

BYLAWS
OF
ALAMEDA TRANSPORTATION MANAGEMENT ASSOCIATION,
A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION

JUNE 21, 2017

ARTICLE 1
NAME AND OFFICE

The name of this California nonprofit public benefit corporation is ALAMEDA TRANSPORTATION MANAGEMENT ASSOCIATION (“**ATMA**”). The principal office of the ATMA shall be 791 Mandana Boulevard, Oakland, CA, 94610 in the County of Alameda, State of California.

ARTICLE 2
DEFINITIONS

The capitalized terms used in these Bylaws, unless otherwise specifically defined herein, shall have the meanings set forth in the General Provisions of the California Nonprofit Corporation Law and in the California Nonprofit Public Benefit Corporation Law. The term “**Legally Binding Documents**” means the respective transportation demand management (“**TDM**”) plans approved from time to time by the City of Alameda (the “**City**”) for each of the TMA Project Areas (as defined in Section 3.2 of these Bylaws), as the same may be amended from time to time, the covenants running with the land (recorded or to be recorded) incorporating and implementing the TDM plan for each TMA Project Area, and the recorded Covenants, Conditions, and Restrictions (“**CC&Rs**”) or other documents by which each TDM program (and the duty to pay TDM dues and have liens imposed) becomes a covenant running with the land against the real property in each TMA Project Area).

ARTICLE 3
PURPOSE, AREA SERVED, AND AUTHORITY

3.1 **Purpose.** The ATMA is a California nonprofit public benefit corporation organized under the California Nonprofit Public Benefit Corporation Law and operated primarily for the promotion of social welfare within the meaning of Section 501(c)(4) of the Internal Revenue Code. The purpose of the ATMA is to manage and administer the implementation of TDM Project Area programs by Project Area Committees (as herein defined); facilitate shared TDM services as appropriate between TMA Project Areas; provide marketing for TMA Project Area programs and services; and coordinate annual monitoring, evaluation and reporting to the City of Alameda in accordance with relevant Legally Binding Documents for each respective development project within each TMA Project Area, with Board approval thereof prior to submittal to the City.

3.2 **Areas Served.** The “**TMA Project Areas**” or “**Project Areas**,” as those terms are used in these Bylaws and to the extent such areas are participating in the ATMA, are shown in Appendix A, and are defined and governed as the following two separate geographic areas:

- **Northern Waterfront:** bounded by the Oakland-Alameda Estuary, Tilden Way, Webster/Posey tubes, Webster Street and Lincoln Avenue.

- **Alameda Point:** area west of Main Street, Central Avenue and Boat Ramp Road.

3.3 **Authority.** The obligations of development projects within the TMA Project Areas to meet trip reduction and other TDM goals are required through and established by relevant Legally Binding Documents. The ATMA, through its Board (as defined in Section 5.1 of these Bylaws), shall have the general power to do any and all things that a nonprofit public benefit corporation organized under the laws of the State of California and exempt under Section 501(c)(4) of the Internal Revenue Code and Section 23701f of the California Revenue and Taxation Code may do in order to further the specific purposes of the ATMA as set forth in Section 3.1, specifically including any and all lawful action which may be authorized herein or in Legally Binding Documents for each TMA Project Area or which may be necessary and proper for, or incidental to, the exercise of any of the express powers of the ATMA. The ATMA is not a regulatory body with enforcement authority, but rather has been created to engage staff, and to implement and facilitate programs designed to achieve the TDM goals for individual projects within the TMA Project Areas as well as to assist individual property owners, tenants and others in the TMA Project Areas in meeting the specific requirements of their Legally Binding Documents. Consistent with, and subject to Article 7 hereof, Project Area Committees, as defined herein, have authority and responsibility for governance of site-specific or independent TDM programs within their respective TMA Project Areas in accordance with the Legally Binding Documents applicable to such TMA Project Areas.

ARTICLE 4 MEMBERSHIP

4.1 **Classes of Membership.** The ATMA shall have three classes of nonvoting members (each a “**Member**”): “**General Members**”, “**Associate Members**”, and the City. Members are not ‘members’ within the meaning of Section 5056 of the California Corporations Code, and do not have the right to vote on any ATMA matter.

4.1.1 **General Members.** Every Project Developer and Property or Parcel Owner within the TMA Project Areas for whom TDM and/or participation in a TMA is or will be required, shall automatically hold a general dues-paying membership in the ATMA and shall retain the membership until such time as his or her ownership (or ground lease, if applicable) ceases, at which time such Owner’s membership shall automatically cease. Membership in the ATMA shall not be assignable, except to a Person to which title to a Parcel has been transferred or the holder of a ground lease who qualifies as an Owner. Every membership in the ATMA shall be appurtenant to and may not be separated from the fee ownership of such Parcel, except where permitted for a ground lessee in accordance with the terms of the Legally Binding Documents and/or TDM requirements for a TMA Project Area. General Members who are individual persons, or members, officers, directors or employees of General Members, are eligible to serve on the Board so long as such individuals have an approved TDM program and are making financial contributions to such TDM program (collectively, the “**Qualified Persons**”).

4.1.2 **Associate Members.** Associate Members are voluntary Members who may join the ATMA upon application to the ATMA and may be accepted as Associate Members at the discretion of the Board. These Members may include developers and owners of projects and properties for whom TDM or joining a TMA is not required but who wish to become dues-paying participants of the ATMA. Associate Members may be located outside the TMA Project Areas. As stated in Section 3.2, Associate Members are not entitled to serve on the Board.

4.1.3 **The City.** The City of Alameda shall be a non-dues-paying Member of the ATMA. It will be represented by two designees of the “**City Manager**” of the City who also serve on the Board.

4.2 **Membership Assessments.** Annual Assessments to the ATMA are required of all General Members and Associate Members, as more particularly set forth in Article 9 of these Bylaws and in the Legally Binding Documents applicable to each TMA Project Area.

4.3 **Termination of Membership.** As may be required by law or contract, (a) General Members are required to participate in the ATMA and may not withdraw from the ATMA except upon sale or transfer of the TMA Project Areas property to which membership is attached; and (b) an Associate Member may withdraw upon delivery of written notice to the Chairperson or Secretary of the Board no later than 90 days prior to the start of the new fiscal year. Associate Memberships may be terminated by the Board upon seven (7) days prior notice for any of the following reasons: (x) nonpayment or delinquency of Assessments; (y) failure to maintain qualification for membership or provide data requested by the ATMA; or (z) other good cause as determined by the Board.

4.4 **Meetings of Members.** There shall be no mandatory annual or other periodic membership meetings. Members may attend meetings of the Board, except during executive sessions of the Board, and may participate in discussion of agenda items at the discretion of the Board.

ARTICLE 5 BOARD OF DIRECTORS

5.1 **Powers of the Board.** Subject to the California Nonprofit Public Benefit Corporation Law and the Legally Binding Documents, and except as may otherwise be provided in the ATMA’s Articles of Incorporation (the “**Articles**”) or these Bylaws, the ATMA shall be managed by, and all corporate powers shall be exercised by or under the direction of, the ATMA’s board of directors (the “**Board**”, and each director on the Board, a “**Director**”). The Board may delegate management of the ATMA activities to any person or persons (including the TDM Manager), or to any committee of the ATMA, however composed, provided that the activities and affairs of the ATMA shall be managed and all corporate powers shall be exercised under, and subject to the ultimate direction of, the Board. Without prejudice to these general powers and subject to the same limitations, the Board shall have the power on behalf of and in the name of the ATMA:

A. to select and remove any or all of the officers, agents and employees of the ATMA (but not of Project Area Committees), prescribe such powers and duties for them as may not be inconsistent with law or the Legally Binding Documents, fix their compensation, and require from them security for faithful service;

B. to establish ATMA Budgets (as defined herein) and to levy and enforce Assessments in accordance with Article 9 of these Bylaws and with the Legally Binding Documents applicable to each TMA Project Area;

C. to conduct, manage and control the affairs and business of the ATMA and to adopt regulations not inconsistent with applicable laws, the Legally Binding Documents, the Articles, or these Bylaws, as it deems best;

D. to coordinate annual monitoring, evaluation and reporting to the City in accordance with City requirements for each respective development project within each TMA Project Area;

E. to change the principal office for the transaction of business of the ATMA from one location to another within the TMA Project Area serviced by the ATMA and to call Board and Members' meetings;

F. to assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow or lend money or otherwise use its credit and secure any of its obligations, contracts or liabilities;

G. to solicit, collect, receive, acquire, hold and invest money and property, both real and personal, received by gift, contribution, bequest, devise or otherwise; to sell and convert property, both real and personal, into cash; and to use the funds of the ATMA and the proceeds, income, rents, issues and profits derived from any property of the ATMA for any of the purposes for which the ATMA is formed;

H. to dutifully observe any trust created to furnish funds for the principal objectives of the ATMA and receive, hold, administer and expend funds and property subject to that trust;

I. to purchase or otherwise acquire, own, hold, sell, assign, transfer or otherwise dispose of mortgage, pledge or otherwise hypothecate or encumber, and to deal with shares, bonds, notes, debentures or other securities or evidences of indebtedness of any person, firm, corporation or association, and while the owner or holder thereof, to exercise all rights, powers and privileges of ownership; and

J. to admit new Project Areas to the ATMA.

5.2 Limitations on Powers of the Board. Anything to the contrary in Section 5.1 notwithstanding, the powers of the Board shall be limited as follows:

5.2.1 The Board shall not have authority to approve or take actions in contravention of the Legally Binding Documents.

5.2.2 The Board shall not have authority to approve contracts or incur any liability affecting the TDM Program for a TMA Project Area without the written consent of the Project Area Committee for that TMA Project Area or unless otherwise contemplated in the applicable Project Area Budget; provided, however, that the Board may approve contracts or incur any liabilities for administrative matters affecting multiple TMA Project Areas, without further consent, if the expenses associated with such contract or liability are within the limits set by the Administrative Budget.

5.2.3 The Board shall not have authority to modify a Project Area Budget without the approval of the Project Area Committee for that TMA Project Area, except as may be necessary to bring that TMA Project Area into compliance with the Legally Binding Documents.

5.2.4 The Board shall not permit commingling or utilization of funds from any segregated TMA Project Area account for the purpose of defraying expenses of TDM programs

exclusive to other TMA Project Areas, except as may be expressly authorized under the Legally Binding Documents for the affected TMA Project Areas or as contemplated by the respective Project Area Committee.

5.2.5 The Board shall not withhold its approval of any Project Area Committee proposed program that is fully funded by such TMA Project Area and consistent with the exempt purposes of the ATMA and applicable law.

5.3 **Composition of the Board.** The Board shall have the following composition: Each participating TMA Project Area shall have three representatives on the Board (“**Project Area Directors**”); the City of Alameda shall have two representatives on the Board (“**City Directors**”); and the Board may elect additional Directors as provided below. Directors shall be selected from among Qualified Persons as follows:

5.3.1 **Project Area Directors.** Each Project Area Committee, as defined in Section 7.1 of these Bylaws, shall designate three Project Area Directors who shall qualify to bring their particular TMA Project Area’s perspectives to the Board’s decision-making. Each Project Area Director must be a General Member, or member, officer, director or employee of a General Member.

5.3.2 **City Directors.** The City Manager of the City of Alameda (the “City Manager”) shall designate two City Directors who shall qualify to bring the City of Alameda’s perspectives to the Board’s decision-making.

5.3.3 **Other Directors.** Additional Directors and their means of appointment or election may be established by the unanimous vote of the Board.

5.3.4 **Number of Directors.** The authorized number of Directors shall consist of at least 5 but no more than 15 Directors, until changed by amendment to these Bylaws. The exact number of authorized Directors shall be fixed, within those limits, by a resolution adopted by the Board.

5.3.5 **Designators.** In their capacities as designators of Board Members, the City Manager and Project Area Committees are “**Designators.**”

5.4 **Terms of Office.** Each Director designated or elected shall serve for a three-year term ending on January 1 and until a successor Director has been selected and qualified, unless the Director has died, resigned, been removed, or been otherwise disqualified from office. Directors may be re-elected or re-designated to the Board without limitation for consecutive terms.

5.5 **Voting By Directors.** Each Director shall have one vote on all matters and resolutions to come before the Board. No Director may vote by proxy.

5.6 **Vacancies.** A vacancy on the Board shall exist upon any of the following:

- A. death of a Director;
- B. resignation of a Director;
- C. removal of a Director in accordance with Section 5.9 below;

D. declaration by Board resolution that a Director has been found of unsound mind by court order or convicted of a felony or found by court order to have breached a duty arising under Article 3, Chapter 2 (commencing with Section 5230) of the California Nonprofit Public Benefit Corporation Law;

E. an increase in the authorized number of Directors by a resolution adopted by the Board;

F. failure by a Designator to designate one or more Directors pursuant to Section 5.3 to fill all authorized positions; and

G. if a Director who is a Qualified Person thereafter ceases to qualify as a Qualified Person.

5.7 Filling Vacancies. A vacancy in a designated Director position may be filled by the appropriate Designator; provided, however, that, if a Designator fails to designate the full number of Directors it is authorized to designate at least one month before an annual meeting of the Board or within one month of a designated Director position becoming vacant, whichever is sooner, such vacancy may be filled by approval of the Board. Vacancies of elected Directors (if any) may be filled by approval of the Board. If a quorum cannot be established because the number of Directors then in office is less than the greater of (a) one-fifth of the minimum number of authorized Directors, or (b) two Directors, vacancies in the Board may be filled by (i) the unanimous written consent of the Directors then in office, (ii) the affirmative vote of a majority of the Directors then in office at a duly held meeting, or (iii) by a sole remaining Director if only one Director remains. Each Director selected to fill a vacancy in the Board shall hold office until the expiration of the term of the Director whom he or she replaced and shall continue to serve until a successor has been elected or designated and qualified.

5.8 Resignation. Any Director may withdraw or resign by giving written notice to the Chairperson or Secretary of the Board. Such notice shall be effective upon receipt.

5.9 Removal.

5.9.1 A Director may be removed from the Board under any of the following circumstances by a vote of the majority of Directors then in office, not including the vote of the Director whose removal is being voted upon:

A. For failure to attend three (3) consecutively scheduled Board meetings except if (i) the Director requests a leave of absence for a limited period of time, and the leave is approved by the Board (if such leave is granted, the number of Directors will be reduced by one in determining whether a quorum is or is not present); or (ii) the Director suffers from an illness, disability or special circumstance that prevents him or her from attending meetings and the Board by resolution waives the removal procedure set forth in this section. The Board shall declare the office of a Director who has failed to attend three (3) consecutively scheduled Board meetings vacant unless one of the exceptions described above apply.

B. The Director ceases to meet qualifications of a Director as provided in these Bylaws and Board Policy existing at the time the Director was last elected or designated.

5.9.2 A Director may also be removed from the Board under any of the following circumstances.

A. The Director may be removed, with or without cause, by a two-thirds (2/3) vote of the Directors then in office; provided, however, that (i) a designated Director may be removed without cause by such vote of the Directors only with the written consent of the Designator and (ii) the Board will strongly consider obtaining the advice of counsel before removing any Director with cause.

B. A Director may be removed, with or without cause, by the Designator that designated such Director.

5.10 **Place of Meetings.** The Board shall hold its annual, regular or special meetings at such places as determined by the Board within or proximate to, the City of Alameda.

5.11 **Meeting Dates.**

5.11.1 **Regular Meetings.** Regular meetings of the Board shall be held quarterly on such dates and at such times and places as specified in a resolution adopted by the Board then in effect.

5.11.2 **Special Meetings.** Special meetings of the Board may be called at any time by the Chairperson or Secretary, or any three voting Directors.

5.12 **Notice - Regular Meetings.** No prior notice of a regular meeting shall be necessary.

5.13 **Notice - Special Meetings.** Notice of any special meeting shall be delivered to each Director not less than 72 hours prior to the date fixed for the meeting. The notice shall be personally delivered or sent by mail or email to each Director at his or her address as shown in the records of the ATMA and shall specify the purpose of the meeting. If the notice is mailed, it shall be deemed to be delivered 24 hours after deposit in the US mail with first class postage fully prepaid. If notice is given by email, notice shall be deemed to be delivered when the email is delivered. The foregoing notwithstanding, notice of a special meeting need not be given to any Director who signs a waiver of notice or written consent to holding the meeting, or an approval of the minutes of the meeting, whether before or after the meeting, or who attends the meeting without protesting the lack of notice to that Director either before or at the commencement of the meeting.

5.14 **Quorum.** A majority of Directors then in office shall constitute a quorum of the Board for the transaction of business. Notwithstanding the foregoing, for meetings at which the Board shall take action on matters significantly affecting only one TMA Project Area (or one or more TMA Project Areas, at any time there are more than 2 TMA Project Areas in the ATMA) and not all TMA Project Areas ("**TMA Project Area Matters**"), a quorum shall require at least two Project Area Directors from such affected TMA Project Areas, subject to Section 5211(a)(7) of the California Nonprofit Public Benefit Corporation Law. Every action taken or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board, subject to the more stringent provisions of the California Nonprofit Public Benefit Corporation Law, including, without limitation, those provisions relating to (a) approval of contracts or transactions in which a Director has a direct or indirect material financial interest, (b) approval of certain transactions between corporations having common

directorships, (c) creation of and appointments to committees of the Board, and (d) indemnification of Directors; and also subject to the majority vote of all Project Area Directors of an affected TMA Project Area, whether present or not, on any TMA Project Area Matters. The Directors present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment even if some Directors have withdrawn to leave less than a quorum, provided that any action taken is approved by at least a majority of the number of Directors required for such a vote.

5.15 Adjournment. A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting of the Board to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place be fixed at the meeting adjourned, except as provided in the next sentence. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the Directors who were not present at the time of the adjournment. At the adjourned meeting, the Board may transact any business that may have been transacted at the original meeting.

5.16 Executive Sessions. At the discretion of the Board, and subject to any applicable open meeting laws, a Board meeting may be held as an executive session in which only Directors may attend and participate. Any matter discussed in executive session shall be generally noted in the minutes of the Board.

5.17 Action without a Meeting. Directors shall have the right to take any action that may be required for the efficient and expeditious operation and conduct of the ATMA's business without a meeting if (1) the Board would have the power and authority to act at a meeting, and (2) the written consent of all Directors to such action is first obtained. Any action taken by written consent shall have the same force and effect as a unanimous vote of the Board, and the written consent or consents shall be filed with the minutes of the proceedings of the Board. For purposes of this Section 5.17 only, "**all Directors**" shall not include any "**interested director**" as defined in Section 5233 of the California Nonprofit Public Benefit Corporation Law or a "**common director**" as described in Section 5234 of the California Nonprofit Public Benefit Corporation Law who abstains in writing from providing consent, when (i) the facts described in Section 5233(d)(1) or (d)(2) are established or the provisions of Section 5234(a) are satisfied, as appropriate, at or before the execution of the written consent or consents; (ii) the establishment of those facts or satisfaction of those provisions is included in the written consent or consents executed by the non-interested or non-common Directors or in other records of this corporation; and (iii) the non-interested or non-common Directors approve the action by a vote that is sufficient without counting the votes of the interested Directors or common Directors.

5.18 Compensation. Directors of the Board shall serve without compensation. Directors may receive such reimbursement of expenses as the Board may establish by resolution to be just and reasonable as to this corporation at the time that the resolution is adopted

5.19 No Personal Liability for Directors. Directors shall not be personally liable for the debts, liabilities or other obligations of the ATMA.

5.20 Minutes. Minutes of each meeting of the Board shall be prepared and maintained with the ATMA's corporate records.

ARTICLE 6
OFFICERS OF THE BOARD

6.1 **Officers.** The officers of the ATMA shall be a “**Chairperson**”, one or more “**Vice Chairpersons**”, a “**Secretary**”, a “**Chief Financial Officer**” and, at the discretion of the Board, a “**TDM Manager**”. The ATMA may also have, at the discretion of the Board, one or more “**Assistant Secretaries**”, one or more “**Assistant Financial Officers**” and such other officers as may be elected in accordance with the provisions of Section 6.2, following resolution of the Board to create additional office(s). Any number of offices may be held by the same person.

6.2 **Election and Removal of Officers.**

6.2.1 **Qualification and Election or Appointment:** Only a Director may be elected as Chairperson or Vice Chairperson. The officers of the ATMA shall be elected by the Board and, except for any officer employed by the ATMA on an at-will basis, each officer shall serve for a term of two years and shall continue to serve until a successor officer has been elected, unless the officer has resigned or been removed or disqualified from such office. Each officer shall serve at the pleasure of the Board, subject to the rights if any, of an officer under any contract of employment.

6.2.2 **Removal of Officers:** Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed with or without cause by the Board at any regular or special meeting of the Board.

6.2.3 **Resignation of Officers:** Subject to terms of any contract of employment of an officer, any officer may resign at any time by giving written notice to the ATMA. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the ATMA under any contract to which the officer is a party.

6.2.4 **Vacancies in Offices:** A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled only in the manner prescribed in these Bylaws for election or appointment to that office.

6.3 **Duties of Officers.** Officers shall perform the duties described herein and any other duties that may be prescribed by the Board.

6.3.1 **Chairperson:** The Chairperson shall preside at all meetings of the Board; see that orders and resolutions of the Board are carried out; sign all leases, mortgages, deeds, promissory notes and other written instruments; and have such other powers and perform such other duties as may be prescribed to her or him by the Board. In the absence of a TDM Manager, the Chairperson is the chief executive officer and general manager of the ATMA and has, subject to the control of the Board, general supervision, direction and control of the business, activities and officers of the ATMA.

6.3.2 **Vice Chairperson:** The Vice Chairperson or, if more than one, the Vice Chairpersons, in order of their rank as fixed by the Board or, if not ranked, the Vice Chairperson designated by the Board, shall act in the place and stead of the Chairperson in the event of the Chairperson's absence or disability.

6.3.3 **Secretary:** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and the ATMA; serve, or cause to be served, notice of meetings of the Board and the ATMA; keep, or cause to be kept, appropriate current records of the ATMA; and have such other powers and perform such other duties as may be prescribed to her or him by the Chairperson or the Board. Without limiting the foregoing, the Secretary shall attend to the following:

A. The Secretary shall keep, or cause to be kept, at the principal executive office or other such place as the Board may direct, a book of minutes of all meetings and actions of directors and committees of directors, whether regular or special, and if special, how authorized, the notice given, the names of those present at such meetings and the proceedings of such meetings.

B. The Secretary shall keep, or cause to be kept, at the principal executive office as determined by resolution of the Board, a record of ATMA Members, showing if possible the names of all Members, their addresses and in the case of non-residential parcels, the acreage or square footage of each parcel.

C. The Secretary shall give, or cause to be given, notice of all meetings of the members and of the Board required by the Bylaws to be given.

6.3.4 **Chief Financial Officer:** The Chief Financial Officer shall receive and deposit, or cause to be received and deposited, into appropriate bank accounts all monies of the ATMA; disburse, or cause to be disbursed, funds as directed by resolutions of the Board; keep, or cause to be kept, proper books of account; and supervise preparation of ATMA Budgets and financial statements; and have such other powers and perform such other duties as may be prescribed to her or him by the Board.

6.3.5 **TDM Manager:** The TDM Manager (if there be such officer) is the general manager and chief executive officer of this corporation. The TDM Manager has the general powers and duties of management usually vested in the office of chief executive officer and general manager of a corporation and such other powers and duties as may be prescribed by the Board and in the Legally Required Documents. The TDM Manager shall work with the Board, shall see that the Board is advised on all significant matters of the ATMA's business, and shall see that all orders and resolutions of the Board are carried into effect. The TDM Manager shall also work with each Project Area Committee, shall see that each Project Area Committee is advised on all significant matters relating to the TDM programs within its TMA Project Area. In this regard, the TDM Manager may serve as the "**Program Manager**" (or other applicable TDM manager) under the Legally Binding Documents and applicable TDM program(s) for each of the TMA Project Areas. The TDM Manager may be a paid position subject to the discretion of the Board, and the cost of the TDM Manager shall be included in the ATMA Administrative Budget, as defined herein.

6.3.6 **Delegation of Duties.** The duties and responsibilities of the Officers may be delegated in whole or in part to the TDM Manager. The TDM Manager may, in turn, delegate duties and responsibilities to one or more "**Assistant Managers**" or, with respect to the duties of the Chief Financial Officer, to an "**Assistant Financial Manager**" of the ATMA.

ARTICLE 7
PROJECT AREA COMMITTEES

7.1 **Powers and Responsibilities of Project Area Committees.** A standing committee shall be created for each of the TMA Project Areas (“**Project Area Committee**” or “**PAC**”) in accordance with these Bylaws and the Legally Binding Documents governing each TMA Project Area. Each Project Area Committee has full authority and responsibility for governance and funding of its site-specific or otherwise independent program(s), subject to the ultimate direction and oversight of the Board to intervene on matters of compliance with applicable law, applicable TDM programs, and Legally Binding Documents. Without limiting the generality of the foregoing, each Project Area Committee shall have the power, on behalf of and in the name of the ATMA:

A. to create Project Area Budgets and to establish Assessments chargeable to Owners within its respective TMA Project Area, to be levied, collected and enforced by the Board in accordance with these Bylaws and the Legally Binding Documents applicable to each TMA Project Area;

B. to conduct, manage and control the affairs and business of the ATMA with respect to the operation of transportation facilities within its TMA Project Area, except for administrative and oversight functions, which are reserved to the Board; and

C. to direct the Board as to contracts to be entered into and administered by the ATMA for transportation services and facilities within its TMA Project Area.

7.2 **Composition of Project Area Committees.** Project Area Committees shall be composed of and be appointed or elected pursuant to the terms of the Legally Binding Documents governing a particular TMA Project Area. In the absence of express provisions in the Legally Binding Documents governing a TMA Project Area, and except as set forth in Section 7.3, below, the Project Area Committee for each TMA Project Area shall have the following members:

7.2.1 **Largest Property PAC Member.** One Project Area Committee member (the “**Largest Property PAC Member**”) shall be appointed to the applicable Project Area Committee by the largest financial contributor from such TMA Project Area. As used throughout this Section 7.2, “largest financial contributor” shall mean the property owner within a Project Area paying the largest aggregate amount of Assessments with respect to the TDM plan.

7.2.2 **Residential Property PAC Members.**

A. Two Project Area Committee members (the “**Residential Property PAC Members**”) shall be appointed to the applicable Project Area Committee as follows:

- (i) One Project Area Committee Member shall be appointed by the Apartment Complex Owner or Board of Residential/Mixed Use Owners’ Association (each, a “Residential Governing Body”) of the largest financial contributor from a residential property in the TMA Project Area.

- (ii) One Project Area Committee Member shall be appointed by the Residential Governing Body or Bodies from such TMA Project Area that contains the largest number of residential units.

All authority for the appointment or election of the Residential Property PAC Members shall be vested in the Residential Governing Body contained within the TMA Project Area. Owners of Parcels governed by a Residential/Mixed Use Owners' Association, by accepting a deed to their respective Parcels, appoint and vest in the board of that Association the power and authority to elect or appoint the Residential Property PAC Members. Each Residential Governing Body whose board or ownership entity exercised its authority to appoint a Residential Property PAC Member shall certify to the Board and the applicable Project Area Committee in writing that such Residential Governing Body has voted in favor of such appointment.

B. There shall be no general election of the Residential Property PAC Members among individual residential property owners within each TMA Project Area. Members irrevocably vest in the Project Area Committee the authority to appoint or elect the Residential Property Director.

7.2.3 Commercial Property PAC Member.

A. One Project Area Committee Member (the "**Commercial Property PAC Member**") shall be appointed to the applicable Project Area Committee by the board of a Commercial Owners Association or Commercial Property Owner (a "Commercial Governing Body"), from such TMA Project Area (to the extent such Commercial Owners Association exists). All authority for the appointment or election of the Commercial Property PAC Member shall be vested in the Commercial Governing Body within the TMA Project Area. Owners of Parcels governed by a Commercial Owners' Association, by accepting a deed to their respective Parcels, appoint and vest in the board of the Commercial Owners Association the power and authority to elect or appoint the Commercial Property PAC Member for the respective TMA Project Area. In the event of multiple Commercial Governing Bodies within a TMA Project Area, the Commercial Governing Body, which in the aggregate, governs the largest amount of commercial square footage to be assessed contained within the respective TMA Project Area, shall appoint the Commercial Property PAC Member. Each Commercial Governing Body, which exercised its authority to appoint a Commercial Property PAC Member, shall certify that its respective board or ownership has voted in favor of such appointment.

B. Except as provided otherwise in Section 7.3 of these Bylaws, in the event that no Commercial Owners Association exists, the largest property owner, as determined by total amount of commercial square footage, of a commercial parcel within such TMA Project Area shall appoint the Commercial Property PAC Member. In the additional event that no such owner exists, the largest financial contributor from such TMA Project Area shall appoint the Commercial Property PAC Member. In the additional event that the TMA Project Area has received no financial contributions, the City shall appoint an additional TMA Project Area member to serve in lieu of a Commercial Property PAC Member.

7.2.4 **City PAC Member.** One Project Area Committee member (the “**City PAC Member**”) shall be appointed by the City Manager.

7.3 **Initial Project Area Committee Members.** Section 7.2 of these Bylaws notwithstanding, the initial members of the Project Area Committees to be created shortly after the adoption of these Bylaws shall be composed as follows (to the extent such TMA Project Area is participating in the ATMA):

7.3.1 **Northern Waterfront.** The Project Area Committee for the Northern Waterfront Project Area shall consist of one representative from Del Monte, one representative from Marina Shores, one representative from 2100 Clement Avenue and one representative from Wind River, elected or appointed as set forth in the Legally Binding Documents for the Northern Waterfront Project Area as well as one City member.

7.3.2 **Alameda Point.** The Project Area Committee for the Alameda Point Project Area shall initially consist of four representatives appointed by the City in addition to the one City PAC Member.

7.4 **Additional Participants on Project Area Committees.** Additional participants from each respective TMA Project Area may serve on the Project Area Committees in a non-voting capacity at the discretion of each Project Area Committee.

7.5 **Amendments Affecting Project Area Committees.** Article 12 of these Bylaws notwithstanding, any provision of these Bylaws addressing the composition or authority of Project Area Committees shall be amended only as follows: (a) by a simple majority vote of the Directors then in office for any change in composition, and (b) by a two-thirds vote of the Directors then in office for any change in authority. In either case, any such vote shall not include the vote of any interested Directors as defined in Section 5233 of the California Nonprofit Public Benefit Corporation Law. No such amendment shall be effective if and to the extent in contravention of any Legally Binding Document.

ARTICLE 8 OTHER COMMITTEES OF THE ATMA

8.1 **Committees with the Authority of the Board.** The Board, by resolution adopted by a majority of Directors then in office (provided a quorum is present), may create one or more committees (“**Board Committees**”), each consisting of two or more Directors and no one who is not a Director, to serve at the pleasure of the Board. Board Committees may be standing or ad hoc committees. Appointments to Board Committees shall be by majority vote of the Directors then in office. The Board may appoint one or more Directors as alternate members of any such Board Committee, who may replace any absent member at any meeting. Any member of any Board Committee may be removed, with or without cause, at any time by the Board. The Board may, at any time, revoke or modify any or all of the authority that the Board has delegated to a Board Committee, increase or decrease (but not below two) the number of members of a Board Committee and fill vacancies in a Board Committee. Any such Board Committee shall have all the authority of the Board, to the extent provided in the Board resolution, except with respect to:

- A. rights and powers reserved to Project Area Committees;

- B. the establishment of the exact number of authorized Directors within the range specified in Section 5.3 of these Bylaws;
- C. the filling of vacancies on the Board or on any committee of the Board;
- D. the fixing of compensation of the Directors for serving on the Board or any committee;
- E. the amendment of the Articles;
- F. the amendment or repeal of these Bylaws or the adoption of new or restated Bylaws;
- G. the amendment or repeal of any resolution of the Board that, by its express terms, is not so amendable or repealable;
- H. the creation of other committees of the Board or appointment of members to any committee of the Board;
- I. The approval of any self-dealing transaction, as such transactions are defined in Section 5233(a) of the California Nonprofit Public Benefit Corporation Law, except as provided in Section 5233(d)(3); or
- J. The merger, reorganization, voluntary dissolution or disposition of substantially all of the assets of this corporation.

8.2 Advisory and Other Committees. The Board may from time to time create advisory committees and other committees that are not Board committees (collectively, “**Other Committees**”) as deemed appropriate, consisting of Directors or persons who are not Directors, but such Other Committees shall not be deemed Board Committees and shall not exercise any powers of the Board. Other Committees may be delegated with implementation of certain specified tasks under the direction and control of the Board. Notice of, and procedures for, meetings of Other Committees shall be as prescribed by the chair of each such committee, and meetings of any Other Committee may be called by the Chair of the Board (if there be such an officer), the Board, the TDM Manager, or the chair of the Other Committee. The term “**Other Committees**” as used herein shall not include Project Area Committees.

8.3 Shared Service Committees. A standing Other Committee shall be created for each distinct service which is to be shared between or among TMA Project Areas. TMA Project Areas participating in a shared service will each appoint one of its Project Area Committee members to serve on each “**Shared Service Committee**”. One Director from the City also will serve on each Shared Service Committee. Additional participants also may serve on Shared Services Committees at the discretion of each Shared Services Committee in a nonvoting capacity. Each Shared Services Committee has full authority and responsibility for governance and funding of its Shared Services, subject to the ultimate authority of the Board to intervene on matters of compliance with applicable law, the Articles, the Bylaws, and any organizational policies adopted by two-thirds vote of the Directors then in office. This provision of delegated authority to the Shared Service Committees, and any amendment to the Bylaws adversely affecting such delegated authority, shall be amended only by a two-thirds vote of the Directors

then in office, not including the vote of any interested Directors as defined in Section 5233 of the California Nonprofit Public Benefit Corporation Law.

8.4 **Minutes.** The minutes from any standing or ad hoc committee meeting will be duly recorded and maintained in the ATMA's corporate records.

ARTICLE 9 ASSESSMENTS AND ACCOUNTS

The Board shall establish, and the AMTA shall collect Assessments, as defined in this Article 9, annually in good faith, based on the projected cash needs of the ATMA, and consistent with the Legally Binding Documents for each TMA Project Area (which require specific TDM contributions for Properties and development projects within those TMA Project Areas), and as set forth in this Article 9. Assessments may be set at different levels for General Members and Associate Members on an annual basis.

9.1 **Assessments.** The term "**Assessment**" refers to an assessment imposed by the ATMA for the purpose of funding the (i) the administrative and joint costs of the ATMA, and (ii) the TDM program costs for each TMA Project Area, and as prepared annually by each Project Area Committee and submitted to the Board. The obligation of General Members to pay Assessments to the ATMA shall be as set forth in the Legally Binding Documents encumbering the Properties in each TMA Project Area, which obligations shall run with the land as to successive owners within such TMA Project Area.

9.2 **Project Area and Administrative Budgets.** In accordance with the Legally Binding Documents for each TMA Project Area, each Project Area Committee shall prepare and submit to the Board and TDM Manager an estimated budget containing the estimated TDM expenses for the ensuing calendar year in accordance with the TDM program(s) applicable to that TMA Project Area (each a "**Project Area Budget**"). The Board shall prepare a budget containing the estimated joint cost of management, accounting, collection, TDM oversight and administration of the ATMA, as well as the cost of managing and implementing any and all joint TDM programs between and among the TMA Project Areas (the "**Administrative Budget**"), and shall allocate the Administrative Budget to each Project Area Committee for inclusion in each Project Area Budget. The Project Area Budgets and the Administrative Budget shall be collectively referred to herein as the "**ATMA Budget.**" Other than budgeted Assessments, no Developer or other Member shall be responsible for providing or guaranteeing the funding to the ATMA of amounts necessary to cover operating deficiencies, except as specifically set forth in the TDM Program requirements and/or Legally Binding Documents for TMA Project Area where the General Member's Property is located.

9.3 **Establishment of Assessments.** Based on the ATMA Budget, the Board shall establish Assessments for each fiscal year of the ATMA, based on the budgets established in section 9.2, and the ATMA shall collect such Assessments from General Members and Associate Members in accordance with the Legally Binding Documents for each TMA Project Area. Each Project Area Committee shall assign to the ATMA Board any and all authority to collect Assessments as may be vested in the Project Area Committee pursuant to the Legally Binding Documents for that TMA Project Area.

9.4 **Commencement of Assessments.** Assessments shall commence for General Members either after final approval of a General Members' development project, and after acceptance of such General Member's Property into the ATMA by the Board, and at such time

as may be specifically set forth in project approvals or the Legally Binding Documents applicable to that development project or to the TMA Project Area in which it is located. Assessments shall commence for Associate Members upon acceptance of such Associate Member into the ATMA by the Board.

9.5 Enforcement of Assessments. The Board shall have, and each Program Area Committee shall assign to the Board, the administrative authority to collect and enforce Assessments, including the right to bring suit, impose liens for delinquent Assessments, and collect additional charges (including late fees, costs of suit, interest, attorneys' fees and other costs of enforcement), as set forth in recorded Legally Binding Documents encumbering the Property in each TMA Program Area. The Board may delegate its authority under this Section to the TDM Manager.

9.6 Accounts. The Board shall establish the following segregated accounts funded by Assessments:

9.6.1 Project Area Accounts. Funds, Assessments and all other income derived from owners and Members within each TMA Project Area shall be deposited in a segregated account ("**Project Area Operating Account**") designated specifically for that TMA Project Area.

9.6.2 ATMA General Operating Account. The Board shall deposit those portions of the Assessments collected for purposes set forth for administrative and shared purposes into a central operating account.

ARTICLE 10 BOOKS, RECORDS, AND REPORTS

10.1 Books and Records. The Board shall cause a complete record of all of its acts and corporate affairs to be maintained pursuant to any document retention and destruction policy the Board may adopt. Every Director and Project Area Committee member shall have the absolute right to inspect all books, records and documents of the ATMA at any reasonable time. A Director or Project Area Committee member is entitled to make extracts and copies of documents. Within ten (10) days of a written request by a Member or an Owners Association, the ATMA shall provide to the Member or Owners Association a written statement which sets forth the amounts of delinquent assessments, penalties, attorneys' fees and other charges against a parcel or against the Owners Association. A charge for the statement may be made by the ATMA, not to exceed the reasonable costs of preparation, reproduction and mailing of the statement.

10.2 Annual Reports. The Board shall cause a written annual report to be sent to the Directors and all Project Area Committee members annually. The annual report shall be accompanied by a report on this corporation by independent accountants or, if there is no such report, by the certificate of an authorized officer of this corporation that the financial statements included in the annual report were prepared without audit from this corporation's books and records. The annual report shall contain the following information, in appropriate detail, for the fiscal year: (a) the assets and liabilities, including the trust funds, of this corporation as of the end of the fiscal year, including the assets and liabilities allocated to each separate TMA Project Area; (b) the principal changes in assets and liabilities, including the trust funds, of this corporation, including those of each TMA Project Area; (c) the revenue or receipts of the ATMA, including with respect to each TMA Project Area, both unrestricted and restricted to particular

purposes; (d) the expenses or disbursements of this corporation for both general and restricted purposes, including for each TMA Project Area; and (e) any information required by Section 10.3 of these Bylaws.

10.3 Annual Statement of Certain Transactions and Indemnifications. As part of the annual report to all Directors and Project Area Committee members, or as a separate document if no annual report is issued, this corporation shall annually prepare and mail or furnish to each Director and Project Area Committee member a statement of any transaction or indemnification of the following kind occurring during the previous fiscal year:

A. Any transaction (i) in which this corporation, its parent or its subsidiary was a party, (ii) in which an **“interested person”** had a direct or indirect material financial interest and (iii) which involved more than \$50,000, or was one of several transactions with the same interested person involving, in the aggregate, more than \$50,000. The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to this corporation, their relation of the transaction to each TMA Project Area, the nature of their interest in the transaction and, if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated. For the purposes of this Section 10.3A, an “interested person” is either of the following: (i) any director or officer of this corporation, its parent or its subsidiary, (ii) any member of a Project Area Committee, or (iii) any holder of more than 10 percent of the voting power of this corporation, its parent or its subsidiary.

B. Any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any Director or officer of this corporation under Article 11 of these Bylaws.

ARTICLE 11 LIABILITY AND INDEMNIFICATION

11.1 Limitation of Liability: All officers and Directors and committee members of the ATMA shall act on a voluntary basis. As such, the liability of officers, Directors and committee members in connection with acts or omission performed or undertaken in the scope of their duties under the ATMA documents shall be limited to the full extent allowed under the California Nonprofit Public Benefit Corporation Law.

11.2 Indemnity Generally: A Director, officer, committee member, employee or other agent of the ATMA who is a party to or is threatened to be made party to any proceeding (including a proceeding by or on behalf of the ATMA) because he is or was a Director, officer, committee member, agent, or employee of the ATMA shall be indemnified by the ATMA against all expenses and liabilities actually and reasonably paid or incurred in connection with the proceeding to the maximum extent permitted by the California Nonprofit Public Benefit Corporation Law. Terms used in this Article shall have the same meaning as in Section 5236 and 5237 of the California Corporations Code.

11.3 Approval: Upon written request to the Board by any person seeking indemnification, the Board shall promptly determine whether the applicable standard of conduct set forth in the California Nonprofit Public Benefit Corporation Law has been met. If a majority vote of a quorum consisting of Directors who are not parties to the proceeding, determine favorably, the Board shall authorize indemnification to the extent permissible under the California Nonprofit Public Benefit Corporation Law.

11.4 **Advancing Expenses:** Except as otherwise determined by the Board in a specific instance, expenses incurred by a Director, officer, committee member, employee or agent seeking indemnification under Section 11.2 shall be advanced by the ATMA prior to the final disposition of the proceeding upon receipt of an undertaking by or on behalf of the Director, officer, committee member, employee or agent to repay the amount unless it is ultimately determined that the person is not entitled to be indemnified by the ATMA.

ARTICLE 12 AMENDMENTS AND DISSOLUTION

12.1 **Procedure:** These Bylaws may be amended at a duly held meeting by fifty-one percent (51%) of the Directors then in office, except that the designation rights of the Designators may not be amended without the unanimous vote or written consent of the Directors. Notwithstanding the foregoing, (i) these Bylaws shall not be amended to eliminate or otherwise adversely affect the right of any Designator to designate Directors without the prior written approval of such Designator; and (ii) if any provision of these Bylaws requires the vote of a larger proportion of the Board than is otherwise required by law, that provision may not be altered, amended or repealed except by that greater vote.

12.2 **Records of Amendments:** Whenever an amendment of a new Bylaw is adopted, it shall be added in the appropriate place in the ATMA's minute book. If any Bylaw repeals any portion of the original Bylaws, either the date of the meeting at which the Bylaws or portion thereof was repealed or the date written consent was filed with the Secretary shall be stated therein.

ARTICLE 13 CONFLICTS

In the case of any conflict between the Articles and these Bylaws, the Articles shall control. In the case of any conflict between legally binding TMA Project Area documents or agreements (collectively, "**Project Area Documents**") with the City of Alameda and these Bylaws, the Project Area Documents shall control, but only to the extent permissible under the California Nonprofit Public Benefit Corporation Law and not in conflict with the Articles or Section 501(c)(4) of the Internal Revenue Code.

Appendix: Map showing

TMA Project Areas