, which establishes goals for employment of Oakland residents for construction work on public works projects. The program also sets goals for the use of Oakland apprentices on these projects. The City also sponsors a Local Construction Employment Referral Program intended to refer Oakland residents for employment on public works projects. It is our understanding that the City uses Citywide job centers to screen eligible Oakland residents and provide such referrals. Contractors must participate in the programs and meet the goals for employment of Oakland residents, or secure an exemption from the City.

IV. ANALYSIS

The eligibility of the funds held by the City for the deposit to a project account for use by the designated job training agencies depends on the allowable uses of each revenue source. Each of the various funding sources mentioned in Section 3 is analyzed below. The eligibility of revenue funds not addressed here for the uses proposed by the ordinance must be considered on a case-by-case basis. We also address the requirements for allocating funding to specific job training programs.

A. Grant Funds

Unless waived by the City Council, the proposed ordinance would require that City departments include amounts for construction training, job readiness and job placement in future applications to outside granting authorities for capital improvement projects. The requirement is limited to grant applications that permit requests for such amounts. The City may deposit grant funds in a set-aside account if the grant agreement authorizes the set-aside for construction training, job readiness and job placement. (Proposed Ordinance, Section 2, Definitions, Grant Applications)

Grants that the City receives from the federal government, state government or other governmental agencies are subject to specific statutory, regulatory, and contractual obligations imposed by the funding entity. Nongovernmental funding sources also impose funding conditions. The eligibility of training programs, job centers or administrative program costs for grant-sourced funds depends on the express provisions of each grant agreement setting forth the authorized uses of the grant, as well as the statutes and regulations that govern the particular grant program.

Also, many federal programs require that a grant recipient undertake a competitive process before passing on grant funds to other agencies; accordingly, certain federal regulations prohibit designating funds for a particular organization without a competitive process.

Before the City transfers funds from a restricted grant account to a set-aside account to pay for job training or other proposed program costs, staff must review the grant conditions to determine whether the grant program (1) allows use of grant monies for job training and job centers and (2) allows designation of a grant recipient entity without a competitive process.

The eligibility of grant funds for the set-aside must be determined on a project-by-project basis. Because the proposed ordinance limits the set-aside to those cases in which the funding source allows the use of funds for those purposes, in many cases grant funds will not be subject to the set-aside.¹

B. General Obligation Bond Proceeds

Under the California Constitution, general obligation bond proceeds, including the Measure DD and Measure KK bonds, can be used only to finance “the acquisition or improvement of real property.” No direct legal authority establishes the meaning of the constitutional language. However, there is general agreement among issuers, bond counsel, and financial advisors that “improvements” to real property that are eligible for bond financing include fixtures, equipment, or materials that become, are affixed to land or a building and become part of it in the course of making improvements to property.

The accounting treatment of an expenditure derived from governmental accounting standards, is relevant to the question whether an improved asset is considered real property for bond expenditure purposes, versus moveable equipment. If an item is accounted for as a capital asset and an improvement to real property, and depreciated over time on the City’s balance sheet, this accounting treatment can support the position that the item is appropriately characterized as real property for bond expenditure purposes. The professional fees (architect, engineering), labor costs, and permit fees associated with creating the capitalized asset are part of the cost basis that can be depreciated, including costs of construction labor provided under a licensed contractor’s state-approved apprentice program. However, costs associated with providing job readiness and similar training to employees or third party workers who may or may not participate in production of a capital improvement is too attenuated from construction of improvements to be treated as capital costs eligible for depreciation.

¹ For future grant applications, the ordinance further requires that applications seek funds for training, job readiness, and job placement “where permitted”; therefore, the ordinance limits the mandate to apply for these funds only when the grant funding program identifies training, job readiness, and job placement as eligible grant uses.

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Real property “improvements” does not include vehicles, equipment, furnishings, supplies, labor unrelated to production of a real property improvement, or anything that is portable or can be removed from a building or land without resulting in damage. Ongoing maintenance costs, ordinary repairs, and supplies are not “improvements” and cannot be financed with general obligation bonds. Interest earnings on bond proceeds also must be applied to approved real property purposes, unless the issuer has express statutory authority permitting another type of use.

Job training programs, job centers, and related administrative activities are not real property acquisition or real property improvements eligible for general obligation bond financing. Transfer of general obligation bond proceeds from restricted accounts within the General Fund to a set-aside account for provide funding for the Cypress Mandela Training Program, the Men of Valor Academy, the Laborers Community Training Foundation, and the Citywide job centers for training, job readiness, and job placement of city residents would violate state and federal laws, the terms of the voter approved bond measures, and the express terms of the bond documents.

C. Tax and Fee Revenues

1. Gas Tax and Vehicle Registration Fees

The State of California imposes per gallon excise taxes on gasoline and diesel fuel, sales taxes on diesel fuel, and motor vehicle registration fees (“gas tax revenues”) and dedicates these revenues to transportation purposes. Spending authority is governed by California Constitution Article XIX, Streets and Highways Code Section 2101, and the Road Repair and Accountability Act of 2017.

Article XIX of the Constitution restricts gas tax revenues to direct use for street and road purposes. The statutory authority further describes the allowable uses of gas tax funds for public streets and highways, public mass transit guideways, and their related public facilities. Local gas tax revenues may be used for research, planning, construction, improvement and maintenance of public streets, highways and mass transit. Cities receiving gas tax revenues submit annual reports detailing expenditures of gas tax revenues. The report is broken down into expenditure categories, including expenditures for rights-of-way or other property, new construction, reconstruction, widening, resurfacing, maintenance, repair, and acquisition and maintenance of equipment. (California Constitution Article XIX; Streets and Highways Code Section 2101 and the Road Repair and Accountability Act of 2017.)

The use of gas tax revenues for job training or the other non-transportation purposes outlined in the proposed legislation would violate California Constitution Article XIX Article XIX, the Streets and Highways Code, and the Road Repair and Accountability Act of 2017.

2. Measure B, Measure BB Taxes, and Alameda County Vehicle Registration Fee

The Alameda County voters passed Measure B in 2000 and Measure BB in 2014 resulting in combined transportation sales taxes of 1%. The voters also approved Measure F in 2010 authorizing a \$10 Alameda County Vehicle Registration Fee. The Alameda County Transportation Commission (“the ACTC”) distributes and oversees Measure B², BB³ and Vehicle Registration Fee⁴ funds to deliver essential transportation improvements and services. Revenues distributed to local cities must be used in accordance with Measure B, Measure BB, and Vehicle Registration Fee Expenditure Plans. The City expressly agreed to use Measure B, Measure BB, and Vehicle Registration Fee funds solely for the transportation purposes defined by the authorizing ballot measures. The City submits annual reports to ACTC outlining expenditures of Measure B, Measure BB, and Vehicle Registration Fee funds. If the City violates the transportation expenditure restrictions it is required to reimburse all misspent funds, including any interest that would have been earned on such funds.

We have concluded that the proposed set asides of Measure B, Measure BB and Vehicle Registration Fee funds for job training and other non-transportation expenditures are probably not qualified transportation expenditures. However, authority to determine the eligibility of these funds for the purposes proposed by the ordinance and authorize a set-aside is within the jurisdiction of ACTC as the governing agency. Attached hereto as Exhibit A is a letter from ACTC’s legal counsel to the City Administrator advising that Measure B and Measure BB funds cannot be used for job training purposes.

² The Measure B authorized implementation of a 20-year Expenditure Plan calls for expansion of mass transit programs in Alameda County including BART, Altamont Commuter Express Rail service, and express, local and feeder bus services; improvements of highway infrastructure including interchanges, open new lanes, and improve surface streets and arterial roads that feed key commute corridors; maintain and improve local streets and roads repaving streets, filling potholes, and upgrading local transportation infrastructure; improve bike and pedestrian safety; expand special transportation services for seniors and people with disabilities.

³ The Measure BB authorized implementation of a 30-year Expenditure Plan providing for expansion of mass transit including BART, bus, ferry and rail services; maintaining affordable fares for youth, seniors and people with disabilities; improvement of local streets and roads and highway corridors; improve air quality providing by expanding bicycle and pedestrian paths and the regional rail network; create good jobs within Alameda County by requiring local contracting and supporting community developments that improve access to jobs and school.

⁴ The Vehicle Registration Fee expenditure plan authorizes funding for the Local Road Improvement and Repair Program (60 percent), Transit for Congestion Relief (25 percent), Local Transportation Technology (10 percent), and Pedestrian and Bicyclist Access and Safety Program (5 percent). Note: The Vehicle Registration Fee is also subject to the limitation of expenditures outlined in Article XIX (see C1).

3. Off-Street Parking Fund

City off-street parking and parking meter revenues are unrestricted general fund revenues that may be appropriated by Council through the budget process for any legitimate governmental purpose. The funds are maintained in various accounts within the City's General Fund. These funds may be subject to limitations placed on unrestricted general fund revenues by Council by resolution or ordinance, such as designation of all or a portion of particular revenues to be maintained as a reserve or used for a special purpose. Whether Council imposed such restrictions are to be maintained is within the Council's discretion.

4. Development Service Fund

The City Administrator's Office has informed this Office that the "Development Services Fund" is fund 2415, the fund into which developer fees listed in the Master Fee Schedule are deposited. Developers pay these fees for specified services that are provided by the City – e.g., plan checks. The eligibility of monies within the Development Services Fund for the 5% set aside proposed by the ordinance must be determined on a case-by-case basis depending on the source(s) of the fee revenues identified for withdrawal. Revenue from regulatory fees must be segregated and used to support the regulatory program for which they are collected. Service fees are imposed to recover the costs of providing City services to developers paying the fees and cannot exceed the actual cost of services. Service fee revenue is general fund revenue. Subject to budget restrictions, reserve policies, and prior allocations and/or appropriations approved by the Council, *unrestricted* general fund may be used for any municipal government purpose.

D. Requirement That The Oakland Workforce Development Board Review And Approve Funding For Specific Job Training Service Providers And That Such Funding Be Included In The City's Comprehensive Workforce Development Budget.

The City must adhere to its obligation under federal regulations to maintain a comprehensive workforce development system overseen by the Oakland Workforce Development Board (OWDB), and any allocation of funds to job training service providers must be made within this system. As a condition of receiving federal funds for job training under the Workforce Innovation and Opportunity Act (WIOA) (codified at 29 USC 3101, et seq.) and its implementing regulations, the City is required to maintain a comprehensive and integrated workforce development system in the Oakland workforce development area. As part of that system and pursuant to WIOA regulations, the City has created the OWDB to oversee and coordinate the Oakland's workforce development system. The express functions of the OWDB under WIOA regulations and OWDB bylaws include selecting service providers and approving the allocation of funds to service providers through adoption of workforce development budgets, subject to

confirmation by the City Council of those contracts and budgets. These functions are not limited to WIOA funds or other federal funds. Therefore, any allocation of funds under the proposed ordinance to specific job training service providers must be reviewed and approved by the OWDB and must be included in the City's comprehensive workforce development budget.

1. Comprehensive Workforce Development System

The purpose of WIOA is to establish a comprehensive workforce development system in local delivery areas, and to coordinate services provided under the system by all of the service providers. Among the stated purposes of WIOA are the following:

“(c) Streamlining service delivery across multiple programs by requiring **colocation, coordination, and integration** of activities and information to make the system understandable and accessible for individuals, including people with disabilities and those with other barriers to employment, and businesses.

(d) Supporting the alignment of the workforce investment, education, and economic development systems in support of a **comprehensive**, accessible, and high-quality workforce development system at the Federal, State, and local and regional levels;”

(20 CFR Section 675.100, emphasis added; see also WIOA Section 2(2).)

In line with the purpose of creating a comprehensive workforce development system across all levels of government, WIOA regulations provide that “the vision for the Local Workforce Development Board is to serve as a strategic leader and convener of local workforce development system stakeholders.” (20 CFR Section 679.300(a).) The stated purpose of the WDB is to “[p]rovide strategic and operational oversight in **collaboration** with the required and additional partners and workforce stakeholders to help develop a **comprehensive** and high-quality workforce development system in the local area and larger planning region.” (20 CFR Section 679.300 (b)(1), emphasis added.)

The OWDB, in partnership with the “chief elected official”, i.e., the Mayor, “sets policy for the portion of the statewide workforce investment system within the local area”. (20 CFR Section 679.310.) As a policymaking body, federal law has given the OWDB wide-ranging responsibilities over the workforce development system, including developing and adopting a local workforce development plan, convening stakeholders as needed to leverage non-federal resources, engaging with employers, developing and implementing career pathways, developing strategies for meeting the needs of employers and jobseekers, selecting service providers, and overseeing and evaluating the performance of workforce programs. (WIOA Section 107(d).) The local plan adopted and implemented by the OWDB must include “a strategy to work with the entities that carry out the core programs to align resources available to the local area, to

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achieve the strategic vision and goals described in [the plan].” (WIOA Section 108(b)(1)(F).)

The bylaws for the Oakland WDB reflect their statutory role as the entity responsible for coordinating a comprehensive workforce development system in Oakland: “It shall be the purpose of the Oakland Workforce Development Board, hereinafter referred to as the “Board,” to oversee the articulation and implementation of **comprehensive** workforce development strategies, polices and performance outcomes of the City of Oakland’s **integrated service delivery system** in partnership with the Mayor of the City of Oakland (the “Mayor”).” (OWDB Bylaws, Article II, emphasis added.) A function of the Oakland WDB is to “identify and approve eligible providers of youth services, training services and career services in Oakland.” (Id.)

2. Selection And Oversight Over Job Training Service Providers

The agencies designed in the proposed ordinance as recipients of funds are all job training service providers within Oakland’s workforce development system. The Oakland WDB is specifically tasked with coordinating and overseeing the work of career service providers like Cypress Mandela, Men of Valor and the job centers. One of the express functions of the OWDB is to select (and terminate, if appropriate) providers of career services. “As provided in WIOA sec. 107(d), the Local Board must: (l) Select the following providers in the local area, and where appropriate terminate such providers in accordance with 2 CFR part 200:(2) Providers of training services consistent with the criteria and information requirements established by the Governor and WIOA sec. 122; (3) Providers of career services through the award of contracts, if the one-stop operator does not provide such services; and (4) One-stop operators...” (20 CFR Section 679.370(l).)

One of the stated purposes of WIOA is to enhance the role of local WDBs in the system “by increasing flexibility to tailor services to meet employer and worker needs at State, regional, and local levels.” (20 CFR Section 675.100.); this includes coordination with and oversight of providers of career services for adults that are part of the comprehensive workforce delivery system. (20 CFR Sections 680.110(a) and 680.160.) With respect to such providers, the OWDB is tasked with leading efforts to “Develop effective linkages (including the use of intermediaries) with employers in the region to support employer utilization of the local workforce development system and to support local workforce investment activities”, and “Ensure that workforce investment activities meet the needs of employers and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers.” (20 CFR Section 679.370 (e).)

Under the OWDB Bylaws, career service providers are essential to the system in order “to develop effective linkages to support employer use of the local workforce development system, to ensure that Oakland’s workforce investment activities meet the

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needs of employers and supports economic growth in Oakland, and to develop and implement proven strategies for meeting the needs of Oakland workers and employers.” (OWDB Bylaws, Article II.) The Bylaws provide that the OWDB selects the one-stop operator and all providers of training services and career services in Oakland. (Id, Article III.)

3. Budget Responsibilities

As part of its mandate to oversee and coordinate the comprehensive workforce development system in Oakland, the Oakland WDB in collaboration with the Mayor (as well as the City Council in its Charter role over City budgets) is responsible for adopting a budget for the workforce development system. Under WIOA, a WDB must “develop a budget for the activities of the local board in the local area, consistent with the local plan and the duties of the local board..., subject to the approval of the chief elected official”. (WIOA Section 107(d)(12)(A).) See also Article III of the Oakland WDB Bylaws: “The Board shall develop a budget for the purpose of carrying out its duties consistent with the Local Plan, subject to the approval of the Mayor.”

Nowhere in WIOA, the WIOA regulations or the Bylaws does it suggest that the workforce development budget is limited only to WIOA funding or other federal revenue sources. In fact, WIOA authorizes local boards to “solicit and accept grants and donations from sources other than Federal funds made available under [WIOA].” (WIOA Section 107(d)(12)(B)(ii).)

The practice in Oakland under WIOA and its predecessor statute, the Workforce Investment Act (WIA), has been to include all sources of funding in the workforce development budget adopted annually by the OWDB/OWIB and Council, including federal WIOA/WIA funds, other federal funds, special grants from the state and other governmental entities, private donations, and local sources such as City general fund contributions. All of these funding sources are integral to the integrated comprehensive system contemplated by WIOA.

V. CONCLUSION

Based on a thorough review and analysis of the proposed ordinance, this public opinion advises the Council of the specific funding sources identified in Section 3 of the proposed ordinance that can be appropriated for job training, job placement, or the other proposed purposes. Depending on the express terms of existing or future grant agreements, the City may allocate grant funds on a case-by-case basis for the purposes set forth in Section 3 as circumstances allow. City parking revenues are general fund revenues that the City Council may appropriate through the budgetary process for any legitimate government purposes, unless the funds otherwise are restricted or committed by the City Council action or by contract.

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This opinion also provides the procedures and requirements to allocate funding to specific job training programs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Barbara J. Parker', written in a cursive style.

BARBARA J. PARKER
City Attorney

Assigned Attorney:

Kathleen Salem-Boyd

cc: City Administrator, Sabrina Landreth
Assistant City Administrator, Christine Daniel

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April 30, 2018

VIA E-MAIL AND U.S. MAIL

Ms. Sabrina Landreth
City Administrator
City of Oakland
250 Frank H Ogawa Plaza
Oakland, CA 94612

Re: Proposal to Utilize 5% of all City capital project budgets for training purposes

Dear Ms. Landreth:

We represent the Alameda County Transportation Commission (“ACTC”). Through Measure B passed in 2000 and Measure BB passed in 2014, ACTC provides almost \$25 million in transportation funding per year to Oakland through direct local distributions, along with a varying amount each year for specific capital projects described in the Transportation Expenditure Plans related to each of those Measures. We understand that some members of the City Council have proposed the adoption of an ordinance that would channel 5% of the funding for every capital project carried out by the City to organizations providing employment training. While the original draft of the ordinance does contain language stating that the ordinance would only apply where it was legally permitted to do so, our client wants to be clear that funds from Measures B and BB could not be diverted for such a purpose.

The use of Measure B and BB funds are governed by the provisions of the Transportation Expenditure Plans attached to each Measure, and also by California Public Utilities Code Sections 18200 through 18207, which authorize the imposition of ACTC’s sales taxes for transportation purposes. PUC Section 18205 states:

The revenues from the taxes imposed pursuant to this chapter may be allocated by the authority for the construction, and improvements of state highways, the construction, maintenance, improvement, and operation of public transit systems (including paratransit services).

Both the 2000 Transportation Expenditure Plan, which governs half of the funds raised by ACTC through 2020, and the 2014 Transportation Expenditure Plan, which governs half the

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funds through 2020 and all of the funds thereafter through 2045, contain similar restrictive language stating that "Under no circumstances may the proceeds of this tax be applied to any purpose other than for transportation improvements in Alameda County." We believe it is clear that this restriction to *transportation improvements* would absolutely prohibit the diversion of any ACTC funds to the employment training currently under consideration.

ACTC certainly supports the concept of job training, and some of the transportation projects funded by ACTC require job training and apprenticeship components as part of the contract terms. Where they apply, however, those requirements are carried out by the general contractor and subcontractors and not by third party training organizations.

We would be happy to answer any questions.

Very truly yours,

WENDEL, ROSEN, BLACK & DEAN LLP



R. Zachary Wasserman

RZW/rzw

cc: City Attorney Barbara Parker
Director of Transportation Ryan Russo
Tess Lengyel, Deputy Director ACTC