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OAKLAND

2015 MAY 21 AM 11:31

AGENDA REPORT

TO: JOHN A. FLORES
INTERIM CITY ADMINISTRATOR

FROM: Brooke A. Levin

SUBJECT: Interim Measure BB Funding Agreement **DATE:** April 15, 2015

City Administrator
Approval

Date:

5/19/15

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council:

Adopt A Resolution Approving The Interim Measure BB Master Programs Funding Agreement Between The Alameda County Transportation Commission (CTC) And The City Of Oakland Effective From April 1, 2015 To June 30, 2016.

OUTCOME

Adoption of this resolution will allow execution of the interim Master Programs Funding Agreement (MPFA), which will allow Measure BB funds to flow directly to the City of Oakland through the Direct Local Distribution (DLD) program (previously referred to as "pass through" funding) as soon as it is available to Alameda CTC in approximately July 2015. For the remainder of fiscal year (FY) 14/15 and all of FY 15/16, this Measure BB DLD funding is projected to total approximately \$14.8 million dollars for local streets and road, bicycle and pedestrian, and paratransit programs.

BACKGROUND/LEGISLATIVE HISTORY

Measure BB was approved by Alameda County voters on November 4, 2014. The Measure increases the sales tax from one-half cent to one full cent effective April 1, 2015 until April 1, 2045. The Transportation Expenditure Plan ("TEP") approved in Measure BB stipulates the specific use of funds, a portion of which are proposed to flow directly to local jurisdictions for transportation purposes, while others are dedicated to specific projects or program areas to be determined on a discretionary basis by Alameda CTC. The first funds will be received by Alameda CTC from the California Board of Equalization around July 1, 2015. As with Measure B funds, upon receipt by Alameda CTC, a portion of Measure BB funds will be provided to Alameda County jurisdictions, in monthly payments according to funding formulas.

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The City currently receives approximately \$12.0 million in funds annually from the existing Measure B, and will continue to do so until Measure B sunsets in 2022. Measure B funding is governed through an MPFA that was adopted on April 3, 2012 (Resolution No. 83780 C.M.S.) and will remain in place.

On April 23, 2015, the Alameda CTC authorized their executive director to enter into an MPFA for Measure BB funds with county jurisdictions. Alameda CTC is proposing an interim MPFA to govern Measure BB funding from April 1, 2015 to June 30, 2016. This MPFA is modeled directly on the Measure B funding agreement previously adopted by Council, with minor alterations, and is intended to only cover distribution of DLD funds. It will be supplanted by a revised MPFA by June 2016 covering all Measure BB funds for other projects and programs in the Alameda CTC's Transportation Expenditure Plan.

ANALYSIS

The MPFA will only authorize distributions of DLD funding collected for a fifteen-month period from April 1, 2015 through June 30, 2016 according to existing Measure B distribution formulas. According to Alameda CTC projections, approximately \$14.8 million dollars will be distributed to the City of Oakland during this period. During this time specific policies and procedures required by Measure BB will be developed for inclusion in the renewed MPFA in June, 2016. These policies, which will need to be adopted by Alameda CTC, may include new guidelines on issues such as local contracting requirements; performance based measurements, and may include revisions to distribution formulas based on equity considerations.

In this MPFA the current Alameda CTC Implementation Guidelines which govern Measure B DLD funds will apply to Measure BB DLD funds. The only change, as specified in the Measure BB TEP, is that 15% of Measure BB local streets and roads funds must be spent on project elements directly benefitting bicyclists and pedestrians. Oakland already spends more than this percentage in Measure B funds for sidewalks, ADA curb ramps, and pedestrian and bicycle safety projects. Staff anticipates no issues with meeting this requirement.

Otherwise, all existing policies of Measure B will apply to Measure BB DLD funds.

PUBLIC OUTREACH/INTEREST

Alameda CTC formulated the Master Programs Funding Agreement with the close involvement of the Alameda CTC Citizen Watchdog Committee, and several advisory committees including the Paratransit Advisory Committee, the Bicycle and Pedestrian Advisory Committee, and the Transportation Advisory Committee. City of Oakland staff participates in all these committees. All committee meetings and Alameda CTC Board meetings are publicly noticed meetings with opportunities for citizen participation.

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COORDINATION

The Office of the City Attorney and Controller's Bureau reviewed this report and resolution.

COST SUMMARY/IMPLICATIONS

The MPFA will allow Oakland to access approximately \$14.8 million in funds for local streets and road projects, bicycle and pedestrian projects, and paratransit operations during the period of agreement. The Proposed Budget will include recommended expenditures of these funds.

The MPFA will create additional costs in project cost tracking and reporting, particularly because during the seven-year overlap of Measure B and Measure BB, both funds will need to be separately tracked and reported on in annual compliance reports. The costs of compliance with the MPFA are an allowable cost under the agreement.

FISCAL/POLICY ALIGNMENT

The proposed Measure BB MPFA is consistent with the current Measure B MPFA, approved by City Council in April, 2012 (Resolution No. 83780 C.M.S.). The one change in use of funds, the addition of a requirement that fifteen percent of local streets and roads funds be spent on projects benefitting bicyclists and pedestrians, is consistent with the City's current expenditure of Measure B pass through funds.

SUSTAINABLE OPPORTUNITIES

Economic: Measure BB DLD funds will provide a critical source of funding for transportation projects and programs in Oakland, including paving streets, implementing the Bicycle and Pedestrian Master Plans, and augmentation of paratransit operations for disabled and senior residents of the City. Jobs will be created or maintained in construction, planning and engineering, and transit operations that will be open to qualified Oakland residents.

Environmental: Measure BB funds will be spent to improve bicycle, pedestrian and transit access in the City of Oakland, encouraging use of alternate transport modes to the single-occupant vehicle. These investments have the potential to decrease particulate and greenhouse gas pollution.

Social Equity: Measure BB funds will be spent on projects throughout the City of Oakland, and benefit all residents who walk, bike, ride transit, or drive automobiles.

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For questions regarding this report, please contact Bruce Williams, Senior Transportation Planner at (510) 238-7229.

Respectfully submitted,



BROOKE A. LEVIN
Director, Oakland Public Works

Reviewed by:
Michael J. Neary, P.E., Assistant Director
OPW, Bureau of Engineering and Construction

Reviewed by:
Iris Starr, Division Manager
OPW, Transportation Planning and Funding Division

Prepared by:
Bruce Williams, Senior Transportation Planner
OPW, Transportation Planning and Funding Division

Attachment (1)
Attachment A – Master Programs Funding Agreement

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MASTER PROGRAMS FUNDING AGREEMENT
between the
ALAMEDA COUNTY TRANSPORTATION COMMISSION
and the
[insert RECIPIENT]

This Master Programs Funding Agreement (“AGREEMENT”), effective the 1st of April 2015, is entered into by and between the Alameda County Transportation Commission (“ALAMEDA CTC”) and the [insert RECIPIENT] (“RECIPIENT”).

RECITALS

A. On November 4, 2014, the voters of Alameda County, pursuant to the provisions of the Local Transportation Authority and Improvement Act, California Public Utilities Code Section 180000 et seq., approved Measure BB, thereby authorizing ALAMEDA CTC to administer the proceeds from the extension of an existing one-half of one percent transaction and use tax scheduled to terminate on March 31, 2022, and the augmentation of the tax by one-half of one percent.

B. The duration of the tax will be 30 years from the initial year of collection, which begins April 1, 2015, with said tax to terminate/expire on March 31, 2045. The tax proceeds will be used to pay for the investments outlined in the 2014 Alameda County Transportation Expenditure Plan (“2014 TEP”), as it may be amended.

C. This AGREEMENT delineates the requirements of the Direct Local Distribution (DLD) funds; funds which are directly allocated to local jurisdictions and transit operators, as authorized by Measure BB and detailed in the 2014 TEP. Discretionary funds identified in the 2014 TEP are not the subject of this AGREEMENT and RECIPIENT will be required to enter into a separate agreement for those funds.

D. The DLD funds will be available for distribution once an agreement is executed with the State Board of Equalization (BOE) and the first revenue payment is received from the BOE.

E. This AGREEMENT was originally approved by the governing body of the ALAMEDA CTC on May 28, 2015.

NOW, THEREFORE, it is mutually agreed by and between the parties as follows:

ARTICLE I: FUNDING ALLOCATIONS

This AGREEMENT authorizes the ALAMEDA CTC to allocate the DLD funds derived from Measure BB as described in the 2014 TEP and summarized in Table A: Measure BB DLD Investment Summary. DLD funds shall be allocated from net revenues after BOE and administration expenses.

TABLE A: MEASURE BB DLD INVESTMENT SUMMARY	
Investment Category	Program
Transit: Operations, Maintenance and Safety Program (OMSP)	AC Transit OMSP
	Altamont Commuter Express (ACE) OMSP
	San Francisco Bay Area Rapid Transit District (BART) Maintenance
	San Francisco Bay Area Water Emergency Transportation Authority (WETA) OMSP
	Livermore Amador Valley Transit Authority (LAVTA) OMSP
	Union City Transit OMSP
Affordable Transit for Seniors and People with Disabilities (Paratransit)	City-based and Locally Mandated
	East Bay Paratransit Consortium– AC Transit
	East Bay Paratransit Consortium - BART
Direct Allocation to Cities and County (Local Streets and Roads)	Local streets maintenance and safety program
Bicycle and Pedestrian Infrastructure & Safety	Bicycle and pedestrian direct allocation to cities and Alameda County

A. **Transit (OMSP)** - ALAMEDA CTC will distribute funds based on set percentages detailed in the 2014 TEP. RECIPIENT's percentage fund distribution, if applicable, is detailed in EXHIBIT A - MEASURE BB DIRECT LOCAL DISTRIBUTION SUMMARY, attached hereto and by this reference made a part of this AGREEMENT.

1. RECIPIENT shall use such funds for maintenance and operations of transit services and may include maintenance of transit services, restoration of service cuts, expansion of transit services, and passenger safety and security.

2. The Transit OMSP funds shall be subject to the requirements for "Measure B Mass Transit Pass-through Funds," as detailed in the ALAMEDA CTC Mass Transit Program Implementation Guidelines, and said guidelines are hereby incorporated into this AGREEMENT by reference.

B. **Affordable Transit for Seniors and People with Disabilities (Paratransit)**

1. City and Local Transit Operator

a. ALAMEDA CTC will distribute funds based on the percentage of the population over age 70 in each of four planning areas for city-based and mandated paratransit services of local bus transit providers. Funds may be further distributed to individual cities within each planning area based on a formula refined by ALAMEDA CTC's Paratransit Advisory and Planning Committee ("PAPCO"). RECIPIENT's initial percentage fund distribution, if applicable, is detailed in Exhibit A subject to change based on changes in annual population.

b. Each planning area is defined in Exhibit B attached hereto and by this reference made a part of this AGREEMENT.

c. RECIPIENT shall use such funds for implementation of locally developed solutions to address the mobility challenges of older adults and people with disabilities.

2. East Bay Paratransit Consortium

a. ALAMEDA CTC will distribute funds based on set percentages detailed in the 2014 TEP. RECIPIENT's percentage fund distribution, if applicable, is detailed in Exhibit A.

b. RECIPIENT shall use such funds towards meeting RECIPIENT's responsibilities under the Americans with Disabilities Act (ADA).

3. The ALAMEDA CTC Paratransit Program Implementation Guidelines provide program eligibility and fund usage guidelines, definitions, additional requirements, and guideline adoption details. Said guidelines are hereby incorporated into this AGREEMENT by reference.

C. Local Streets and Roads

1. ALAMEDA CTC will distribute funds pursuant to a formula weighted 50 percent by the population of the jurisdiction within the subarea and 50 percent by the number of road miles within the subarea. RECIPIENT's initial percentage fund distribution, if applicable, is detailed in Exhibit A subject to change based on changes in annual population and road mile projections.

2. RECIPIENT shall spend a minimum of 15% of all funds received on project elements directly benefitting bicyclists and pedestrians.

3. RECIPIENT shall use such funds for any local transportation need based on local priorities, including street maintenance, bicycle and pedestrian projects, bus stops, and traffic calming.

4. Local Streets and Roads funds are subject to the requirements for "Measure B Local Streets and Roads Pass-through Funds" as detailed in the ALAMEDA CTC Local Streets and Roads Program Implementation Guidelines, and said guidelines are hereby incorporated into this AGREEMENT by reference.

D. Bicycle and Pedestrian Paths and Safety

1. ALAMEDA CTC will distribute funds pursuant to a formula weighted 100 percent by the jurisdiction's share of the population. RECIPIENT's initial percentage fund distribution, if applicable, is detailed in Exhibit A subject to change based on changes in annual population.

2. RECIPIENT shall use such funds for planning, construction and maintenance of bicycle and pedestrian projects and programs, with focus on high-priority projects described in RECIPIENT's Bicycle and Pedestrian Master Plans.

3. Bicycle and Pedestrian Paths and Safety funds are subject to the requirements for "Measure B Bicycle and Pedestrian Pass-through Funds" as detailed in the ALAMEDA CTC Bicycle and Pedestrian Safety Program Implementation Guidelines, and said guidelines are hereby incorporated into this

AGREEMENT by reference.

ARTICLE II: PAYMENTS AND EXPENDITURES

A. ALAMEDA CTC's Duties and Obligations

1. Within five working days of actual receipt of the monthly Measure BB sales tax revenues from the BOE, ALAMEDA CTC shall remit to the RECIPIENT its designated amount of DLD funds disbursed on a monthly basis by a set formula for distribution.

2. ALAMEDA CTC shall annually update the Measure BB sales tax revenue projections and the resulting funds allocation formulas to reflect the most current population using the California Department of Finance's annual population estimates (Report E-1 published in May) and maintained road mileage from the Department of Transportation as it is made available. ALAMEDA CTC shall use the updated Measure BB program allocation formulas in the allocations beginning July 1 of each new fiscal year, which is from July 1 to June 30 in the State of California. ALAMEDA CTC shall provide an annual projection of Measure BB DLD estimated to be distributed to each RECIPIENT for each investment category RECIPIENT is eligible to receive before the beginning of each new fiscal year.

3. ALAMEDA CTC shall report monthly the amount of Measure BB revenues distributed to RECIPIENT by each investment category for the fiscal year and for the total program to date.

4. ALAMEDA CTC shall provide for an independent annual audit of its financial statements including revenues and expenditures and also the calculation of the allocation formula for distributing Measure BB DLD funds to various recipients and render an annual report to the ALAMEDA CTC Commission within 180 days following the close of the fiscal year. ALAMEDA CTC shall render an annual report on Measure BB funds to the Citizens Watchdog Committee (Independent Watchdog Committee) as soon thereafter as practical.

5. ALAMEDA CTC shall provide timely notice to RECIPIENT prior to conducting an audit of any expenditure made by RECIPIENT to determine whether such expenditures are in compliance with this AGREEMENT and the 2014 TEP.

B. RECIPIENT's Duties and Obligations

1. RECIPIENT shall expend all Measure BB funds distributed to the RECIPIENT in compliance with the 2014 TEP guidelines, including the ALAMEDA CTC Implementation Guidelines, as they may be adopted or amended by ALAMEDA CTC from time to time.

2. RECIPIENT shall set up and maintain an appropriate system of accounts to report on Measure BB funds received. RECIPIENT must account for Measure BB funds, including any interest accrued, separately from any other funds it receives from ALAMEDA CTC. The accounting system shall provide adequate internal controls and audit trails to facilitate an annual compliance audit for the Measure BB funds and the respective usage and application of said funds. ALAMEDA CTC and its representatives, agents and nominees shall have the absolute right at any reasonable time to inspect and copy any accounting records related to such funds, except to the extent specifically prohibited by applicable law.

3. RECIPIENT hereby agrees to and accepts the formulas used in the allocation of Measure BB revenues as reflected in the ballot measure and the 2014 TEP, and agrees to accept and utilize the California Department of Finance Estimates of Population figures (Report E-1, updated each May) and

the maintained road mileage from the Department of Transportation as it is made available for the annual update of the allocation formulas to begin in each new fiscal year.

ARTICLE III: POLICIES ON USE OF FUNDS

A. Timely Use of Funds Policy

1. Except for those funds properly placed into a reserve fund pursuant to **Section B** below, all Measure BB funds received by RECIPIENT shall be spent expeditiously, and no unexpended funds are allowed, unless a written request is submitted to the ALAMEDA CTC and approved by the Commission through the annual compliance audit and reporting process.

B. **Reserve Fund Policy:** RECIPIENT may reserve funds for specified periods of time, as defined in each reserve program, which ALAMEDA CTC will monitor through the annual compliance audit and reporting process described in **Article 4**. RECIPIENT may establish the following separate types of reserve funds:

1. **Capital Fund Reserve:** RECIPIENT may establish a specific capital fund reserve to fund specific large capital project(s) that could not otherwise be funded with a single year's worth of Measure BB DLD funds. If a capital fund reserve is established by RECIPIENT, it must be done as part of the Annual Program Compliance Reporting process as defined in Article IV.B.

a. RECIPIENT may collect capital funds during not more than three fiscal years, and shall expend all reserve funds prior to the end of the third fiscal year immediately following the fiscal year during which the reserve was established (e.g., if a reserve is established at any time during fiscal year 2015-2016 (FY 15-16), RECIPIENT may collect reserve funds during some or all of FY 15-16, FY 16-17 and FY 17-18, and must spend the reserve funds prior to the end of FY 18-19).

b. RECIPIENT shall report implementation schedules and funding plans for each proposed project to be funded from the reserve in RECIPIENT's annual program compliance report.

c. RECIPIENT may seek a single one-year extension for a given reserve fund if RECIPIENT demonstrates that unforeseen and extraordinary circumstances have occurred that would justify the extension. RECIPIENT shall submit a request for such an extension in writing to ALAMEDA CTC's executive director. The ALAMEDA CTC Commission, in its sole discretion, will make a determination as to whether to approve or deny the extension request and will notify RECIPIENT of its action in writing.

2. **Operations Fund Reserve:** RECIPIENT may establish and maintain a specific reserve to address operational issues, including fluctuations in revenues, and to help maintain transportation operations. This fund may not contain more than 50 percent of annual DLD revenues, unless an exception is requested in writing and approved by the ALAMEDA CTC Commission. This fund may be a revolving fund and is not subject to an expenditure timeframe. If an operations fund reserve is established by RECIPIENT, it must be done as part of the Annual Program Compliance Reporting process as defined in Article IV.B.

3. **Undesignated Fund Reserve:** RECIPIENT may establish and maintain a specific reserve for transportation needs over a fiscal year, such as matching funds for grants, project development work, studies for transportation purposes, or contingency funds for a project or program. This fund may not contain more than 10 percent of annual DLD revenues, unless an exception is requested in writing and

approved by the ALAMEDA CTC Commission. If an undesignated fund reserve is established by RECIPIENT, it must be done as part of the Annual Program Compliance Reporting process as defined in Article IV.A.3.

a. RECIPIENT shall report the range of potential uses for the reserve funds in its annual compliance report.

C. **Rescission of Funds Policy:** If RECIPIENT does not meet the timeliness requirements set forth in Section A and B, ALAMEDA CTC may determine the RECIPIENT does not need the unspent funds. In such case, unless the RECIPIENT requests and ALAMEDA CTC approves an extension to the applicable deadline for the Capital Fund Reserve as described in Article III.B.1, RECIPIENT must return unspent funds and all interest earned thereon to ALAMEDA CTC. All such funds returned to ALAMEDA CTC shall be placed into an account for reallocation to the same programmatic type for transportation improvements in the county.

D. **Other Expenditure Restrictions:**

1. **Transportation Purposes Only:** RECIPIENT shall use all Measure BB funds solely for transportation purposes as defined by the authorizing ballot measure. Any jurisdiction that violates this provision must fully reimburse all misspent funds, including all interest that would have been earned thereon.

2. **Non-Substitution of Funds:** RECIPIENT shall use Measure BB funds, pursuant to Public Utilities Code Section 180000 *et seq.*, to supplement and not replace existing property taxes used for transportation purposes.

3. **Fund Exchange:** Any fund exchanges made using Measure BB must be made for transportation purposes. ALAMEDA CTC will consider exchange proposals on a case-by-case basis.

4. **Staff Cost Limitations:** Direct costs associated with the delivery of programs and projects associated with Measure BB programs, including direct staff costs and consultant costs, are eligible uses of Measure BB funds. ALAMEDA CTC does not allow indirect costs, unless the RECIPIENT submits an independently audited/approved Indirect Cost Allocation Plan.

ARTICLE IV: REPORTING REQUIREMENTS

RECIPIENT shall comply with each of the reporting requirements set forth below. If RECIPIENT fails to comply with one or more of these requirements, ALAMEDA CTC may withhold payment of further Measure BB funds to RECIPIENT until full compliance is achieved.

A. RECIPIENT shall submit to ALAMEDA CTC, on an annual basis and at the RECIPIENT's expense, an independently audited Measure BB financial statements and a compliance opinion of the funds received and used, including plans and reports of expenditures. RECIPIENT shall complete, certify, and provide the annual audited financial statements and compliance opinion to ALAMEDA CTC within 180 days following the close of each fiscal year.

B. RECIPIENT shall, by December 31 of each year, submit to ALAMEDA CTC, at the RECIPIENT's expense, a compliance report on programs and projects on which RECIPIENT expended Measure BB funds. In such report, RECIPIENT shall state how the funds were used and the benefits derived from the funded programs and projects, and establish fund reserves and amounts remaining in reserves and anticipated program and project expenditures. If RECIPIENT's expenditures in a fiscal year are less than the amount received during such year, RECIPIENT shall explain why revenues exceeded expenditures and

RECIPIENT's provide an implementation plan for the unexpended fund balances.

C. To be eligible for receipt of Local Streets and Roads funds, RECIPIENT shall provide ALAMEDA CTC with the certified number of maintained road miles within RECIPIENT's jurisdiction, which shall be consistent with the miles reported to state and federal agencies. RECIPIENT shall provide ALAMEDA CTC with the annual certified number of maintained road miles each fiscal year even if the number of miles for the fiscal year did not change. Road miles reported through the Department of Transportation shall be used in the updated Measure BB sales tax revenue allocation formula for distributing Measure BB funds and the new mileage shall be reflected in the distributions that start on July 1 of each new fiscal year.

D. RECIPIENT shall install or mount signage, such as those identified on the ALAMEDA CTC website (http://www.alamedactc.org/app_pages/view/5269), adjacent to Measure BB funded construction projects and on vehicles funded with Measure BB funds (e.g., RECIPIENT and ALAMEDA CTC logos; "Your Transportation Tax Dollars Help Fund the Operation of This Vehicle!") where practical, so Alameda County taxpayers are informed as to how RECIPIENT is using Measure BB funds. RECIPIENT shall include a description of signage and number of signs posted in the annual compliance report submitted to ALAMEDA CTC.

E. RECIPIENT shall provide current and accurate information on RECIPIENT's website, to inform the public on how RECIPIENT is using Measure BB funds, and shall also provide a link to ALAMEDA CTC's website.

F. RECIPIENT shall, at least annually, publish an article highlighting a project or program in which RECIPIENT has used Measure BB funds.

G. RECIPIENT shall actively participate in a Public Awareness Program, in partnership with ALAMEDA CTC and/or its community advisory committees, as a means of ensuring that the public has access to and has the ability to know which projects and programs are funded through Measure BB.

H. RECIPIENT shall make its administrative officer or designated staff available on request from ALAMEDA CTC to render a report or answer any and all inquiries in regards to RECIPIENT's receipt, usage, and compliance audit findings of its funds before ALAMEDA CTC's governing board and/or the Citizens Watchdog Committee (Independent Watchdog Committee) or community advisory committees, as applicable.

I. RECIPIENT agrees that ALAMEDA CTC may review and/or evaluate the project(s) or program(s) funded pursuant to this AGREEMENT. This may include visits by representatives, agents or nominees of ALAMEDA CTC to observe RECIPIENT's project or program operations, to review project or program data and financial records, and to discuss the project with RECIPIENT's staff or governing board.

ARTICLE V: OTHER PROVISIONS

A. **Indemnity by RECIPIENT.** Neither ALAMEDA CTC, nor its governing body, elected officials, any officer, consultant, agent, or employee thereof, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by RECIPIENT in connection with Measure BB funds distributed to RECIPIENT pursuant to this AGREEMENT. It is also understood and agreed, pursuant to Government Code Section 895.4, RECIPIENT shall fully defend, indemnify and hold harmless ALAMEDA CTC, its governing body, and all its officers, agents, and employees, from any liability imposed on ALAMEDA CTC for injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by RECIPIENT in connection with Measure BB funds distributed to RECIPIENT pursuant to this AGREEMENT.

B. Indemnity by ALAMEDA CTC. Neither RECIPIENT, nor its governing body, elected officials, any officer, consultant, agent, or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by ALAMEDA CTC under or in connection with any work, authority or jurisdiction delegated to ALAMEDA CTC under this AGREEMENT. It is also understood and agreed, pursuant to Government Code Section 895.4, ALAMEDA CTC shall fully defend, indemnify, and hold harmless RECIPIENT, and its governing body, elected officials, all its officers, agents, and employees from any liability imposed on RECIPIENT for injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by ALAMEDA CTC under or in connection with any work, authority or jurisdiction delegated to ALAMEDA CTC under this AGREEMENT.

C. Jurisdiction and Venue: The laws of the State of California will govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it. All legal actions arising out of this AGREEMENT shall be brought in a court of competent jurisdiction in Alameda County, California and the parties hereto hereby waive inconvenience of forum as an objection or defense to such venue.

D. Attorneys' Fees: Should it become necessary to enforce the terms of this AGREEMENT, the prevailing party shall be entitled to recover reasonable expenses and attorneys' fees from the other party.

E. Term: The term of this AGREEMENT shall be from April 1, 2015 to June 30, 2016, unless amended or a new Master Programs Funding Agreement is executed with RECIPIENT, whichever date is earlier.

F. Severability: If any provision of this AGREEMENT is found by a court of competent jurisdiction or, if applicable, an arbitrator, to be unenforceable, such provision shall not affect the other provisions of the AGREEMENT, but such unenforceable provisions shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth in this AGREEMENT.

G. Modification: This AGREEMENT, and its Exhibits, as well as the referenced ALAMEDA CTC Implementation Guidelines, constitutes the entire AGREEMENT. This AGREEMENT may only be changed by a written amendment executed by both parties. Notwithstanding the foregoing, the Implementation Guidelines may be changed from time to time by ALAMEDA CTC.

[Signatures on next page]

IN WITNESS WHEREOF, the parties have executed this AGREEMENT by their duly authorized officers as of the date first written below.

_____ (RECIPIENT)

**ALAMEDA COUNTY TRANSPORTATION
COMMISSION (ALAMEDA CTC)**

By:

Name Date
Title

By:

Arthur L. Dao Date
Executive Director

Recommended

By:

Name Date
Title

By:

Stewart D. Ng Date
Deputy Director of Programming and
Projects

Reviewed as to Budget/Financial Controls:

By:

Patricia Reavey Date
Director of Finance and Administration

Approved as to Legal Form:

By:

Wendel, Rosen, Black & Dean LLP Date
Legal Counsel to ALAMEDA CTC

EXHIBIT A

MEASURE BB DIRECT LOCAL DISTRIBUTION SUMMARY

Recipient	Investment Category - Program	Recipient's Percentage of Measure BB Total ¹
AC Transit	Paratransit - East Bay Paratransit Consortium	4.50 %
AC Transit	Transit: Operations, Maintenance and Safety Program	18.80 %
ACE	Transit: Operations, Maintenance and Safety Program	1.00 %
Alameda	Bicycle and Pedestrian Infrastructure & Safety	*
Alameda	Paratransit	*
Alameda	Local Streets and Roads	*
Albany	Bicycle and Pedestrian Infrastructure & Safety	*
Albany	Paratransit	*
Albany	Local Streets and Roads	*
BART	Paratransit - East Bay Paratransit Consortium	1.50 %
BART	Transit: Operations, Maintenance and Safety Program	0.50 %
Berkeley	Bicycle and Pedestrian Infrastructure & Safety	*
Berkeley	Paratransit	*
Berkeley	Local Streets and Roads	*
County of Alameda	Bicycle and Pedestrian Infrastructure & Safety	*
County of Alameda	Local Streets and Roads	*
Dublin	Bicycle and Pedestrian Infrastructure & Safety	*
Dublin	Local Streets and Roads	*
Emeryville	Bicycle and Pedestrian Infrastructure & Safety	*
Emeryville	Paratransit	*
Emeryville	Local Streets and Roads	*
Fremont	Bicycle and Pedestrian Infrastructure & Safety	*
Fremont	Paratransit	*
Fremont	Local Streets and Roads	*
Hayward	Bicycle and Pedestrian Infrastructure & Safety	*
Hayward	Paratransit	*
Hayward	Local Streets and Roads	*
LAVTA	Paratransit	*
LAVTA	Transit: Operations, Maintenance and Safety Program	0.50 %
Livermore	Bicycle and Pedestrian Infrastructure & Safety	*
Livermore	Local Streets and Roads	*
Newark	Bicycle and Pedestrian Infrastructure & Safety	*
Newark	Paratransit	*
Newark	Local Streets and Roads	*
Oakland	Bicycle and Pedestrian Infrastructure & Safety	*
Oakland	Paratransit	*
Oakland	Local Streets and Roads	*
Piedmont	Bicycle and Pedestrian Infrastructure & Safety	*
Piedmont	Local Streets and Roads	*
Pleasanton	Bicycle and Pedestrian Infrastructure & Safety	*
Pleasanton	Paratransit	*
Pleasanton	Local Streets and Roads	*
San Leandro	Bicycle and Pedestrian Infrastructure & Safety	*
San Leandro	Paratransit	*
San Leandro	Local Streets and Roads	*
Union City	Transit: Operations, Maintenance and Safety Program	0.25 %
Union City	Bicycle and Pedestrian Infrastructure & Safety	*
Union City	Paratransit	*
Union City	Local Streets and Roads	*
WETA	Transit: Operations, Maintenance and Safety Program	0.50 %

Note:

1. Pursuant to Article IIA.2, RECIPIENT's percentage may change based upon current annual population and/or road mile projections.

EXHIBIT B

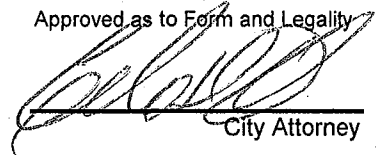
**PLANNING AREAS FOR
CITY AND LOCAL TRANSIT OPERATOR FUNDING
(PARATRANSIT)**

Planning Area	Description
North County	Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont
Central County ¹	Cities of Hayward and San Leandro, and the unincorporated area of Castro Valley, as well as other unincorporated lands governed by Alameda County in the Central Area.
South County	Cities of Fremont, Newark, Union City, as well as Union City Transit.
East County ²	Cities of Livermore, Dublin, and Pleasanton, and all unincorporated lands governed by Alameda County in the East Area, and LAVTA.
<p>1. Funding for Livermore and Dublin will be assigned to LAVTA for their ADA-mandated paratransit program.</p> <p>2. Funding will be assigned to Hayward to serve the unincorporated areas.</p>	

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FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL


City Attorney

2015 MAY 21 AM 11:31 RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

ADOPT A RESOLUTION APPROVING THE INTERIM MEASURE BB MASTER PROGRAMS FUNDING AGREEMENT BETWEEN THE ALAMEDA COUNTY TRANSPORTATION COMMISSION AND THE CITY OF OAKLAND EFFECTIVE FROM APRIL 1, 2015 TO JUNE 30, 2016

WHEREAS, Alameda County voters approved the 2014 Transportation Expenditure Plan (“Measure BB”), a half-cent transportation sales tax on November 4, 2014 that extends the existing 2000 Measure B transportation sales tax, and augments it by a one-half percent to fund projects and programs in Alameda County; and

WHEREAS, the Alameda County Transportation Commission (“Alameda CTC”) is responsible for distributing Measure BB revenues to local jurisdictions to support bicycle and pedestrian infrastructure safety, local street maintenance and safety, and paratransit programs; and

WHEREAS, Measure BB requires entering into an Master Funding Agreement between the Alameda CTC and the City of Oakland in order to distribute Measure BB funds; and

WHEREAS, the Alameda CTC has developed an interim Measure BB Master Programs Funding Agreement (“MPFA”) that specifies Measure BB Direct Local Distribution (DLD) funding distributions, Alameda CTC’s responsibilities, and the recipient’s responsibilities for revenues collected from April 1, 2014 through June 30, 2016 ; and

WHEREAS, implementation guidelines for each program are referenced in the interim MPFA to guide fund eligibility and expenditures; now, therefore be it

RESOLVED, that Oakland City Council approves the interim MPFA attached to this resolution; and be it

FURTHER RESOLVED, that the City of Oakland and its agents shall comply with the interim Alameda CTC Measure BB MPFA; and be it

FURTHER RESOLVED, that the City of Oakland shall use Measure BB funds for local transportation programs.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California