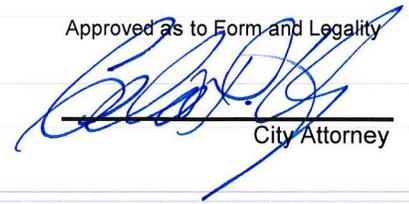


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND



City Attorney

Revised per Public Works Committee meeting 10/13/15

2015 OCT 15 PM 12:52

# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR HER DESIGNEE, TO ACCEPT AND APPROPRIATE THREE HUNDRED FORTY TWO THOUSAND ONE HUNDRED TEN THOUSAND DOLLARS (\$342,110) IN REGIONAL MEASURE 2 (RM-2) SAFE ROUTES TO TRANSIT (SR2T) GRANT FUNDS FOR ACCESS IMPROVEMENTS TO THE LAKE MERRITT BART STATION.**

**WHEREAS**, the City of Oakland submitted an application to the Safe Routes to Transit Program in September 2013 requesting grant funds for the Access Improvements to the Lake Merritt BART Station Project; and

**WHEREAS**, the program is funded by Regional Measure 2 (RM-2) and administered by TransForm and Bike East Bay; and

**WHEREAS**, the funds are available from the Metropolitan Transportation Commission (MTC); and

**WHEREAS**, on March 4, 2014, the MTC awarded the grant to the City of Oakland and approved the programming of \$342,110 of Regional Measure 2 grant funds for the Access Improvements to the Lake Merritt Bart Station Project; and

**WHEREAS**, the grant will fund the following improvements:

- Intersection improvements, like sidewalk extensions would make the walking paths to BART safer by making pedestrians more visible to vehicles, reducing the distance required for pedestrian to get across the street, increasing the sidewalk space on corners, requiring vehicles to slow down to get around the corner and make it difficult for drivers to turn illegally.
- Underpass improvements such as pedestrian-scaled lighting to make the walking paths to BART safer by better illuminating the sidewalk for pedestrians, better illuminating pedestrians (and bicyclists) as they are about to cross the street, so they are more visible to vehicles, providing a more inviting place to walk. Other underpass improvements could include art installations and plantings.

**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; and

**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); and

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

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

**WHEREAS**, ~~the Public Works Agency is requesting a waiver of the 1.5 percent public art fee for this project, because~~ the MTC's Regional Measure 2 Policy and Procedures disallows use of grant funds for public art; and

**WHEREAS**, the City of Oakland is an eligible sponsor of transportation projects in Regional Measure 2, Regional Traffic Relief Plan funds; and

**WHEREAS**, the Access Improvements to the Lake Merritt BART Station 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, attached hereto in the Initial Project Report (Exhibit A) and incorporated herein as though set forth at length, lists the project, purpose, schedule, budget, expenditure and cash flow plan for which the City of Oakland is requesting that MTC allocate Regional Measure 2 funds; now, therefore, be it

**RESOLVED**, that the City of Oakland, and its agents shall comply with the provisions of the Metropolitan Transportation Commission's Regional Measure 2 Policy Guidance (MTC Resolution No. 3636); and be it

**FURTHER RESOLVED**, that the City of Oakland certifies that the project is consistent with the Regional Transportation Plan (RTP); and be it

**FURTHER RESOLVED**, that 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; and be it

**FURTHER RESOLVED**, that the Regional Measure 2 phase or segment is fully funded, and results in an operable and useable segment; and be it

**FURTHER RESOLVED**, that the City of Oakland approves the updated Initial Project Report, attached to this resolution (Exhibit A); and be it

**FURTHER RESOLVED**, that the City of Oakland approves the cash flow plan, attached to this resolution (Exhibit A); and be it

**FURTHER RESOLVED**, that the City of Oakland 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, attached to this resolution; and, be it

**FURTHER RESOLVED**, that the City of Oakland 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); and be it

**FURTHER RESOLVED**, that the City of Oakland is authorized to submit an application for Regional Measure 2 funds for Access Improvements to the Lake Merritt BART Station in accordance with California Streets and Highways Code 30914(c); and be it

**FURTHER RESOLVED**, that the City of Oakland certifies that the projects and purposes for which RM2 funds are being requested is 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; and be it

**FURTHER RESOLVED**, that there is no legal impediment to the City of Oakland making allocation requests for Regional Measure 2 funds; and be it

**FURTHER RESOLVED**, that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of the City of Oakland to deliver such project; and be it further

**FURTHER RESOLVED**, that the City of Oakland indemnifies and holds 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 the City of Oakland, 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, and be it

**FURTHER RESOLVED**, that the City of Oakland shall, if any revenues or profits from any non-governmental use of property (or project) that those revenues or profits shall be used 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 projects(s); and be it

**FURTHER RESOLVED**, that 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 Metropolitan Transportation Commission (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; and be it

**FURTHER RESOLVED**, that the City of Oakland 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; and be it

**FURTHER RESOLVED**, that the 1.5 percent public art fee associated with the expenses being paid for by the Regional Measure 2 grant funds for this project is waived; and be it

**FURTHER RESOLVED**, that the City Council hereby authorized acceptance and appropriation of Three Hundred Forty-Two Thousand One Hundred Ten Dollars (\$342,110.00) in Regional Measure 2 (RM-2) Safe Routes to Transit (SR2T) Grant Funds; and be it

**FURTHER RESOLVED**, that the SR2T Grant Funds shall be deposited and appropriated into Fund 2163 (Metro Transportation Com: Program Grant), Organization 84211 (Planning), Account 46419 (Other Grant: From Other Agencies) and Account 54011 (Contract Contingencies), a project to be determined. Program SC09 (General Plan, Zoning Update & Strategic Analysis); and be it

**FURTHER RESOLVED**, that the City of Oakland authorizes its City Administrator, or her designee, to execute and submit an allocation request for the design and construction phase with MTC for Regional Measure 2 funds in the amount of \$342,110 for the project, purposes and amounts included in the project application attached to this resolution (Exhibit B) and as revised in the Initial Project Report (Exhibit A); and be it

**FURTHER RESOLVED**, that the City Administrator, or her designee, is hereby authorized to make non-substantive changes or minor amendments to the IPR as he/she deems appropriate, and be it

**FURTHER RESOLVED**, that a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the City of Oakland application referenced herein.

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IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL – WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and  
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California