

**ALAMEDA-CONTRA COSTA TRANSIT DISTRICT
RESOLUTION NO. 20-038**

**A RESOLUTION AUTHORIZING THE GENERAL MANAGER, OR HIS DESIGNEE, TO SUBMIT
ALLOCATION REQUESTS TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR
REGIONAL MEASURE 2 FUNDS AND EXECUTE ANY DOCUMENTS NECESSARY FOR THE EAST
BAY BUS RAPID TRANSIT PROJECT**

WHEREAS, SB 916 (Chapter 715, Statutes 2004), commonly referred as Regional Measure 2, identified projects eligible to receive funding under the Regional Traffic Relief Plan;

WHEREAS, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for Regional Measure 2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d);

WHEREAS, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 2 funding;

WHEREAS, allocations to MTC must be submitted consistent with procedures and conditions as outlined in Regional Measure 2 Policy and Procedures;

WHEREAS, the Alameda-Contra Costa Transit District (AC Transit) is an eligible sponsor of transportation project(s) in Regional Measure 2, Regional Traffic Relief Plan funds;

WHEREAS, the East Bay Bus Rapid Transit project is eligible for consideration in the Regional Traffic Relief Plan of Regional Measure 2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

WHEREAS, the Regional Measure 2 allocation request lists the project, purpose, schedule, budget, expenditure and cash flow plan for which AC Transit is requesting that MTC allocate Regional Measure 2 funds.

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

Section 1. AC Transit and its agents shall comply with the provisions of the Metropolitan Transportation Commission's Regional Measure 2 Policy Guidance (MTC Resolution No. 3636).

Section 2. AC Transit certifies that the project is consistent with the Regional Transportation Plan (RTP).

Section 3. The year of funding for any design, right-of-way and/or construction phases has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project.

Section 4. The Regional Measure 2 phase or segment is fully funded, and results in an operable and useable segment.

Section 5. AC Transit approves the updated Initial Project Report and cash flow plan for the project.

Section 6. AC Transit has reviewed the project needs and has adequate staffing resources to deliver and complete the project within the schedule set forth in the updated Initial Project Report.

Section 7. AC Transit is an eligible sponsor of projects in the Regional Measure 2 Regional Traffic Relief Plan, Capital Program, in accordance with California Streets and Highways Code 30914(c).

Section 8. AC Transit is authorized to submit an application for Regional Measure 2 funds for the East Bay Bus Rapid Transit project in accordance with California Streets and Highways Code 30914(c).

Section 9. AC Transit 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 thereunder.

Section 10. There is no legal impediment to AC Transit making allocation requests for Regional Measure 2 funds.

Section 11. There is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of AC Transit to deliver the project.

Section 12. AC Transit agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866.

Section 13. AC Transit agrees to indemnify and hold harmless 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 MTC may be retained until disposition has been made of any claim for damages.

Section 14. AC Transit shall use any revenues or profits from any nongovernmental use of property (or project) exclusively for the public transportation services for which the

project was initially approved, either for capital improvements or maintenance and operational costs, otherwise the Metropolitan Transportation Commission is entitled to a proportionate share equal to MTC's percentage participation in the project.

Section 15. Assets purchased with RM2 funds including facilities and equipment shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for its useful life, that the MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to MTC in the same proportion that Regional Measure 2 funds were originally used.

Section 16. AC Transit shall post on both ends of the construction site(s) at least two signs visible to the public stating that the Project is funded with Regional Measure 2 Toll Revenues.

Section 17. AC Transit authorizes its General Manager, or his designee, to execute and submit an allocation request for the design and right-of-way phases with MTC for Regional Measure 2 funds in the amount of \$74,579 for the project, purposes and amounts included in the project application.

Section 18. The General Manager, or his designee, is hereby delegated the authority to make non-substantive changes or minor amendments to the Initial Project Report (IPR) as he deems appropriate.

Section 19. A copy of this resolution shall be transmitted to MTC in conjunction with the filing of the AC Transit application referenced herein.

Section 20. This resolution shall become effective immediately upon its passage by four affirmative votes of the Board of Directors.

PASSED AND ADOPTED this 22nd day of July 2020.

Joe Wallace, President

Attest:

Linda A. Nemeroff, 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 22nd day of July, 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Linda A. Nemeroff, District Secretary

Approved as to Form and Content:

Jill A. Sprague, General Counsel