

**ALAMEDA-CONTRA COSTA TRANSIT DISTRICT  
RESOLUTION NO. 23-022**

**A RESOLUTION AUTHORIZING THE GENERAL MANAGER, OR HIS DESIGNEE, TO FILE AND EXECUTE APPLICATIONS AND FUNDING AGREEMENTS WITH THE METROPOLITAN TRANSPORTATION COMMISSION FOR FY 2023-24 ALLOCATIONS OF TRANSPORTATION DEVELOPMENT ACT, STATE TRANSIT ASSISTANCE, ASSEMBLY BILL 1107 AND REGIONAL MEASURE 2 BRIDGE TOLL REVENUES**

---

**WHEREAS**, the Transportation Development Act (TDA) (Public Utilities Code Section 99200 *et seq.*), provides for the disbursement of funds from the Local Transportation Fund (LTF) of the Counties of Alameda and Contra Costa for use by eligible applicants for the purpose of providing public transportation services; and

**WHEREAS**, pursuant to the provisions of TDA and the applicable rules and regulations thereunder (21 Cal. Code of Regs. Section 6600 *et seq.*), a prospective applicant wishing to receive an allocation from LTF shall file its claim with the Metropolitan Transportation Commission (MTC); and

**WHEREAS**, the State Transit Assistance (STA) Fund is created pursuant to Public Utilities Code (PUC) Section 99310 *et seq.* and makes funds available pursuant to PUC Section 99313.6 for allocation to eligible applicants to support approved transit projects; and

**WHEREAS**, TDA funds from the LTF of the Counties of Alameda and Contra Costa and STA funds will be required by the Alameda-Contra Transit District (AC Transit) in Fiscal Year 2023-2024 for the purpose of providing public transportation services; and

**WHEREAS**, PUC Section 29140, *et seq.* makes available 25 percent of the half-cent sales tax revenues collected in the counties of Alameda, Contra Costa, and San Francisco in accordance with Assembly Bill 1107 (AB 1107) for allocation by the MTC to eligible applicants; and

**WHEREAS**, Streets and Highways Code Section 30892 makes bridge tolls available for allocation by the MTC to eligible applicants; and

**WHEREAS**, pursuant to Streets and Highways Code Section 30913 and Section 30914, eligible applicants for allocation of RM2 funds are public entities; and

**WHEREAS**, AC Transit is in compliance with the requirements established by the MTC pursuant to PUC Section 29140, *et seq.* and Government Code Section 66517.5; and

**WHEREAS**, SB 916 (Chapter 715, Statutes 2004), commonly referred to as Regional Measure 2 (RM2) Bridge Toll Revenues, identified projects eligible to receive funding under the Regional Traffic Relief Plan and the MTC is responsible for funding projects eligible for RM2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d); and

**WHEREAS**, the MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for RM2 funds consistent with procedures and conditions as outlined in RM2 Policy and Procedures; and

**WHEREAS**, AC Transit is an eligible applicant for TDA/STA funds pursuant to PUC Section 99260, *et seq.*, for AB 1107 funds pursuant to PUC Section 29142.2, and for RM2 funds for operating assistance and capital program(s) in accordance with California Streets and Highways Code 30914(d), as attested by the Opinion of AC Transit's General Counsel attached to this Resolution as Exhibit A; and

**WHEREAS**, AC Transit's Express Bus Project, Owl Service Project, Tempo Bus Service Project, and Dumbarton Bus Project are eligible for consideration in the Regional Traffic Relief Plan of RM2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

**WHEREAS**, the RM2 allocation request, included in the updated Operating Assistance Proposal being submitted along with this resolution to the MTC, demonstrates a fully funded operating plan that is consistent with the adopted performance measures, as applicable, for which AC Transit is requesting that the MTC allocate RM2 funds; and

**WHEREAS**, the certification by AC Transit of assurances required for the allocation of RM2 funds by the MTC has been incorporated into Document J(a) of AC Transit's application for TDA Article 4 funds;

**NOW THEREFORE**, the Board of Directors of the Alameda-Contra Costa Transit AC Transit does resolve as follows:

**Section 1.** The General Manager, or his designee, is authorized to file and execute applications and funding agreements, and revisions if required, together with all necessary supporting documents, with the MTC for allocations of appropriate FY 2023-24 TDA, STA, AB 1107 and RM2 funds in accordance with California Streets and Highways Code 30914(d).

**Section 2.** AC Transit and its agents shall comply with the provisions of the MTC's RM 2 Policy and Procedures (MTC Resolution No. 3636), certify that the RM2-funded projects are consistent with the Regional Transportation Plan, and approve the purposes and amounts included in the updated Operating Assistance Proposal for RM2 funding, being submitted along with this resolution to MTC.

**Section 3.** AC Transit approves the certification of assurances required for allocation of RM2 funds that has been incorporated into the certifications for allocating TDA Article 4 funds and certifies that the projects and purposes for which RM2 funds are being requested are in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 *et seq.*) and, if relevant, the National Environmental Policy Act (NEPA), 42 USC Section 4-1 *et seq.* and the applicable regulations hereunder.

**Section 4.** There is no legal impediment to AC Transit making allocation requests for TDA, STA, AB 1107 or RM 2 funds and there is no pending or threatened litigation which might in any way adversely affect the proposed projects, or the ability of AC Transit to deliver such projects.

**Section 5.** AC Transit agrees to indemnify and hold harmless the MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of AC Transit, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM2 funds as shall reasonably be considered necessary by the MTC may be retained until disposition has been made of any claim for damages.

**Section 6.** If AC Transit receives any revenues or profits from any non-governmental use of property (or project) it shall use those revenues or profits exclusively for the public transportation services for which the property (or project) was initially approved, either for capital improvements or maintenance and operational costs; otherwise the MTC is entitled to a proportionate share of those revenues or profits equal to the MTC's percentage participation in the property (or project(s)).

**Section 7.** A copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application authorized in Section 1 and revisions to the application. The MTC is requested to grant the allocations of funds as specified herein.

**Section 8.** This resolution shall become effective immediately upon its passage by four affirmative votes of the Board of Directors.

**PASSED AND ADOPTED** this 26<sup>th</sup> day of April, 2023.

---

Joel B. Young  
President

Attest:

---

Linda A. Nemeroff  
Board Administrative Officer/District Secretary

I, Linda A. Nemeroff, District Secretary for the Alameda-Contra Costa Transit District, do hereby certify that the foregoing Resolution was passed and adopted at a regular meeting of the Board of Directors held on the 26<sup>th</sup> day of April, 2023, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Linda A. Nemeroff  
Board Administrative Officer/District Secretary

Approved as to Form and Content:

---

Jill A. Sprague  
General Counsel/Chief Legal Officer