

LAW OFFICES OF JASON A. BEZIS
California State Bar No. 225641
3661-B Mosswood Drive
Lafayette, CA 94549-3509
(925) 708-7073 Jason@Bezislaw.com
Attorney for Plaintiffs and Petitioners

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA**

ALAMEDA COUNTY TAXPAYERS'
ASSOCIATION, INC., a California non-
profit corporation; MARCUS CRAWLEY;
MONTCLAIR VILLAGE HARDWARE;
and TRANSPORTATION SOLUTIONS
DEFENSE AND EDUCATION FUND, a
California nonprofit corporation;

Plaintiffs and Petitioners,

vs.

TRI-VALLEY-SAN JOAQUIN VALLEY
REGIONAL RAIL AUTHORITY
(AUTHORITY), a public entity; BOARD
OF DIRECTORS OF AUTHORITY, its
governing board; KEVIN SHERIDAN, in
his official capacity as Executive Director of
AUTHORITY; MICHAEL TREE, in his
official capacity as former Executive Direc-
tor of AUTHORITY; ALAMEDA COUN-
TY TRANSPORTATION COMMISSION
(ALAMEDA CTC), a joint powers agency;
COMMISSION OF ALAMEDA CTC, its
governing board; TESS LENGYEL, in her
official capacity as Executive Director of
ALAMEDA CTC; METROPOLITAN
TRANSPORTATION COMMISSION
(MTC), a local area planning agency;
COMMISSION OF MTC, its governing
board; BAY AREA TOLL AUTHORITY
(BATA), a public instrumentality;
THERESE W. McMILLAN, in her official
capacity as Executive Director of MTC and
BATA; and DOES 1 through 100, inclusive;

Defendants and Respondents.

Case No.: RG21110126

ASSIGNED FOR ALL PURPOSES TO
JUDGE Michael M. Markman
DEPARTMENT 1

**PLAINTIFFS' OPENING BRIEF IN
SUPPORT OF FIRST AMENDED VERIFIED
TAXPAYER COMPLAINT AND PETITION
FOR WRIT OF MANDATE
(FIFTH, SIXTH, AND SEVENTH CAUSES
OF ACTION)**

(Calendar Preference per Code Civ. Proc.
§ 526a(c))

Action filed: August 10, 2021

Merits hearing date: December 15, 2026

Merits hearing time: 10:00 a.m.

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1 Plaintiffs and Petitioners ALAMEDA COUNTY TAXPAYERS’ ASSOCIATION, INC.;

2 MARCUS CRAWLEY; MONTCLAIR VILLAGE HARDWARE; and TRANSPORTATION

3 SOLUTIONS DEFENSE AND EDUCATION FUND, a California nonprofit corporation (“Plaintiffs”);

4 hereby submit this Opening Brief containing points and authorities in support of their First Amended

5 Verified Taxpayer Complaint and Petition for Writ of Mandate, Fifth, Sixth, and Seventh Causes of

6 Action against Defendants and Respondents ALAMEDA COUNTY TRANSPORTATION

7 COMMISSION (ALAMEDA CTC), a joint powers agency; COMMISSION OF ALAMEDA CTC, its

8 governing board; TESS LENGYEL, in her official capacity as Executive Director of ALAMEDA CTC

9 (“ALAMEDA CTC Parties”).

10 INTRODUCTION

11 This phase of the Valley Link lawsuit concerns the ALAMEDA CTC Parties. The ALAMEDA

12 CTC Parties violated legal standards in the California Public Utilities Code and the 2014 Measure BB

13 Ordinance and Transportation Expenditure Plan (TEP) relating to the 2020 Valley Link Project TEP

14 Amendment, allocation of Measure BB Local Streets fund, revisiting of Measure BB funding formulas,

15 and/or evaluation of “geographic equity” as required by Measure BB.

16 STATEMENT OF FACTS

17 In November 1986, Alameda County voters approved Measure B, a half-percent transactions and

18 use tax, and a related transportation expenditure plan (TEP), for twenty years, for the Alameda County

19 Transportation Authority.

20 In 2000, Alameda County voters approved another Measure B and its TEP, extending the half-

21 percent tax for twenty years. (ACTC_AR0001.)¹

22 In 2002-03, the Alameda County Congestion Management Agency (ACCMA), a predecessor

23 agency to ALAMEDA CTC, commissioned a report and held a public meeting about public transit in the

24 I-580 corridor to Livermore, posing a binary choice between express buses on new HOV lanes or a

25 conventional BART or t-BART (diesel multiple unit) extension in the I-580 median. (1AR53-359.)

27 ¹ Citations to the Administrative Record for Causes of Action 3-4 are presented in this format: “[volume

28 no.]AR[page no.]” The Citations to the Administrative Record for Causes of Action 5-7 are presented in

a related format: “ACTC_AR[page no.]”

1 In 2012, ALAMEDA CTC proposed Measure B1, which would have increased the tax rate to
2 one percent in perpetuity, with a new TEP. Voters rejected Measure B1. ALAMEDA CTC placed a re-
3 vised proposal with a 30-year duration on the November 2014 ballot as Measure BB. Voters approved it.

4 On March 10, 2014, ALAMEDA CTC Executive Director Arthur Dao delivered a presentation
5 about Measure BB to the Livermore City Council. (1AR840-48.) Among “Projects That Benefit Your
6 Area” was “BART extension to Livermore in the I-580 median to Isabel Avenue (\$400 million).”
7 (1AR845.)

8 ALAMEDA CTC touted the Livermore BART extension in its “public information” materials
9 about Measure BB in the weeks leading to the election. The “BART” sheet promised \$710 million in
10 BART capital improvements, including “BART extension to Livermore.” (1AR849-50.) The “Tri-
11 Valley” sheet referred to “BART expansion, modernization and extension to Livermore in the I-580
12 median to Isabel Ave.” (1AR851-52.) The “Livermore” sheet stated, “BART extension to Livermore in
13 the I-580 median to Isabel Ave. (\$400 million).” (1AR853-54.) The “Consider the Future of BART”
14 literature asserted, “In November 2014, Measure BB will be on the ballot to: • Expand BART
15 throughout Alameda County.” (ACTC_AR0184-85.) The BART projects in the Measure BB ballot
16 question were persuasive with voters. An ALAMEDA CTC voter survey concluded, “Leading with
17 BART was the strongest question wording.” (ACTC_AR0192.)

18 Measure BB contained a mandatory Transportation Expenditure Plan (“TEP”), prepared pursuant
19 to Public Utilities Code § 180206. The BART-to-Livermore/I-580/Isabel Avenue project was the
20 largest capital project identified in the 30-year TEP. It was to receive \$400 million in sales tax proceeds.
21 In November 2014, Alameda County voters approved Measure BB.

22 The Measure BB TEP includes “Implementing Guidelines”: “This Transportation Expenditure
23 Plan (Plan) is guided by principles that ensure that the revenue generated by the sales tax is spent only
24 for the purposes outlined in this Plan, in the most efficient and effective manner possible, consistent with
25 serving the transportation needs of Alameda County.” (1AR900.)

26 The BART-to-Livermore/I-580/Isabel Avenue project was defined in the 2014 Measure BB TEP
27 and approved by voters as:
28

BART to Livermore (\$400 M) This project funds the first phase of a BART Extension within the I-580 Corridor freeway alignment to the vicinity of the I-580/Isabel Avenue interchange using the most effective and efficient technology. Funds for construction for any element of this first phase project shall not be used until full funding commitments are identified and approved, and a project-specific environmental clearance is obtained. The project-specific environmental process will include a detailed alternative assessment of all fundable and feasible alternatives, and be consistent with mandates, policies and guidance of federal, state, and regional agencies that have jurisdiction over the environmental and project development process. (1AR881-882; 2014 TEP pp. 18-19.)

The BART Livermore extension is the largest capital project in Measure BB. It was central to the election campaign on both sides. The Argument Against Measure BB stated, in part:

[T]he measure would allocate \$400 million toward a \$1.2 billion BART extension to Livermore. This is plainly not a prudent use of tax dollars. There are far more cost-effective ways of providing excellent transit service to the County's outlying communities. (1AR857.)

In August 2018, ALAMEDA CTC issued a capital project fact sheet about the proposed BART extension to Isabel Avenue in Livermore. (3AR6008-09.) It stated that in May 2018, "The BART Board voted to not select an alternative for advancement." (3AR6009.)

In September 2019, the RAIL AUTHORITY requested a TEP amendment to substitute a "Valley Link" project for the BART-to-Livermore/I-580/Isabel Avenue project. (ACTC_AR0731.)

On May 11, 2020, the ALAMEDA CTC Planning, Policy and Legislation Committee (PPLC) approved a Valley Link TEP amendment. (ACTC_AR0778.)

On May 28, 2020, ALAMEDA CTC COMMISSION held a board meeting at which they approved as Item 8.1 a TEP Amendment to substitute a "Valley Link" project for the BART-to-Livermore/I-580/Isabel Avenue project. The meeting minutes state in part, "Approval of this item will initiate a 45-day comment period by jurisdictions in Alameda County on the proposed amendment, which would then return to the Committee and Commission for final action." (ACTC_AR1100.) The proposed TEP Amendment stated in part:

Valley Link Rail in Alameda County (\$400 M)

This project funds the first phase of a Valley Link rail extension from the existing Dublin/Pleasanton BART station within the Tri-Valley and Altamont Pass in Alameda County using the most effective and efficient technology. Funds are for construction for any element of this first phase project in Alameda County and shall not be used until full funding commitments are identified and approved for

1 the initial operating segment that most effectively meets the adopted project goals,
2 and a project-specific environmental clearance is obtained. The project-specific
3 environmental process will include an alternatives assessment of fundable and
4 feasible alternatives, and be consistent with mandates, policies and guidance of
federal, state, and regional agencies that have jurisdiction over the environmental
and project development process. (ACTC_AR0859.)

5 Plaintiffs through their counsel expressed disapproval of the ALAMEDA CTC Valley Link TEP
6 Amendment in a letter to ALAMEDA CTC COMMISSION dated May 28, 2020. (ACTC_AR0910.)

7 A 45-day comment period by jurisdictions in Alameda County on the proposed Valley Link TEP
8 amendment followed the May 28, 2020 ALAMEDA CTC meeting. On or about May 28, 2020,
9 ALAMEDA CTC sent letters to the mayors of the fourteen cities in Alameda County. (ACTC_AR1337-
10 2491.)

11 At its meeting on September 14, 2020, the ALAMEDA CTC PPLC revised the proposed Valley
12 Link TEP amendment (Commissioner Bauters' "clarification to the amendment"). (ACTC_AR2877,
13 3159.)

14 Plaintiffs opposed the TEP Amendment in September 2020. (See, e.g., ACTC_AR3225.)

15 On September 24, 2020, ALAMEDA CTC COMMISSION held a meeting in which it
16 considered Item 7.1, the adoption of a TEP Amendment to substitute the Valley Link project for the
17 BART-to-Livermore/I-580/Isabel Avenue project. The ALAMEDA CTC COMMISSION adopted
18 Resolution 20-007 on September 24, 2020, revising the TEP. (ACTC_AR3182-83.)

19 Adopted by the ALAMEDA CTC COMMISSION as Resolution No. 20-007, the TEP
20 Amendment generally removed the BART-to-Livermore/I-580/Isabel Avenue project and replaced it
21 with a Valley Link project through Altamont Pass to the San Joaquin County line:

22 **Valley Link Rail in Alameda County (\$400 M)** This project funds the first
23 phase of a Valley Link rail extension from the existing Dublin/Pleasanton BART
24 station within the Tri-Valley and Altamont Pass in Alameda County using the
25 most effective and efficient technology. Funds are for construction for any
26 element of this first phase project in Alameda County and shall not be used until
27 full funding commitments are identified and approved for the initial operating
28 segment, defined as from the Dublin/Pleasanton BART station to the proposed
Mountain House station, that most effectively meets the adopted project goals,
and a project-specific environmental clearance is obtained. The project-specific
environmental process will include a detailed alternatives assessment of fundable
and feasible alternatives, and be consistent with mandates, policies and guidance

1 of federal, state, and regional agencies that have jurisdiction over the
2 environmental and project development process. (ACTC_AR2953.)

3 The TEP Amendment by the ALAMEDA CTC COMMISSION (Resolution No. 20-007) also
4 added this “specific description” of the Valley Link project:

5 A proposed new rail service between Alameda and San Joaquin Counties that will
6 provide passenger rail service between the existing Dublin/Pleasanton BART
7 Station and the City of Stockton. The proposed project includes seven stations on
8 a 42-mile alignment that is expected to run along the existing I-580 corridor (11.5
9 miles), through the Altamont Pass using the Alameda County-owned former
Southern Pacific Railroad corridor (12.5 miles) and on existing UPRR rail
corridor (17.5 miles) into San Joaquin County. Design work is currently
underway as part of the EIR process and will examine detailed project right-of-
way needs and potential impacts in more detail. (ACTC_AR3183.)

10 The TEP Amendment by the ALAMEDA CTC COMMISSION on September 24, 2020
11 (Resolution No. 20-007) included revisions of TEP maps. The revision to the map on TEP page 19
12 removed the BART extension to Livermore/I-580/Isabel Avenue, leaving no BART extensions on the
13 map. (ACTC_AR2952.) The revision to the map on TEP page 21 added “Valley Link” to that map, with
14 a line extending eastward from “Dublin” to the Alameda/San Joaquin county line. (ACTC_AR2954.)

15 The TRI-VALLEY-SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY BOARD
16 materially changed the Valley Link project with its approval vote on May 12, 2021. The Greenville
17 Station ACE/BART connection was eliminated then and Initial Operating Segments terminating at
18 Southfront or Mountain House Community Alternative proposed. (6AR10815, 10817, 10831-32.)

19 **STANDARDS OF REVIEW**

20 To promote the remedial purpose of the taxpayer action statute (Code Civ. Proc., § 526a),
21 California courts have also permitted taxpayer suits for declaratory relief, damages, and mandamus.
22 (*Van Atta v. Scott* (1980) 27 Cal.3d 424, 449-450.)

23 **A. Declaratory Relief.**

24 The construction or validity of a statute or ordinance is a proper subject for declaratory relief.
25 (*Action Apartment Assn., Inc. v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1250, n.5; “[P]arties may
26 seek declaratory relief with respect to the interpretation and application of local ordinances.”) “A public
27 entity has a ministerial duty to comply with its own rules and regulations where they are valid and un-
28 ambiguous.” (*CV Amalgamated LLC v. City of Chula Vista* (2022) 82 Cal.App.5th 265, 283, 279 (CV).

1 In *City of Gilroy v. Superior Court* (2026) 19 Cal.5th 38 (*Gilroy*), the California Supreme Court
2 recently affirmed that “past conduct” can be a basis for issuance of declaratory relief:

3 [D]eclaratory relief is available under Code of Civil Procedure sections 1060 and
4 1061 to resolve uncertainties regarding legal duties and past conduct that might be
5 perpetuated absent a judicial declaration. (See, e.g., *City of Cotati v. Cashman*
6 (2002) 29 Cal.4th 69, 79 [124 Cal.Rptr.2d 519, 52 P.3d 695] (*City of Cotati*) [a
7 plaintiff can generally seek “declaratory relief ... when the parties ... dispute
8 whether a public entity has engaged in conduct or established policies in violation
9 of applicable law”]; *Bess v. Park* (1955) 132 Cal.App.2d 49, 52 [281 P.2d 556]
[declaratory relief is available “to liquidate doubts with respect to uncertainties or
controversies which might otherwise result in subsequent litigation”]; *Maguire v.*
Hibernia S. & L. Soc. (1944) 23 Cal.2d 719, 729 [146 P.2d 673] [“The purpose of
a declaratory judgment is ‘to serve some practical end in quieting or stabilizing an
uncertain or disputed jural relation’”].) (*Gilroy* at p. 55; emphasis added.)

10 Our Supreme Court concluded, “Declaratory relief was appropriate to provide guidance to the parties
11 and resolve their ongoing disputes.” (*Gilroy* at p. 56.) While *Gilroy* interpreted the California Public
12 Records Act (CPRA), *Gilroy*’s principles may be broadly applied to other disputes, especially to
13 interpretation of statutes and agency resolutions. The Court held, “[W]e conclude that, at a minimum,
14 declaratory relief is appropriate in situations in which an agency is reasonably likely to repeat past
15 conduct that allegedly violates the CPRA in response to future records requests ... declaratory relief is
16 appropriate in these circumstances to help guide the parties’ future conduct and inform their rights and
17 responsibilities.” (*Id.* at p. 46; emphasis added.)

18 In the instant case, ALAMEDA CTC Parties are “reasonably likely to repeat past conduct” that
19 violates the legal authorities set forth in this brief. Therefore, Plaintiffs request judicial declarations as
20 to the alleged violations of the Public Utilities Code and Measure BB provisions. Relief Pursuant to
21 Code of Civil Procedure Sections 526a and 527 and Common Law Taxpayer Actions.

22 **B. Relief Pursuant to Code of Civil Procedure Sections 526a and 527 and Common Law**
23 **Taxpayer Actions.**

24 A taxpayer action seeks “a judgment, restraining and preventing any illegal expenditure of, waste
25 of, or injury to, the estate, funds, or other property of a local agency.” (Code Civ. Proc., § 526a.) It
26 includes “[a]n action ... to enjoin a public improvement project.” (Code Civ. Proc., § 526a(c).) The
27 common law allows a taxpayer to sue “in his [or her] representative capacity ... only in cases involving
28 fraud, collusion, ultra vires, or a failure on the part of the governmental body to perform a duty
specifically enjoined.” (*San Bernardino County v. Superior Court* (2015) 239 Cal.App.4th 679, 686.)

1 A “taxpayer action must involve an actual or threatened expenditure of public funds” (*Collins v.*
2 *Thurmond* (2019) 41 Cal.App.5th 879, 910.) “[S]ection 526a is properly used where ‘some illegal
3 expenditure or injury to the public fisc is occurring or will occur.’” (*Humane Society of the United States*
4 *v. State Bd. of Equalization* (2007) 152 Cal.App.4th 349, 361.)

5 The purpose of taxpayer actions is to “enable a large body of the citizenry to challenge
6 governmental action which would otherwise go unchallenged in the courts because of the standing
7 requirement ... California courts have consistently construed section 526a liberally to achieve this
8 remedial purpose.” (*Blair v. Pitchess* (1971) 5 Cal.3d 258, 267-268)

9 In *Harman v. City and County of San Francisco* (1972) 7 Cal.3d 150, 160-161 (*Harman*), the
10 California Supreme Court held:

11 "A taxpayer may sue a governmental body in a representative capacity in cases
12 involving fraud, collusion, ultra vires, or failure on the part of the governmental
13 body to perform a duty specifically enjoined." (*Gogerty v. Coachella Valley*
14 *Junior College Dist.* (1962) 57 Cal.2d 727, 730 [*Gogerty*]) This well-established
15 rule ensures that the California courts, by entertaining only those taxpayers' suits
16 that seek to measure governmental performance against a legal standard, do not
17 trespass into the domain of legislative or executive discretion ... [T]he courts
18 cannot formulate decrees that involve the exercise of indefinable discretion; their
19 decrees can only restrict conduct that can be tested against legal standards. (*Id.*)

20 In *Harman*, the legal standard was “the statutory restrictions binding the city in its sales of vacated city
21 streets.” (*Id.* at p. 161.) In the instant case, the legal standards include statutes and regulations.

22 Our Supreme Court’s *Gogerty* decision is instructive. In *Gogerty*, defendant college district
23 acquired a school site and proceeded into construction while plaintiff challenged conformance of those
24 actions with the State Education Code. The Court ruled that the issues were not moot as a result of the
25 district's purchase and improvement of the property because it was aware that the taxpayer was
26 questioning its right to proceed with the construction. It had proceeded at its peril by continuing
27 construction of buildings before the courts had determined whether it had a right to do so. (*Id.* at p. 732.)

28 In *Rathbun v. City of Salinas* (1973) 30 Cal.App.3d 199, the court concluded that a city council’s
action was ultra vires. “[I]n measuring the transaction against a legal standard, the court, we take it, may
consider the transaction as a whole.” (*Id.* at pp. 202-203.) *Farley v. Cory* (1978) 78 Cal.App.3d 583,
589 held, “Underlying California's affirmative response to the question of taxpayers' standing is the
confidence expressed in decisional law that governmental performance, commanded by statute, is

1 measureable and thus amenable to judicial redress.” In *Vasquez v. State of California* (2003) 105
2 Cal.App.4th 849, 856 (*Vasquez*), the court held, “The State's conduct can be tested against legal
3 standards, and the court may render an effective decree to obtain its compliance with Proposition 139.”
4 The *Vasquez* court noted, “We are not expanding the scope of section 526a; we follow precedent in
5 requiring the State to comply with its legally measurable duties.” (*Id.* at p. 856, fn. 5.) Here, too, in the
6 instant case, this Court may render an effective decree to obtain compliance by Defendants with legal
7 standards in statutes, the State Constitution, and in local agency regulations.

8 A “contract entered into by a local government without legal authority is ‘wholly void,’ ultra
9 vires, and unenforceable.” (*Ponte v. County of Calaveras* (2017) 14 Cal.App.5th 551, 556.)

10 In *Regus v. City of Baldwin Park* (1977) 70 Cal.App.3d 968, 983, pursuant to Section 526a,
11 taxpayers alleged illegal use of public funds in a city redevelopment project. The Second Appellate
12 District agreed, concluding, “the record at bench contains no substantial evidence to show that Project
13 area is a blighted area and hence eligible for redevelopment.” *Ceres v. Modesto* (1969) 274 Cal.App.2d
14 545 is a 526a action in which the court found wasteful “unnecessary duplication” in a public project.

15 *Vasquez* held, “A taxpayer action under section 526a may be brought against the government or
16 ‘any officer thereof.’” (*Id.* at p. 857.) A public official may be personally liable in a taxpayer’s action,
17 based on the official’s failure to exercise due care in authorizing the expenditure of public funds.
18 (*Stevens v. Geduldig* (1986) 42 Cal.3d 24, 32 (*Stevens*).) In *Mock v. Santa Rosa* (1899) 126 Cal. 330,
19 city officials were properly named in the complaint in their official capacity and held liable in their
20 personal capacities for mismanagement of municipal bonds issued to finance municipal waterworks.

21 [I]f the official does not use due care or reasonable diligence in authorizing the
22 expenditure of public funds, the official may be subject to personal liability for
23 the improper expenditure. ([*Stanson v. Mott* (1976) 17 Cal.3d 206] at pp. 226–
24 227.) It must be remembered that this is a standard for determining when a public
25 official is liable for restitution for an ultra vires act. It does not mean that every
26 public expenditure which was not made with due care or reasonable diligence is a
violation of duty; it simply means that when an expenditure of public funds is
wholly unauthorized, the public official who authorized the expenditure can be
liable for restitution if he or she acted unreasonably. (*People ex rel. Harris v.*
Rizzo (2013) 214 Cal. App. 4th 921, 943 (*Rizzo*).)

27 In *Davis v. Fresno Unified School Dist.* (2020) 57 Cal.App.5th 911 (*Davis II*), the court held that
28 “restitution of public funds paid for unlawful purposes [i]s a remedy available in a taxpayer action ...”

(*Davis II* at pp. 937-938). “Disgorgement is an in personam remedy available in a section 526a taxpayer's action ...” (*Id.* at p. 917.) “[T]he fact that [the taxpayer] could have enjoined the illegal expenditure does not prevent [him] seeking to recover on behalf of the [local agency] monies illegally expended.” (*Id.* at p. 930.)

C. Mandatory Relief.

The American judiciary has a long tradition of invalidating major transportation projects due to abuse of discretion by approving agencies in applying statutory requirements. This is perhaps best exemplified by the 1971 United States Supreme Court decision, *Citizens to Preserve Overton Park, Inc. v. Volpe* (1971) 401 U.S. 402 (“*Overton Park*”), which ruled that the U.S. Secretary of Transportation abused his discretion in authorizing expenditure of federal funds to construct an interstate highway (I-40) through Overton Park in Memphis, Tennessee because a federal statute required review of “feasible and prudent” alternative routes. (*Id.* at p. 405.) In *Overton Park* at pp. 415-16, the Supreme Court held:

The court is first required to decide whether the Secretary acted within the scope of his authority. [Citation omitted.] This determination naturally begins with a delineation of the scope of the Secretary's authority and discretion. ... Scrutiny of the facts does not end, however, with the determination that the Secretary has acted within the scope of his statutory authority. Section 706 (2)(A) requires a finding that the actual choice made was not “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A)(1964 ed., Supp. V). To make this finding the court must consider whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment. [Citations omitted.] Although this inquiry into the facts is to be searching and careful, the ultimate standard of review is a narrow one. The court is not empowered to substitute its judgment for that of the agency. (Emp. added.)

The California Supreme Court approvingly discussed *Overton Park*’s abuse of discretion standards in the context of review of quasi-legislative decisions in *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 577.

“[A] court may issue a writ when a public agency has abused its discretion in carrying out a *discretionary* function. ‘Although traditional mandamus will not lie to compel the exercise of discretion in a particular manner, it is a proper remedy to challenge agency discretionary action as an abuse of discretion.’ ... [T]he judicial inquiry ... addresses whether the public entity's action was arbitrary, capricious or entirely without evidentiary support, and whether it failed to conform to procedures required by law.” (*Alameda Health System v. Alameda County Employees' Retirement Assn.* (2024) 100 Cal. App. 5th 1159, 1177.)

1 “A court must ensure that an agency has adequately considered all relevant factors, and has de-
2 monstrated a rational connection between those factors, the choice made, and the purposes of the enab-
3 ling statute.” (*Cal. Hotel & Motel Ass’n v. Indus. Welfare Comm’n* (1979) 25 Cal.3d 200, 212.) (“*Cal.*
4 *Hotel.*”)² The court engages in *de novo* or independent review of agency enabling acts and other sta-
5 tutes. “We use the arbitrary and capricious standard to review quasi-legislative decisions resulting from
6 an agency’s exercise of its statutorily delegated policymaking discretion. ... Nevertheless, the proper
7 interpretation of a statute is ultimately the court’s responsibility.” (*American Coatings Assn. v. South*
8 *Coast Air Quality Management Dist.* (2012) 54 Cal.4th 446, 461–462.) “Under the arbitrary and caprici-
9 ous standard, the question is whether the agency’s action has a reasonable basis in law and a substantial
10 basis in fact.” (*Martis Camp Community Assn. v. County of Placer* (2020) 53 Cal.App.5th 569, 595.)

11 A public entity’s failure to follow its own procedures provides the basis for the issuance of a
12 traditional writ of mandate. (*CV Amalgamated* at pp. 283, 298.) “We can ... direct an agency to follow
13 its own rules when it has a ministerial duty to do so.” (*Id.*) Hence, this Court is empowered to direct
14 ALAMEDA CTC Parties to follow their own procedures and rules.

15 In *California Public Records Research, Inc. v. County of Stanislaus* (2016) 246 Cal.App.4th
16 1432, the court directly critiqued the adequacy of the evidence. The court held:

17 We conclude that the record lacks evidence, substantial or otherwise, that the cost
18 to County of providing copies of the second and subsequent pages of an official
19 record is \$2 per page. In other words, that portion of the fee schedule is “entirely
20 without evidentiary support” for purposes of the abuse of discretion standard of
21 review. [Citation omitted.] Accordingly, County’s board of supervisors abused its
22 discretion when it approved a fee schedule that charged \$2 per page for
23 subsequent pages. (*Id.* at p. 1449; emphasis added.)

24 As stated in *California Public Records Research, Inc. v. County of Alameda* (2019) 37
25 Cal.App.5th 800, 808, the court’s fundamental task is to ascertain the intent of the lawmakers so as to
26 effectuate the purpose of the statute. The court first examines the statutory language, giving it a plain
27 and commonsense meaning. If the statutory language permits more than one reasonable interpretation,
28

² For an application of this test, see *Carrancho v. California Air Resources Board* (2003) 111
Cal.App.4th 1255, 1274 (*Carrancho*). The *Carrancho* court considered the “relevant factors,” decision
made, purposes of the enabling act, and related “supporting evidence.” The court emphasized that it was
to “exercise deferential, but not perfunctory, review.” (*Id.*)

1 courts may consider other aids, such as the statute's purpose, legislative history, and public policy. When
2 a statute is capable of more than one construction, the court must give the provision a reasonable and
3 commonsense interpretation consistent with the apparent purpose and intention of the lawmakers.

4 A writ of mandate may be issued to invalidate project approval actions as ultra vires. "Issuance
5 of a permit inconsistent with zoning ordinances or the general plan may be set aside and invalidated as
6 ultra vires." (*Land Waste Management v. Contra Costa County Board of Supervisors* (1990) 222
7 Cal.App.3d 950, 958.) When a county's general plan did not conform to statutory criteria, issuance of a
8 conditional use permit was ultra vires. (*Neighborhood Action Group v. County of Calaveras* (1984) 156
9 Cal.App.3d 1176, 1179.)

10 **I. THE 2020 TEP AMENDMENT IS INVALID BECAUSE OF PROCEDURAL FLAWS IN** 11 **ITS ADOPTION.**

12 The ALAMEDA CTC September 24, 2020 TEP Amendment is void and without legal effect
13 because the ALAMEDA CTC COMMISSION did not adopt it in a manner consistent with Public
14 Utilities Code § 180207, Measure BB Ordinance Section 3(e), and Transportation Expenditure Plan
15 Implementing Guideline No. 4.

16 **A. The 2020 TEP Amendment Is Invalid Because Its Adoption Process Is Not Consistent** 17 **with Public Utilities Code § 180207**

18 Public Utilities Code § 180207 states:

- 19 (a) The authority may annually review and propose amendments to the county
20 transportation expenditure plan adopted pursuant to Section 180206 to provide for
21 the use of additional federal, state, and local funds, to account for unexpected
22 revenues, or to take into consideration unforeseen circumstances.
23 (b) The authority shall notify the board of supervisors and the city council of each
24 city in the county and provide them with a copy of the proposed amendments.
25 (c) The proposed amendments shall become effective 45 days after notice is
26 given.

27 First, the ALAMEDA CTC Parties violated Section 180207 because they failed to notify "the
28 city council of each city in the county and provide them with a copy of the proposed amendments." On
or about May 28, 2020, Defendant LENGYEL sent letters to the mayors of each of the fourteen cities in
the county. (ACTC_AR1337-2491.) Each letter is addressed to the "Mayor;" the salutation is "Dear
Mayor." The ALAMEDA CTC letterhead shows that for 12 of the 14 cities, the mayor was an
ALAMEDA CTC commissioner. Nowhere do the letters ask the mayor to notify the city council.

1 Plaintiffs ask the court to declare that these letters are inadequate notification of the TEP proposed
2 amendment under Section 180207. The “amendments” cannot “become effective” because adequate
3 “notice” was not “given.” (Pub. Util. Code, § 180207(c).)

4 Second, the ALAMEDA CTC Parties violated Section 180207 because the TEP Amendment that
5 ALAMEDA CTC COMMISSION adopted on September 24, 2020 in Resolution No. 20-007 was
6 substantially different than the “proposed amendments” that ALAMEDA CTC COMMISSION
7 approved at its May 28, 2020 meeting. The clause about the initial operating segment, “defined as from
8 the Dublin/Pleasanton BART station to the proposed Mountain House station”:

- 9 1) Did not exist in the “proposed amendments” actually approved by ALAMEDA CTC COMMISSION
10 on May 28, 2020 before the 45-day comment period.
- 11 2) Was not provided to “the board of supervisors and the city council of each city in the county,” as
12 required by Public Utilities Code § 180207. (ACTC_AR1259-2491.)
- 13 3) Is not found in the TEP Amendment text shown in the “Valley Link: TEP Amendment” presentation
14 at the September 14, 2020 Alameda CTC Planning, Policy and Legislation Committee meeting at
15 page/slide no. 39. (ACTC_AR2808.) (See also the meeting video beginning at 1:55:40.)
- 16 4) Was completely new in the draft TEP Amendment that appeared in the September 24, 2020
17 ALAMEDA CTC COMMISSION meeting agenda packet. (ACTC_AR3159.)

18 The failure to notify “the city council of each city in the county and provide them with a copy of
19 the proposed amendments” containing the new language violated Public Utilities Code § 180207. The
20 “amendments” cannot “become effective” because adequate “notice” was not “given” of the so-called
21 “clarification” to the TEP Amendment. (Pub. Util. Code, § 180207(c).)

22
23 **B. The Adoption Process for the 2020 TEP Amendment Violated Measure BB Ordinance
Section 3(e) and TEP Implementing Guideline No. 4.**

24 The TEP Amendment clause, “defined as from the Dublin/Pleasanton BART station to the
25 proposed Mountain House station,” originated at the September 14, 2020 PPLC meeting. “[A] minimum
26 of 45 days to comment on any proposed Plan amendment” was not given to “[a]ll jurisdictions within
27 the county,” as required by Measure BB Ordinance section 3(e) and TEP Implementing Guideline No. 4.
28

1 The Measure BB Ordinance, Section 3(e), states: “All jurisdictions within the county will be
2 given a minimum of 45 days to comment on any proposed Transportation Expenditure Plan
3 amendment.”

4 Measure BB TEP Implementing Guideline No. 4 states, “Amendments Require 2/3 Support: To
5 modify and amend this Plan, an amendment must be adopted by a two-thirds vote of the Alameda CTC
6 Commissioners. All jurisdictions within the county will be given a minimum of 45 days to comment on
7 any proposed Plan amendment.”

8 As ALAMEDA CTC first proposed the TEP Amendment clause, “defined as from the
9 Dublin/Pleasanton BART station to the proposed Mountain House station,” during the September 14,
10 2020 PPLC committee meeting, “[a]ll jurisdictions within the county” were not “given a minimum of 45
11 days to comment on any proposed Plan amendment,” as required by Measure BB Ordinance § 3(e) and
12 TEP Implementing Guideline No. 4.

13 **II. THE SUBSTANCE OF THE 2020 TEP AMENDMENT IS INVALID BECAUSE IT**
14 **VIOLATES PUBLIC UTILITIES CODE SECTIONS AND THE MEASURE BB**
15 **TRANSPORTATION EXPENDITURE PLAN.**

16 **A. The 2020 TEP Amendment Is Invalid Because an Initial Operating Segment to**
17 **Mountain House Would Fund a Project Inconsistent with Public Utilities Code Section**
18 **132652 and Violate the “Full Funding Plan” Requirement in Measure BB**
19 **Implementing Guideline No. 8.**

20 The Legislature has defined the Valley Link project as “cost-effective and responsive transit
21 connectivity, between BART’s rapid transit system and the Altamont Corridor Express commuter rail
22 service.” (Public Utilities Code § 132652(a).) Measure BB Implementing Guideline No. 8, “a full
23 funding plan for each project,” requires “each project” to be consistent with legal requirements, which
24 include but are not limited to Public Utilities Code § 132652.

25 The TEP Amendment approved by ALAMEDA CTC COMMISSION on September 24, 2020
26 stated in part, “Funds are for construction for any element of this first phase project in Alameda County
27 and shall not be used until full funding commitments are identified and approved for the initial operating
28 segment, defined as from the Dublin/Pleasanton BART station to the proposed Mountain House
station ...”

1 As approved by the AUTHORITY BOARD on May 12, 2021, the Valley Link project would
2 have just one connection to ACE commuter rail service, at the proposed North Lathrop Station in central
3 San Joaquin County. The approved Valley Link “initial operating segment” would have no “transit
4 connectivity” with ACE anywhere between (East) Dublin/Pleasanton BART station and Mountain
5 House Station.

6 The 2020 Valley Link TEP amendment by ALAMEDA CTC COMMISSION is thus void and
7 without legal effect because such an “initial operating segment” project would violate Public Utilities
8 Code § 132652 as not providing “transit connectivity” between BART and ACE. Plaintiffs
9 acknowledge that the Court interpreted Section 132652 differently in its May 2025 order. Plaintiffs
10 assert the Section 132652 violation issues in this brief in order to preserve them for any appeal.

11 **B. The September 24, 2020 TEP Amendment Is Void Because It Is Inconsistent with**
12 **P.U.C. §§ 131203, 131304 and the 1999 HAPA Precedent.**

13 Public Utilities Code § 131203 states in part, “An amendment which adds or deletes a project, or
14 is of major significance, shall be submitted for approval in the same manner the adopted plan was
15 approved pursuant to Chapter 2 (commencing with Section 131050).”

16 A parallel Public Utilities Code section, § 131304, states in part, “Any amendment to a county
17 transportation expenditure plan proposed by the county transportation authority which adds or deletes a
18 project, or is of major significance, shall be submitted for approval in the same manner as the adopted
19 plan was approved pursuant to Chapter 2 (commencing with Section 131050).”

20 In 1999, the First Appellate District ordered rescission of a putative amendment of the 1986
21 Alameda County Measure B transportation expenditure plan by a predecessor agency of ALAMEDA
22 CTC. The court held:

23 If the tax revenues generated by Measure B may now be taken and applied to an
24 entirely new highway alignment for which no tax was authorized, the many
25 protections the Act provides--full disclosure of the expenditure plan, strict
26 limitations on the use of voter-generated tax revenues, and voter involvement in
27 expenditure plan amendments--are thus evaded, affording no protection
28 whatsoever to taxpayers. (*Hayward Area Planning Assn. v. Alameda County*
Transportation Authority (1999) 72 Cal.App.4th 95, 106 (*HAPA*).)

Official, government-funded public education literature about Measure BB that ALAMEDA
CTC and Ms. LENGYEL produced and distributed at BART stations and elsewhere during the Measure
BB campaign in 2014 implored voters to “Consider the Future of BART” and promised voters the

Measure BB would “[i]mprove and expand BART throughout Alameda County” and “[i]n November 2014, a transportation measure will be on the ballot to: Expand BART throughout Alameda County ...” (ACTC_AR0184-85.)

The BART “bartable this month” passenger newsletter for September 2014 promised voters, “Measure BB on November ballot ... Measure BB will provide more than \$860 million towards projects to modernize and expand the BART system.” (ACTC_AR3208.)

The 2020 TEP amendment removed the TEP’s only BART expansion project the Tri-Valley/East County. The TEP amendment violated ALAMEDA CTC’s and others’ repeated promises to voters in 2014 that Measure BB would “expand BART throughout Alameda County.”

Therefore, Plaintiffs: (1) request this court’s judicial declaration that the 2020 TEP amendment is not in accordance with California law, including the 1999 *HAPA* precedent and (2) seek injunctive relief restraining the 2020 TEP amendment from taking effect.

C. Measure BB TEP Requires that ALAMEDA CTC Evaluate the Valley Link Project For Cost-Effectiveness, Which the ALAMEDA CTC Parties Have Not Done.

The 2014 Measure BB TEP requires the ALAMEDA CTC Parties to allocate funding only to “cost effective” projects. The 2014 Measure BB TEP “goals” include “Alameda County’s transportation system will be: ... cost effective ...” (p. 8.) TEP Implementing Guideline no. 7 states, “**Performance and Cost-Effectiveness:** To maximize transportation investments in the Plan, Alameda CTC will evaluate performance and cost-effectiveness of programs and projects, as they are being implemented.”

The ALAMEDA CTC 2016 Countywide Transit Plan defined the “Project-Level Capital” Performance Measure for the goal “Increase cost efficiency” as “Capital cost per net new rider.” (ACTC_AR0461, ACTC_AR0535. See also ACTC_AR0537, “Capital cost per net new rider: This measure was applied at the network and project level.”)

In 2018, the BART Board rejected the conventional BART extension in the I-580 median to Isabel Avenue because it was not cost effective. BART’s Alternatives Analysis report found that diesel multiple unit (DMU) and electric multiple unit (EMU) alternatives (akin to the proposed Valley Link Project) would be less cost effective than conventional BART. (PRJN Exh. 22; 3AR5378, 3AR5395, 3AR5412, 3AR5420.)

1 The ALAMEDA CTC Parties have a mandatory duty to evaluate performance and cost-
2 effectiveness of the Valley Link project, consistent with TEP Implementing Guideline no. 7. The
3 ALAMEDA CTC COMMISSION prejudicially abused its discretion and/or did not perform its duties in
4 accordance with law when it approved the 2020 Valley Link TEP amendment without first making any
5 evaluation of the Valley Link project’s “performance and cost-effectiveness,” as required by the 2014
6 Measure BB TEP.

7 **D. The TEP Amendment Violates TEP Implementing Guidelines Nos. 14 and 19: The**
8 **Valley Link Project East of Livermore Would Not Benefit the Residents and/or**
9 **Businesses of Alameda County.**

10 The California Supreme Court has held that when ballot measure text is subject to varying
11 interpretations, evidence of its purpose may be drawn from many sources, including the historical
12 context of the ballot measure, and the ballot arguments favoring the measure. (*California Housing*
13 *Finance Agency v. Patitucci* (1978) 22 Cal.3d 171, 177.)

14 The Measure BB TEP “Background” section about “LOCAL FUNDS SPENT LOCALLY” says:
15 The revenue generated through this transportation sales tax will be spent
16 exclusively on projects and programs in Alameda County. All of the projects and
17 programs included in the expenditure plan are considered essential for the
18 transportation needs of Alameda County. (1AR871.)

19 Measure BB TEP Implementing Guideline No. 14, under the “RESTRICTIONS ON FUNDS”
20 category, states in part, “Under no circumstances may the proceeds of this transportation sales tax be
21 applied to any purpose other than for transportation improvements benefitting Alameda County.”

22 Measure BB TEP Implementing Guideline No. 19 states in part, “Fiduciary Duty: By
23 augmenting and extending the transportation sales tax, Alameda CTC is given the fiduciary duty of
24 administering the proceeds of this tax for the benefit of the residents and businesses of Alameda
25 County.” (1AR902; emphasis added.)

26 Official, government-funded “public education” literature about Measure BB that the
27 ALAMEDA CTC Parties produced and distributed during the Measure BB campaign in 2014 promised
28 voters, “All funds spent locally to benefit Alameda County.” (ACTC_AR0185.)

1 A “Yes on Measure BB” campaign mailer touted Measure BB “Accountability Measures,”
2 including “ALL FUNDS raised by Measure BB must be spent to improve transportation for local
3 Alameda County residents.” (ACTC_AR3205; emphasis in original.)³

4 Amending the TEP to replace the BART Livermore extension with the Valley Link project
5 violates the text, intent, and purpose of voter-approved 2014 Measure BB Transportation Expenditure
6 Plan because the portion of the project east of Livermore does not benefit Alameda County, in violation
7 of TEP Implementing Guidelines nos. 14 and 19. No station within Alameda County would exist
8 between Southfront station and the San Joaquin County line. A nearly ten-mile rail line between
9 Southfront station and the county line through Altamont Pass would not benefit Alameda County. Very
10 few Alameda County residents likely would utilize a Valley Link project to travel east from Livermore
11 through the Altamont Pass. Very few Alameda County residents would use Valley Link to access a San
12 Joaquin County station. The Valley Link project east of Livermore (Southfront Station) through the
13 Altamont Pass would primarily benefit San Joaquin County. A project into San Joaquin County is not a
14 project purpose that Measure BB voters contemplated.

15 The Valley Link Final Feasibility Report states, “Ridership modeling results showed that
16 passengers starting their trips in the San Joaquin Valley would make up 90 percent of the ridership on
17 trains traveling the “full route” in 2025 (from the San Joaquin Valley to Dublin/Pleasanton Station).”
18 (4AR7770.) This fact tends to prove that the Valley Link project, as a whole, primarily benefits the San
19 Joaquin Valley, not Alameda County.

20 On or about September 12, 2018, Respondent and Defendant MTC through its Programming and
21 Allocations Committee, issued a report that stated, “While a majority of the proposed Phase 1 project is
22 in Alameda County, both track mile-wise (approx. 60%) and cost-wise (approx. 80%) according to
23 preliminary project scoping and cost estimates, a substantial portion of the ridership is expected to be
24 residents of San Joaquin County.” (3AR6019.) Phase 1 was then-defined as the project segment from
25 the (East) Dublin/Pleasanton BART station to a proposed ACE North Lathrop station.

26
27
28 ³ The return address for that campaign mailer was the Wendel Rosen law firm, which served as legal
counsel to ALAMEDA CTC Parties at that time and until its recent merger with Fennemore law firm.

1 ALAMEDA CTC admitted that 43 percent of track miles were in San Joaquin County.
2 (ACTC_AR2794.)

3 Because such uses would be inconsistent with TEP Implementing Guidelines nos. 14 and 19,
4 Measure BB funds cannot therefore be used in the Valley Link project east of Livermore. The TEP
5 Amendment was a prejudicial abuse of discretion by ALAMEDA CTC parties and is invalid.

6 **E. The 2020 TEP Amendment Is Invalid Because It Impermissibly Deleted the Voter-**
7 **Approved Requirement That the Project-Specific Environmental Process Consider**
8 **“All” Fundable and Feasible Alternatives.**

9 The voter-approved 2014 Measure BB Transportation Expenditure Plan states, “BART to
10 Livermore (\$400 M) ... The project-specific environmental process will include a detailed alternative
11 assessment of all fundable and feasible alternatives.” (p. 18, emphasis added.)

12 The September 24, 2020 ALAMEDA CTC TEP amendment altered the following provisions to
13 state, “~~BART to Livermore~~ Valley Link Rail in Alameda County (\$400 M) ... The project-specific
14 environmental process will include a detailed alternatives assessment of ~~all~~ fundable and feasible
15 alternatives.”

16 The TEP amendment removed the voter-approved requirement that the project-specific
17 environmental process include a detailed alternatives assessment of “all” fundable and feasible
18 alternatives. This amendment is inconsistent with voter intent in approving Measure BB. Measure BB
19 voters expected that a BART extension to Livermore would be funded by Measure BB. If the extension
20 to Isabel Avenue were deemed not “fundable” or “feasible,” then the Measure BB voters expected that
21 “all fundable and feasible alternatives” would be considered in a “detailed alternatives assessment.” The
22 removal of the word “all” in the September 24, 2020 TEP amendment upset voter expectations.

23 Therefore, Plaintiffs seek a judicial declaration that deletion of the word “all” in the ALAMEDA
24 CTC September 24, 2020 TEP amendment is impermissible.

25 **F. The TEP “Amendment” by the ALAMEDA CTC COMMISSION on September 24,**
26 **2020 was an Impermissible “Revision” of the 2014 Transportation Expenditure Plan.**

27 Valley Link is a completely different length, scope, and scale of project than the BART to Isabel
28 Avenue project, and a length, scope, and scale that the 2014 Measure BB voters did not contemplate,
consider or approve. The TEP Amendment was a revision of Measure BB not approved by the voters.

1 ALAMEDA CTC Parties’ diversion of \$400 million from “BART to Isabel” to a Valley Link
2 through Altamont Pass into San Joaquin County exceeded ALAMEDA CTC's authority to amend the
3 TEP. It was a “bait-and-switch” maneuver. Such a change of major significance requires returning the
4 measure to the voters, for a subsequent re-approval, because the so-called “Amendment” effectively
5 revises the voter-approved measure significantly beyond what the 2014 electorate contemplated. (cf.
6 *Raven v. Deukmejian* (1990) 52 Cal.3d 336, 349 (*Raven*).) “Comprehensive changes” to a TEP arguably
7 require “more formality, discussion and deliberation” than is available through an agency board
8 amendment process. (cf. *Raven* at pp. 349-350.) See also *Legislature v. Weber* (2024) 16 Cal.5th 237,
9 260, which distinguished amendments from revisions. Following this reasoning, a court may strike
10 down or otherwise invalidate a “revision” of a TEP.

11 **G. Changes to the Valley Link Project After the TEP “Amendment” Was Adopted by the**
12 **ALAMEDA CTC COMMISSION Make Its Implementation Illegal.**

13 The 2020 TEP Amendment cannot be allowed to take effect because, after the ALAMEDA CTC
14 COMMISSION approved the TEP amendment on September 24, 2020, the AUTHORITY BOARD
15 materially changed the project with its approval vote on May 12, 2021. The connection between BART
16 and ACE at Greenville Station was a central part of the project as of the ALAMEDA CTC
17 COMMISSION’S approval on September 24, 2020, but the Greenville Station ACE/BART connection
18 was eliminated with the AUTHORITY BOARD’s May 12, 2021 vote.

19 The Valley Link Project revisions of the voter-adopted TEP were prejudicial abuses of discretion
20 and failures to perform acts according to law. Consequently, PETITIONERS petition this Court for a
21 peremptory writ of mandate directing the ALAMEDA CTC Parties to rescind the TEP Amendment
22 approved on September 24, 2020.

23 Alternatively, PETITIONERS seek injunctive relief to enjoin ALAMEDA CTC Parties from
24 giving effect to Resolution 20-007 until the voters have approved the \$400 million TEP Amendment on
25 a future ballot. Consistent with the 1999 *HAPA* precedent, this would give the voters an opportunity to
26 decide whether they support such a radical change in priorities for Measure BB.
27
28

1 **III. THE ALAMEDA CTC PARTIES HAVE NOT ALLOCATED LOCAL STREETS**
2 **MAINTENANCE AND SAFETY FUNDING ON A PER-CAPITA AND PER-ROAD**
3 **MILE BASIS, “WEIGHTED EQUALLY,” IN VIOLATION OF THE 2014 MEASURE**
4 **BB TEP.**

5 **A. Defendants Have Not Adhered to the Mandated Local Streets Funding Formula.**

6 The Local Streets Maintenance and Safety Program (“Local Streets”) is a major component of
7 the 2014 Measure BB TEP (20 percent of net revenues or \$1.548 billion). The Measure BB TEP states
8 concerning Local Streets Maintenance and Safety funding, “Twenty percent of net revenues will be
9 allocated to local cities and the county based on a formula that includes population and road miles for
10 each jurisdiction, weighted equally, consistent with the 2000 Measure B formula.” (1AR885.) The
11 ALAMEDA CTC Parties have violated this TEP provision because they have not allocated Local Streets
12 Maintenance and Safety Program funding accordingly.

13 But the ALAMEDA CTC Parties have not and do not actually allocate Measure BB Local
14 Streets funding based upon “population and road miles for each jurisdiction, weighted equally.” The
15 ALAMEDA CTC Parties have distributed far less Measure BB Local Streets Maintenance and Safety
16 funding to the Tri-Valley cities of Livermore, Pleasanton and Dublin and to the South County cities of
17 Fremont, Newark and Union City than their “population and road miles” would justify. The cities of
18 Oakland and Berkeley, for example, have been allocated far more Measure BB Local Streets funding
19 than their “population and road miles” would justify, relative to the “population and road miles” in
20 Livermore, Pleasanton, Dublin, Fremont, Newark, and Union City.

21 The 2015 ALAMEDA CTC Master Programs Funding Agreement proves that ALAMEDA CTC
22 Parties have not complied with the Measure BB Local Streets formula. It states, in part, “LOCAL
23 STREETS AND ROADS ... ALAMEDA CTC will distribute funds pursuant to a formula weighted 50
24 percent by the population of the jurisdiction within the subarea and 50 percent by the number of road
25 miles within the subarea.” (ACTC_AR0197; emphasis added.) The word “subarea” appears nowhere in
26 the Local Streets section of the Measure BB TEP. The word “subarea” appears just once in the Measure
27 BB TEP, in the context of funding transit for “older adults and people with disabilities.” (1AR878.)

28 The “Local Streets and Roads” section of 2000 Measure B states in part, “Local transportation
funds within a geographic sub-area will be allocated to the jurisdictions within that sub-area based on a
formula weighted 50% by the population of the jurisdiction within the sub-area and 50% on the number

of road miles within the sub-area.” (ACTC_AR0026, 39.) Because the Measure BB TEP did not import the “sub-area” Local Streets funding allocation scheme by a plain reference to “consistent with the 2000 Measure B formula,” its inclusion should not be inferred. An objective reading of “for each jurisdiction weighted equally, consistent with the 2000 Measure B formula” means that “population” and “road miles” are “weighted equally” under Measure BB, consistent with the “weighted 50%” “population” and “50%” “road miles” under Measure B.

The spreadsheets that the ALAMEDA CTC Parties used to calculate Measure BB Local Streets funds distributions from FY2014-15 to FY2024-25 are included in the Administrative Record for the Seventh Cause of Action in their native Excel format. Plaintiffs compiled the following table based upon the Local Streets funds allocation spreadsheets for FY2014-15 and FY2024-25:

Table: Distributions of Measure BB Local Streets Funds: FY 2014-15 vs. FY 2024-25

Sub-Areas	Average of Population/Road Mileage*		Effective % Rate	% of Local Streets Funds
	FY 2014-15	FY 2024-25		
Northern Area	38.43%	38.06%	11.90%	59.49%
Central Area	22.26%	21.68%	3.87%	19.33%
Southern Area	20.83%	20.63%	2.40%	11.99%
Eastern Area	18.47%	19.63%	1.84%	9.19%
TOTAL	100.0%	100.0%	20.00%	100.00%

*This statistic is shown in the spreadsheets as “Adjusted Total Sub-Area”

The “Effective % Rate” is the distribution of the 20 percent of net revenues among the four “sub-areas.” It has remained constant since FY 2014-15. The “% of Local Streets Funds” column shows the percentages of Local Streets funds that each sub-area receives. This table demonstrates that the “Eastern Area” (Livermore, Pleasanton, Dublin) receives less than half of the Local Streets funds that its “population and road miles” merit. This disparity expanded from FY 2014-15 to FY 2024-25 as the population and road mileage of the Tri-Valley have increased relative to the rest of the county.

B. ALAMEDA CTC Parties Violated Their Legal Duty to Revisit the Local Streets Funding Formula Within the First Five Years of the 2014 Measure BB TEP.

Measure BB’s TEP states concerning Local Streets Maintenance and Safety funding, “The formula will be revisited within the first five years of the plan to ensure overall geographic equity in the Plan.” (1AR885.) The ALAMEDA CTC Parties failed to revisit the Local Streets funding formula

1 within the first five years of the plan to ensure overall geographic equity in the Plan. The 30-year
2 Measure BB TEP ends on or about April 1, 2045. (1AR870.) There is no evidence in the administrative
3 record that the ALAMEDA CTC COMMISSION revisited this formula on or before April 1, 2020.
4 Therefore, Plaintiffs petition for a writ of mandate directing the ALAMEDA CTC Parties to follow their
5 mandatory legal duty to revisit the Local Streets funding formula, as required by the TEP.

6
7 **IV. ALAMEDA CTC HAS FAILED TO EVALUATE THE GEOGRAPHIC EQUITY OF**
8 **THE 2014 MEASURE BB PLAN, AS TEP IMPLEMENTING GUIDELINES Nos. 12**
9 **AND 13 REQUIRE.**

10 **A. ALAMEDA CTC Parties Failed to Revisit Funding Formulas for All Measure BB**
11 **Programs, as the TEP Requires.**

12 Measure BB TEP Implementing Guideline no. 12 states in part, “[T]he Alameda CTC Capital
13 Improvement Program ... will be updated every two years and will provide for geographic equity in
14 overall funding allocations.” (1AR901; emphasis added.)

15 Measure BB TEP Implementing Guideline no. 13 states in full, “**Geographic Equity:** Funding
16 formulas for all programs will be revisited within the first five years of the Plan implementation to
17 ensure overall geographic equity based on population and/or other equity factors. Funding for capital
18 projects will be evaluated through the biennial capital improvement planning process which will include
19 an evaluation of geographic equity by planning area.” (1AR901, emphasis added.)

20 There is no evidence in the administrative record that the ALAMEDA CTC COMMISSION
21 revisited funding formulas for all programs on or before April 1, 2020. ALAMEDA CTC Parties
22 produced two internal memoranda, both dated August 2020. (ACTC_AR2622-34.) Neither was directed
23 to the COMMISSION for consideration or action. The August 5, 2020 memo to Defendant LENGYEL
24 refers to an “Informational Item” or “Policy Recommendation” for “Committees and Commission” in
25 late 2020 (ACTC_AR2626), but committee or COMMISSION review apparently never happened. The
26 August 9, 2020 memo was directed to “2014 Transportation Expenditure Plan Records Archive,” which
27 suggests that the subject “Measure BB Geographic Equity Five-Year Technical Review” never was
28 placed before the COMMISSION (ACTC_AR2627). Staff members do not have the legal authority to
take discretionary action, independent of COMMISSION, to “revisit” funding formulas on their own.

1 The ALAMEDA CTC Parties have failed to evaluate geographic equity by planning area while
2 considering funding for capital projects. Notes on pages 3, 4, 5 and 6 of the 2014 Measure BB TEP
3 state, “Priority implementation of specific investments and amounts for fully defined capital projects and
4 phases will be determined as part of the Capital Improvement Program developed through a public
5 process and adopted by Alameda CTC every two years and will include geographic equity provisions.”
6 (1AR866-869; emphasis added.) There is no evidence in the record that these processes occurred,
7 publicly or otherwise.

8 Plaintiffs petition for a writ of mandate directing the ALAMEDA CTC Parties: 1) to revisit the
9 ALAMEDA CTC funding formulas to ensure overall geographic equity in the Plan and/or 2) to evaluate
10 geographic equity by planning area for capital projects. Plaintiffs seek injunctive relief restraining and
11 preventing the ALAMEDA CTC Parties from further allocating Measure BB Local Streets Maintenance
12 and Safety funds, unless and until such allocations are made based on “population and road miles for
13 each jurisdiction, weighted equally, consistent with the 2000 Measure B formula.”

14
15 **B. The 2020 TEP Amendment Changed the Geographic Equity of Measure BB By**
16 **Converting an East County BART Project Into a Valley Link Interregional Project.**

17 The \$400 million BART to Livermore/Isabel Avenue project in the TEP had been deemed an
18 “East County” planning area project, causing ALAMEDA CTC Parties to give additional Local Streets
19 funding to Oakland, Berkeley and other cities than their population and road miles would merit, relative
20 to Livermore, Pleasanton, and Dublin, in order to provide “geographic equity.” Because of that,
21 Livermore, Pleasanton and Dublin receive less Local Streets funding than their population and road
22 miles would otherwise merit.

23 The Valley Link TEP revision upsets the geographic equity in the Plan as the Valley Link project
24 does not primarily benefit the East County planning area. As the MTC Parties consider the Valley Link
25 Project to be “interregional” and various ALAMEDA CTC commissioners at the September 24, 2020
26 meeting and otherwise have attested to the Project providing purported countywide benefits, the Court
27 should determine that the Valley Link project is not an “East County” planning area project.
28

1 **V. PROGRAM ESCALATION FACTORS OR COST ESCALATORS TO 2014**
2 **MEASURE BB TEP DOLLAR AMOUNTS ARE IMPERMISSIBLE.**

3 Plaintiffs are informed and believe that the ALAMEDA CTC Parties have added or will add
4 “cost escalators” (also known as “Program Escalation Factors” or “Escalation Factors”) to the dollar
5 amounts shown in the voter-approved 2014 Measure BB TEP and allocate larger sums of funding to
6 projects listed in the TEP than were approved by voters in 2014 or by legitimate TEP amendment.

7 Plaintiffs are informed and believe that the ALAMEDA CTC Parties will apply a “cost
8 escalator” (or “Program Escalation Factor” or “Escalation Factor”) to the \$400 million Valley Link TEP
9 amendment and allocate some funding amount greater than \$400 million to the Valley Link project.

10 The text of 2014 Measure BB TEP does not expressly provide for “cost escalators” or any
11 inflation adjustments to TEP dollar amounts. The text of the California Public Utilities Code does not
12 expressly authorize “cost escalators,” “Program Escalation Factors,” or any inflation adjustments to TEP
13 dollar amounts.

14 Plaintiffs seek this Court’s judicial declaration that any “cost escalators” or “Program Escalation
15 Factors” by the ALAMEDA CTC Parties to the dollar amounts shown for projects in the voter-approved
16 TEP, including but not limited to the \$400 million TEP amendment for the Valley Link project, would
17 be inconsistent with the California Public Utilities Code and the TEP and any such “cost escalators” or
18 “Program Escalation Factors” would be done without legal authority.

19 Plaintiffs seek injunctive relief restraining the ALAMEDA CTC Parties from applying “cost
20 escalators” or “Program Escalation Factors” to projects in the 2014 Measure BB TEP, as amended.

21 **VI. ALAMEDA CTC PARTIES BREACHED THEIR FIDUCIARY DUTIES UNDER**
22 **2014 MEASURE BB.**

23 The 2014 Measure BB TEP imposes fiduciary duties upon ALAMEDA CTC Parties that they
24 have breached. “The elements of a cause of action for breach of fiduciary duty are: (1) existence of a
25 fiduciary duty; (2) breach of the fiduciary duty; and (3) damage proximately caused by the breach.”
26 (*People ex rel. Harris v. Rizzo* (2013) 214 Cal.App.4th 921**Error! Bookmark not defined.**, 950.)

27 The ALAMEDA CTC Parties have a “fiduciary duty” by the express terms of 2014 Measure BB.
28 TEP Implementing Guideline No. 2 states in part, “**All Decisions Made in Public Process:** Alameda
CTC is given the fiduciary duty of administering the transportation sales tax proceeds in accordance

1 with all applicable laws and with the Plan.” (Emphasis added.) ALAMEDA CTC Parties breached that
2 fiduciary duty by not administering Measure BB tax proceeds in accordance with all applicable laws and
3 with the TEP.

4 Measure BB TEP Implementing Guideline No. 19 states in part, “Fiduciary Duty: By augment-
5 ing and extending the transportation sales tax, Alameda CTC is given the fiduciary duty of administering
6 the proceeds of this tax for the benefit of the residents and businesses of Alameda County.” (Emphasis
7 added.) ALAMEDA CTC Parties breached that fiduciary duty by not administering Measure BB tax
8 proceeds for the benefit of the residents and businesses of Alameda County.

9 The damages by these breaches of fiduciary duties include: (1) the \$400 million that the
10 ALAMEDA CTC Parties misallocated to the Valley Link project and (2) the tens of millions of dollars
11 of Measure BB Local Streets funds that the ALAMEDA CTC Parties misallocated not in accordance
12 with the voter-approved “population and road miles” formula.

13 **VII. AFTER FINDING VIOLATIONS IN THE FIFTH, SIXTH, AND SEVENTH CAUSES**
14 **OF ACTION, THIS COURT SHOULD ORDER THE FOLLOWING REMEDIES.**

15 **A. Declaratory Relief.**

16 An actual controversy and dispute exists between Plaintiffs, on the one hand, and ALAMEDA
17 CTC Parties, on the other hand, regarding the legality of ALAMEDA CTC's Resolution No. 20-007 TEP
18 Amendment, ALAMEDA CTC Parties' compliance with the “geographic equity” provisions of Measure
19 BB, ALAMEDA CTC Parties' compliance with the Local Streets funding provisions of Measure BB,
20 and the legality of “program escalation factors” for Measure BB TEP capital projects.

21 Plaintiffs seek this Court's declaration that the ALAMEDA CTC Parties violated the following
22 legal authorities in those actions:

- 23 • ALAMEDA CTC COMMISSION'S approval of Resolution No. 20-007 was an unlawful exercise of
24 authority. ALAMEDA CTC Resolution No. 20-007 is invalid as a 2014 Measure BB Transportation
25 Expenditure Plan Amendment.
- 26 • The 2020 Valley Link TEP Amendment is void and without legal effect because ALAMEDA CTC
27 COMMISSION did not adopt it in a process or manner consistent with Public Utilities Code §
28 180207, Measure BB Ordinance section 3(e), and/or Measure BB TEP Implementing Guideline No.
4. The letters dated May 28, 2020 sent by Defendant LENGYEL are inadequate notification of the

1 proposed TEP amendment under Section 180207. The May 28, 2020 letters did not “notify the board
2 of supervisors and the city council of each city in the county and provide them with a copy of the
3 proposed amendments.” ALAMEDA CTC Parties did not notify those entities and provide them
4 with a copy of the proposed September 14, 2020 PPLC “clarification” amendment.

- 5 • Measure BB Implementing Guideline No. 8, “a full funding plan for each project,” requires “each
6 project” to be consistent with legal requirements, including but not limited to P.U.C. § 132652.
- 7 • The September 24, 2020 Valley Link TEP amendment by ALAMEDA CTC COMMISSION,
8 “[f]unds are for construction for any element of this first phase project in Alameda County and shall
9 not be used until full funding commitments are identified and approved for the initial operating
10 segment, defined as from the Dublin/Pleasanton BART station to the proposed Mountain House
11 station ...,” is void and without legal effect because such an “initial operating segment” project
12 would violate Public Utilities Code § 132652 because it would not provide “transit connectivity”
13 between BART and ACE.
- 14 • Valley Link is a completely different length, scope, and scale of project than the BART to Isabel
15 Avenue project, and a length, scope, and scale that the 2014 Measure BB voters did not contemplate,
16 consider or approve. Valley Link would serve a different geographic area than the BART to Isabel
17 Avenue project—including one that is outside Alameda County.
- 18 • ALAMEDA CTC Parties violated TEP Implementing Guideline No. 14 because the Valley Link
19 Project east of Livermore would not benefit the residents and/or businesses of Alameda County.
- 20 • ALAMEDA CTC Parties failed to exercise requisite due care and/or reasonable diligence and/or
21 violated their fiduciary duties under TEP Implementing Guideline No. 19 by not administering the
22 proceeds of the Measure BB transactions and use tax for the benefit of the residents and businesses
23 of Alameda County because the 2020 TEP amendment would not primarily benefit the residents and
24 businesses of Alameda County.
- 25 • The September 24, 2020 TEP Amendment is void because it is inconsistent with P.U.C. §§ 131203,
26 131304 and/or the 1999 *HAPA* precedent.

- 1 • The 2020 TEP Amendment is invalid because it removed the voter-approved requirement that the
2 project-specific environmental process include a detailed alternatives assessment of “all” fundable
3 and feasible alternatives.
- 4 • ALAMEDA CTC COMMISSION’S approval of Resolution No. 20-007 is void and without legal
5 effect because it was an impermissible “revision,” rather than amendment, of the voter-approved
6 Measure BB Transportation Expenditure Plan.
- 7 • ALAMEDA CTC COMMISSION prejudicially abused its discretion and/or did not perform its
8 duties in accordance with law when it approved the Valley Link TEP amendment at its September
9 24, 2020 meeting without making any evaluation and/or finding of the project’s cost-effectiveness,
10 as required by the 2014 Measure BB TEP “Goals” and Implementing Guideline No. 7.
- 11 • ALAMEDA CTC Parties are not in compliance with the following provisions of the 2014 Measure
12 BB TEP in their allocation of Local Streets Maintenance and Safety program funds: “Twenty percent
13 of net revenues will be allocated to local cities and the county based on a formula that includes
14 population and road miles for each jurisdiction, weighted equally, consistent with the 2000 Measure
15 B formula. The formula will be revisited within the first five years of the plan to ensure overall
16 geographic equity in the Plan.”
- 17 • ALAMEDA CTC Parties violated their legal duty to revisit the Local Streets funding formula within
18 the first five years of the 2014 Measure BB TEP.
- 19 • ALAMEDA CTC Parties failed to evaluate the geographic equity of the 2014 Measure BB plan as
20 TEP Implementing Guidelines no. 12 and 13 require.
- 21 • ALAMEDA CTC Parties failed to revisit funding formulas for all Measure BB Programs as the TEP
22 Requires.
- 23 • Any "cost escalators," "Program Escalation Factors," or other inflation adjustments to the dollar
24 amounts shown in the voter-approved Transportation Expenditure Plan, including but not limited to
25 the \$400 million TEP amendment for the Valley Link project, are inconsistent with the TEP, as
26 properly amended, and any such "cost escalators," "Program Escalation Factors," or other inflation
27 adjustments are otherwise done without legal authority.
- 28

- The ALAMEDA CTC Parties failed to exercise due care and/or reasonable diligence and/or breached their fiduciary duties under the 2014 Measure BB Transportation Expenditure Plan by approving Resolution No. 20-007 and reallocating \$400 million of Measure BB funds to the Valley Link project and/or by misallocating tens of millions of dollars of Measure BB Local Streets funds not in accordance with the voter-approved population and road miles formula.

B. Relief Pursuant to Code of Civil Procedure Sections 526a and 527 and Common Law Taxpayer Action.

ALAMEDA CTC Parties illegally seek to provide Measure BB funds for the implementation of the Valley Link public improvement project. ALAMEDA CTC Parties illegally have distributed Measure BB Local Streets Maintenance and Safety funds.

The ALAMEDA CTC Parties have not complied with legal standards (*Harman, Rathbun, Vasquez*), including but not limited to the Public Utilities Code and provisions of the Measure BB Ordinance and TEP. When compared against these legal standards, ALAMEDA CTC's funding of the Valley Link Project is ultra vires. This Court should issue a judgment, restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property (including existing I-580 median improvements) forthwith.

Pursuant to Code of Civil Procedure sections 526a (including subd. (c), specifically to enjoin a "public improvement project") and 527 and common law taxpayer actions, Plaintiffs seek this court's temporary restraining order, preliminary injunction and permanent injunction restraining and preventing ALAMEDA CTC Parties and their agents, employees, contractors, and any others working in concert with them:

- From implementing and/or giving effect to Resolution No. 20-007, the Valley Link TEP Amendment approved by ALAMEDA CTC COMMISSION on September 24, 2020.
- Alternatively, from providing funding to any Valley Link project, including but not limited to any "initial operating segment," that does not provide "connectivity, between BART's rapid transit system and the Altamont Corridor Express commuter rail service," as required by Public Utilities Code § 132652.

- Alternatively, from giving effect to Resolution No. 20-007 until Alameda County voters on a future ballot at an election have approved the \$400 million TEP Amendment converting the BART-to-Isabel Avenue project into a Valley Link-to-San-Joaquin-County project.
- From further allocating Measure BB Local Streets Maintenance and Safety funds, unless and until such allocations are made based on “population and road miles for each jurisdiction, weighted equally, consistent with the 2000 Measure B formula” and not based on sub-areas.
- From providing a “cost escalator,” “Program Escalation Factor,” or other inflation adjustment to increase the amount of Measure BB Transportation Expenditure Plan funding for the Valley Link project at an amount exceeding \$400,000,000.

Plaintiffs seek remedies of restitution, disgorgement, and/or recovery from the ALAMEDA CTC Parties of 2014 Measure BB monies illegally expended or wasted (*Davis II*, *Stevens*, *Mock*).

C. Mandatory Relief.

The ALAMEDA CTC Parties’ approvals of the 2020 Valley Link TEP Amendment and/or Local Streets funding allocations are arbitrary, capricious, entirely lacking in evidentiary support, unlawful, or procedurally unfair. In making the Measure BB funding allocations and/or failing to follow their mandatory duties under Measure BB, ALAMEDA CTC Parties did not adequately consider all relevant factors, demonstrate a rational connection between those factors, the choice made, and the purposes of S&HC §§ 30914, 31010 (*Cal. Hotel*). ALAMEDA CTC Parties’ illegal expenditures of Measure BB funds are a prejudicial abuse of its discretion and/or otherwise not in accordance with law.

ALAMEDA CTC Parties failed to perform their clear, present, and mandatory duties in considering and approving the Valley Link TEP Amendment, Local Streets funding allocations, and/or re-visiting of funding formulas and/or “geographic equity” requirements. ALAMEDA CTC COMMISSION’S approvals of Resolution No. 20-007 and/or Local Streets funding allocations were a failure to perform properly an act which the law specially enjoins, as well as a prejudicial abuse of its discretion. Plaintiffs have a clear, present right to, and beneficial interest in ALAMEDA CTC Parties’ performance of those duties. Plaintiffs have no other remedy at law or that remedy is inadequate.

Plaintiffs request that this Court issue a peremptory writ of mandate in the public interest directing the ALAMEDA CTC Parties, especially the COMMISSION:

- To rescind Resolution No. 20-007 the TEP Amendment approved on September 24, 2020.
- To refrain from implementing and/or giving effect to Resolution 20-007, the TEP Amendment approved by ALAMEDA CTC COMMISSION on September 24, 2020 concerning funding for the Valley Link public improvement project.
- To refrain from providing funding to any Valley Link public improvement project, including but not limited to any “initial operating segment,” that does not provide “connectivity, between BART’s rapid transit system and the Altamont Corridor Express commuter rail service,” as required by Public Utilities Code § 132652.
- To refrain from giving effect to Resolution 20-007 until Alameda County voters on a future ballot at an election have approved the \$400 million TEP Amendment converting the BART-to-Isabel Avenue project into a Valley Link-to-the-San-Joaquin-County-line project.
- To allocate Measure BB Local Streets Maintenance and Safety funds based on “population and road miles for each jurisdiction, weighted equally, consistent with the 2000 Measure B formula” and not based on sub-areas.
- To revisit the ALAMEDA CTC funding formulas to exercise discretion to ensure overall geographic equity in the Plan and/or to evaluate geographic equity by planning area for capital projects.
- To exercise discretion to evaluate the geographic equity of the 2014 Measure BB plan, as TEP Implementing Guidelines no. 12 and 13 require.
- To refrain from providing a “cost escalator” or other inflation adjustment to increase the amount of Measure BB Transportation Expenditure Plan funding for the Valley Link public improvement project to an amount exceeding \$400,000,000.

CONCLUSION

For the reasons stated *supra*, Plaintiffs respectfully request that the Court issue a peremptory writ of mandate and provide other declaratory, injunctive, and restitution/recovery relief as requested.

DATED: October 16, 2026

Respectfully submitted,

LAW OFFICES OF JASON A. BEZIS

/s/ Jason A. Bezis

JASON A. BEZIS

Attorney for Plaintiffs and Petitioners ALAMEDA
COUNTY TAXPAYERS' ASSOCIATION, INC., a
California non-profit corporation; MARCUS CRAWLEY;
MONTCLAIR VILLAGE HARDWARE; and
TRANSPORTATION SOLUTIONS DEFENSE AND
EDUCATION FUND, a California nonprofit corporation

PROOF OF SERVICE

Alameda County Taxpayers' Association et al. v. Tri-Valley-San Joaquin Valley R.R.A. et al.
Alameda County Superior Court Case No. RG21110126

At the time of service, I was over 18 years of age and not a party to this action. My business address is 3661-B Mosswood Drive, Lafayette, CA 94549-3509.

On October 16, 2026, I served true copies of the following document(s) described as:

**PLAINTIFFS' OPENING BRIEF IN SUPPORT OF FIRST AMENDED VERIFIED TAXPAYER
COMPLAINT AND PETITION FOR WRIT OF MANDATE
(FIFTH, SIXTH, AND SEVENTH CAUSES OF ACTION)**

on the interested parties in this action as follows:

SERVICE LIST

Michael N. Conneran, Esq.	<i>Attorneys for Defendants/Respondents</i>
Andrew A. Bassak, Esq.	<i>TRI-VALLEY-SAN JOAQUIN VALLEY</i>
David C. Casarrubias-González, Esq.	<i>REGIONAL RAIL AUTHORITY, its BOARD,</i>
Breana L. Burgos, Esq.	<i>KEVIN SHERIDAN, and MICHAEL TREE</i>
HANSON BRIDGETT LLP	
425 Market Street, 26th Floor	
San Francisco, CA 94105	
Phone: (415) 777-3200 Fax: (415) 541-9366	
E-mail: MConneran@hansonbridgett.com ;	
ABassak@hansonbridgett.com ;	
DCasarrubias-Gonzalez@hansonbridgett.com ;	
BBurgos@hansonbridgett.com ;	

Kathleen Kane, General Counsel	<i>Attorneys for Defendants/Respondents</i>
Kimberly Ward, Clerk	<i>METROPOLITAN TRANSPORTATION</i>
375 Beale Street, Suite 800	<i>COMMISSION, BAY AREA TOLL</i>
San Francisco, CA 94105	<i>AUTHORITY, and THERESE W. McMILLAN</i>
Phone: (415) 778-7975	
E-mail: kkane@bayareametro.gov ;	
kward@bayareametro.gov ;	

Kevin D. Siegel
Deepa Sharma
Maxwell A. Blum
BURKE, WILLIAMS & SORENSEN, LLP
1 California Street, Suite 3050
San Francisco, CA 94111-5432
Phone: (415) 655-8100
E-mail: ksiegel@bwsllaw.com;
dsharma@bwsllaw.com;
MBlum@bwsllaw.com;

*Attorneys for Defendants/Respondents
METROPOLITAN TRANSPORTATION
COMMISSION, BAY AREA TOLL
AUTHORITY, and THERESE W. McMILLAN*

Joshua D. Cohen
Darien K. Key
FENNEMORE LLP
1111 Broadway, 24th Floor
Oakland, CA 94607-4036
Telephone: (510) 834-6600
E-mail: jcohen@fennemorelaw.com;
dkey@fennemorelaw.com;

*Attorneys for Defendants/Respondents ALAMEDA
COUNTY TRANSPORTATION COMMISSION,
COMMISSIONERS OF ALAMEDA COUNTY
TRANSPORTATION COMMISSION (its
BOARD), AND TESS LENGYEL*

BY ELECTRONIC SERVICE: Based on an agreement of the parties to accept e-mail or electronic transmission and/or in accordance with Alameda County Superior Court Local Rule 3.27, by causing the documents to be sent to the persons at the e-mail addresses listed on the service list as of this date, from e-mail address: jason@bezislaw.com. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 16, 2026, at Lafayette, Contra Costa County, California.

/s/ Jason A. Bezis

JASON A. BEZIS