

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT
RESOLUTION NO. 24-010

**A RESOLUTION AUTHORIZING THE GENERAL MANAGER, OR HIS DESIGNEE, TO FILE AND
EXECUTE APPLICATIONS AND FUNDING AGREEMENTS WITH THE METROPOLITAN
TRANSPORTATION COMMISSION FOR FY 2024-25 ALLOCATIONS OF TRANSPORTATION
DEVELOPMENT ACT, STATE TRANSIT ASSISTANCE, ASSEMBLY BILL 1107 REGIONAL MEASURE
2 BRIDGE TOLL REVENUES AND REGIONAL MEASURE 3 BRIDGE TOLL REVENUES**

WHEREAS, the Transportation Development Act (TDA) (Public Utilities Code Section 99200 *et seq.*) provides for certain funds from the Local Transportation Fund (LTF) to be disbursed to eligible applicants for the purpose of providing public transportation services in the Counties of Alameda and Contra Costa; 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 for the Counties of Alameda and Contra Costa and STA funds will be required by the Alameda-Contra Transit District (AC Transit) in Fiscal Year 2024-2025 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, public entities are eligible applicants for allocation of RM2 funds; 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, Senate Bill 916 (Chapter 715, Statutes 2004) enabled voter approval of Regional Measure 2 (RM2) and the resulting collection of additional bridge tolls on the state-owned bridges in the nine-county Bay Area, with resulting RM2 Bridge Toll Revenues for identified projects eligible to receive funding under the associated Regional Traffic Relief Plan; and

WHEREAS, 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, SB595 (Chapter 650, Statutes 2017) enabled voter consideration of subsequent bridge toll increases through the ballot measure commonly referred as “Regional Measure 3” (RM3), which identified projects eligible to receive funding under the RM3 Expenditure Plan; and

WHEREAS, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for RM3 funds, pursuant to Streets and Highway Code Section 30914.7(a) and (c); and

WHEREAS, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for RM3 funding; and

WHEREAS, allocation requests to MTC must be submitted consistent with procedures and conditions as outlined in RM3 Policies and Procedures (MTC Resolution No. 4404); and

WHEREAS, AC Transit is an eligible sponsor of transportation projects(s) in the RM3 Expenditure Plan; 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, for RM2 funds for operating assistance and capital program(s) in accordance with California Streets and Highways Code 30914(d) and for RM3 funds for operating assistance and capital program(s) in accordance with California Streets and Highways Code 30914.7(a), 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 and Expenditure Plan of RM3, as identified in California Streets and Highways Code Section 30914(c) or (d), and 30914.7(a); 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 RM3 allocation request, included in the updated Operating Assistance Proposal being submitted along with this resolution to the MTC, enumerates the project details for which AC Transit is requesting that MTC allocate RM3 funds;

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;

WHEREAS, AC Transit supports the Senate Bill 125 Regional Accountability Measures memorialized in MTC Resolution No. 4619 (November 2023) and commits to fulfilment of these initiatives to the best of its abilities.

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 2024-25 TDA, STA, AB 1107, RM2 funds in accordance with California Streets and Highways Code 30914(d) and RM3 funds in accordance with California Streets and Highways Code 30914.7(a).

Section 2. AC Transit and its agents shall comply with the provisions of the MTC's RM2 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 and its agents shall comply with the provisions of the MTC's RM3 Policy and Procedures (MTC Resolution No. 4404), certify that the RM3-funded projects are consistent with the Regional Transportation Plan, and approve the purposes and amounts included in the updated Operating Assistance Proposal for RM3 funding, being submitted along with this resolution to MTC.

Section 4. AC Transit approves the certification of assurances required for allocation of RM2 and RM3 funds that has been incorporated into the certifications for allocating TDA Article 4 funds and certifies that the projects and purposes for which RM2 and RM3 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 (Title 14 California Code of Regulations Section 15000 *et seq.*) and, if relevant, the National Environmental Policy Act (NEPA) (42 USC Section 4321 *et seq.*) and the applicable regulations thereunder.

Section 5. There is no legal impediment to AC Transit making allocation requests for TDA, STA, AB 1107, RM2 funds or RM3 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 6. AC Transit agrees to indemnify and hold harmless the MTC, Bay Area Toll Authority, 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 and RM3 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM2 funds and RM3 funds as shall reasonably be considered necessary by the MTC may be retained until disposition has been made of any claim for damages.

Section 7. 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 8. 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 9 This resolution shall become effective immediately upon its passage by four affirmative votes of the Board of Directors.

PASSED AND ADOPTED this 24th day of April, 2024.

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 24th day of April, 2024, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Linda A. Nemeroff
Board Administrative Officer/District Secretary

Approved as to Form and Content:

Shayna van Hoften
Interim General Counsel/Chief Legal Officer