

**DRAFT**

City Attorney

**Revised**  
**Per Public Works**  
**Committee meeting**  
**Of May 14, 2013**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2013 MAY 16 PM 3:54

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

### RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO:

(A) APPLY FOR, ACCEPT AND APPROPRIATE TWENTY MILLION FIVE—HUNDRED—AND EIGHTY—ONE FOURTEEN THOUSAND DOLLARS (\$25,58120,014,000.00) IN METROPOLITAN TRANSPORTATION COMMISSION (“MTC”) DISCRETIONARY FUNDING; AND

(B) COMMIT MATCHING FUNDS NOT-TO-EXCEED-SIX-OF-TWO MILLION TWO—FIVE HUNDRED AND THREE—NINETY FOUR THOUSAND DOLLARS (\$6,2032,594,000.00) FOR THE OAKLAND PAVEMENT REHABILITATION, THE LAKESIDE GREEN STREET, THE LAKE MERRITT BART BIKEWAYS, THE 7<sup>TH</sup> STREET WEST OAKLAND TRANSIT VILLAGE PHASE II, AND THE MLK JR. WAY & PERALTA PHASE I, THE COLISEUM BART CORRIDOR AND INFRASTRUCTURE CONNECTIONS, AND THE TYRONE CARNEY PARK/405<sup>TH</sup> AVENUE RECONFIGURATION PROJECTS

WHEREAS, the City of Oakland (herein referred to as City) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$25,581,014,000.00 in funding assigned to MTC for programming discretion, including but not limited to federal funding administered by the Federal Highway Administration (FHWA) such as Surface Transportation Program (STP) funding, Congestion Mitigation and Air Quality Improvement (CMAQ) funding and/or Transportation Alternatives (TA) funding (herein collectively referred to as Regional Discretionary Funding) for the Oakland Pavement Rehabilitation Project, the Lakeside Green Street Project, the Lake Merritt BART Bikeways Project, the 7<sup>th</sup> Street West Oakland Transit Village Phase II Project, and the MLK Jr. Way & Peralta Phase I Project, the Coliseum-BART Corridor and Infrastructure Connections Project, and the Tyrone Carney Park/405<sup>th</sup> Reconfiguration Project (herein referred to as Projects); and

WHEREAS, the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (Public Law 112-141, July 6, 2012) and any extensions or successor legislation for continued funding (collectively, MAP 21) authorize various federal funding programs including, but not limited to the Surface Transportation Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives Program (TA) (23 U.S.C. § 213); and

**WHEREAS**, state statutes, including California Streets and Highways Code 182.6 and 182.7 provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

**WHEREAS**, pursuant to MAP-21, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal funds for a project shall submit an application first with the appropriate MPO for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

**WHEREAS**, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

**WHEREAS**, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of federal funds; and

**WHEREAS**, the City is an eligible sponsor for Regional Discretionary Funding; and

~~**WHEREAS**, the City is required to provide local match for the Projects as follows: Oakland Pavement Rehabilitation Project (\$500,000), the Lakeside Green Street Project (\$3,540,000), the Lake Merritt BART Bikeways Project (\$528,000), the 7<sup>th</sup> Street West Oakland Transit Village Phase II Project (\$426,000), the MLK Jr. Way & Peralta Phase I Project (\$707,000), the Coliseum BART Corridor and Infrastructure Connections Project (\$301,000), and the Tyrone Carney Park 105<sup>th</sup> Reconfiguration Project (\$201,000); and~~

**WHEREAS**, as part of the application for Regional Discretionary Funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

1. the commitment of any required matching funds of at least 11.47%; and
2. that the sponsor understands that the Regional Discretionary Funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional Regional Discretionary Funding; and
3. that the project will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
4. the assurance of the sponsor to complete the project as described in the application, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
5. that the project will comply with all project-specific requirements as set forth in the PROGRAM; and
6. that the project (transit only) will comply with MTC Resolution No. 3866, revised, which sets forth the requirements of MTC's Transit Coordination Implementation Plan to more efficiently deliver transit projects in the region; now, therefore be it

**RESOLVED** that City is authorized to execute and file an application for funding for the Projects for Regional Discretionary Funding under MAP-21 for continued funding; and be it

**FURTHER RESOLVED** that the City by adopting this resolution does hereby state that:

1. City will provide up to \$6,2032,594,000 in matching funds if all projects are approved for funding; and
2. City understands that the Regional Discretionary Funding for the projects is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the City from other funds, and that City does not expect any cost increases to be

- funded with additional Regional Discretionary Funding; and
3. City understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and City has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation projects, and has assigned, and will maintain a single point of contact for all FHWA-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans and FHWA on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA-funded transportation projects implemented by City; and
  4. Projects will be implemented as described in the complete application and in this resolution and, if approved, for the amount approved by MTC and programmed in the federal TIP; and
  5. City and the Projects will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the Program; and
  6. City (for a transit project only) agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866, revised; and therefore be it further

**FURTHER RESOLVED** that City is an eligible sponsor of Regional Discretionary Funding funded projects; and be it

**FURTHER RESOLVED** that City is authorized to submit an application for Regional Discretionary Funding for the Projects; and be it

**FURTHER RESOLVED** that there is no legal impediment to City making applications for the funds; and be it

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

**FURTHER RESOLVED** that City authorizes its City Administrator, or her designee to execute and file an application with MTC for Regional Discretionary Funding for the Projects as referenced in this resolution; and be it

**FURTHER RESOLVED** that the City Council hereby authorizes the City Administrator or her designee to negotiate grant terms, execute, modify, amend and extend agreements, allocate revenue, make expenditures, and take all other actions with respect to the MTC Regional Discretionary Funding program grants and these Projects in accordance with this Resolution and its basic purposes; and be it

**FURTHER RESOLVED** that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application, and another copy of this resolution be placed on file with the City Clerk; and be it

**FURTHER RESOLVED** that the MTC is requested to support the application for the Projects described in the resolution and to include the Projects, if approved, in MTC's federal TIP; and be it

**FURTHER RESOLVED** that the City Council hereby appropriates any funds that are received for these Projects under MTC's Regional Discretionary Funding program into the Metropolitan Transportation Commission Grant Fund (2163) under project numbers to be established; and be it

**FURTHER RESOLVED** that the City Council hereby consents to the use of up to \$6,2037,391,000 in matching funds, from sources as follows for each project:

- 1) Oakland Pavement Rehabilitation Project: \$500,000 from Measure B, Fund 2211, Project C370010 (FY 13/14 Matching Funds-Grants)
- 2) Lakeside Green Street Project: \$3,340,000 from Measure DD, Fund 5321, Project 393910; \$200,000 from Fund 2212, FY 13/14 Bicycle CIP Funds, Project Number to be determined
- 3) Lake Merritt BART Bikeways Project: \$225,000 from Fund 2212, FY 14/15 Bicycle CIP Funds; \$303,000 from Measure B, Fund 2211, Project C370010 (FY 14/15 Matching Funds-Grants), \$1,690,000 from VRF, Fund 2215 (FY 14/15 Funds)
- 4) 7<sup>th</sup> Street West Oakland Transit Village Phase II Project: \$426,000 from Measure B, Fund 2211, Project C370010 (FY 15/16 Matching Funds-Grants)
- 5) MLK Jr. Way & Peralta Phase I Project: \$707,000 from Measure B, Fund 2211, Project C370010 (FY 15/16 Matching Funds-Grants)
- 6) ~~Coliseum-BART Corridor and Infrastructure Connections Project: \$301,000 from Measure B, Fund 2211, Project C370010 (FY 15/16 Matching Funds-Grants)~~
- 7) ~~Tyrone Carney Park/105<sup>th</sup> Reconfiguration Project \$201,000 from Measure B, Fund 2211, Project C370010 (FY 14/15 Matching Funds-Grants)~~

**FURTHER RESOLVED** that should additional funds be received for these Projects, the City Administrator, or her designee, is hereby authorized to accept and allocate the same for the purposes described above; and be it.

~~**FURTHER RESOLVED** that the City Council hereby authorizes the City Administrator or her designee to negotiate grant terms, execute, modify, amend and extend agreements, allocate revenue, make expenditures, and take all other actions with respect to the MTC Regional Discretionary Funding program grants and these Projects in accordance with this Resolution and its basic purposes; and be it~~

~~**FURTHER RESOLVED** that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application, and another copy of this resolution be placed on file with the City Clerk; and be it~~

~~**FURTHER RESOLVED** that the MTC is requested to support the application for the Projects described in the resolution and to include the Projects, if approved, in MTC's federal TIP.~~

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

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

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

**Revised**  
**Per Public Works**  
**Committee meeting**  
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**DRAFT**  
City Attorney

## OAKLAND CITY COUNCIL

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

Introduced by Councilmember \_\_\_\_\_

### RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO:

(A) APPLY FOR, ACCEPT AND APPROPRIATE UP TO ONE-MILLION THREE-~~FOUR~~ HUNDRED FORTY-NINE ~~SIXTY FIVE~~ THOUSAND FIVE HUNDRED ~~DOLLARS~~ (\$~~1,349,500~~465,000.00) IN ALAMEDA COUNTY TRANSPORTATION COMMISSION ("ACTC") MEASURE B AND VEHICLE REGISTRATION FEE GRANT FUNDING;

(B) ENTER INTO A GRANT FUNDING AGREEMENT WITH THE ACTC; AND

(C) COMMIT MATCHING FUNDS NOT TO EXCEED SIX-~~ONE~~ HUNDRED THIRTY-~~EIGHT~~THIRTEEN THOUSAND AND ~~FIVE~~ HUNDRED ~~DOLLARS~~ (\$~~638,500~~113,000.00), FOR THE PARK BOULEVARD-PATH-FEASIBILITY-STUDY, THE FRUITVALE ALIVE GAP CLOSURE STREETScape STUDY, ~~THE LAKE-MERRITT CHANNEL-BRIDGE-TO-BAY-TRAIL-STUDY~~, AND THE BROADWAY SHUTTLE PROJECT

WHEREAS, the City of Oakland ("City") has submitted an application to the Alameda County Transportation Commission ("Alameda CTC") for ~~\$1,349,500~~\$465,000 from one or more of the following funding sources administered by the Alameda CTC and programmed at Alameda CTC's discretion as part of the Alameda CTC FY 2012/13 Coordinated Program ("Program"): Measure B Bicycle/Pedestrian Countywide Discretionary Fund, Vehicle Registration Fee (VRF) Pedestrian and Bicyclist Access and Safety Program, and/or VRF Transit Congestion Relief Program funding (collectively, "FY 2012/13 Coordinated Program Funding"), for the Park Boulevard-Path-Feasibility-Study-~~(\$197,500)~~, the Fruitvale Alive Gap Closure Streetscape Study ~~(\$206,113,000)~~, the Lake-Merritt-Channel-Bridge-to-Bay-Trail-Feasibility-Study-~~(\$400,000)~~, and the Broadway Shuttle ~~(\$546,352,000)~~ ("Projects"); and

WHEREAS, Alameda CTC is a joint powers authority resulting from the merger of the Alameda County Congestion Management Agency and Alameda County Transportation Improvement Authority and is responsible for distributing to local jurisdictions certain Measure B and VRF revenues for bicycle and pedestrian safety, local streets and roads, local transportation technology, mass transit, paratransit, and transit center development programs; and

**WHEREAS**, the City represents that the City is an eligible grant recipient for such Measure B and/or VRF funds; and

**WHEREAS**, the City is required to provide local match for the Projects-as-follows:-Park Boulevard-Path-(\$197,500);-Fruitvale Alive Gap Closure Streetscape Project (\$206113,000);-Lake-Merritt-Channel-Bridge-to-Bay-Trail-Feasibility-Study-(\$235,000);-and

**WHEREAS**, prior to entering into a funding agreement for FY 2012/13 Coordinated Program Funding, Alameda CTC requires the responsible grant recipient to adopt a resolution confirming the following:

- 1) City commits to provide the amount of matching funds specified in the grant funding agreement; and
- 2) City understands that the amount of FY 2012/13 Coordinate Program Funding is capped at the amount approved by the Alameda CTC Commission, and therefore City cannot anticipate any Project cost increase to be funded with additional Measure B and/or VRF grant funds; and
- 3) City shall complete the project as described in the grant funding agreement; and
- 4) City will comply with all the project-specific requirements as set forth in the Program Guidelines and grant funding agreement; now, therefore be it

**RESOLVED**, that the City is authorized to enter into a funding agreement for FY 2012/13 Coordinated Program Funding for Project; and be it

**FURTHER RESOLVED** that the City by adopting this resolution does hereby confirm and agree that:

1. The City will provide up to \$638,5113,000 in matching funds;
2. The City understands that the amount of FY 2012/13 Coordinated Program Funding for the project is capped at the amount approved by the Alameda CTC Commission, and that any cost increases must be funded by the City from other funds, and that City does not expect any cost increases to be funded with additional Measure B/VRF grant funding;
3. Projects will be implemented as described in the application, grant funding agreement and in this resolution;
4. The City and the Projects will comply with the requirements as set forth in the Program Guidelines and grant funding agreement; and therefore be it further

**FURTHER RESOLVED** that City is an eligible sponsor of Measure B and/or VRF funded projects; and be it

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

**FURTHER RESOLVED** that City authorizes its City Administrator, or other appropriate designee to execute a funding agreement with Alameda CTC for FY 2012/13 Coordinated Program Funding for the Projects as referenced in this resolution; and be it further

**FURTHER RESOLVED** that the City Council hereby appropriates any funds that are received for these Projects under the Alameda CTC Program into the ACTIA Reimbursable Grants Fund (2214) under project numbers to be established; and be it

**FURTHER RESOLVED** that the City Council hereby consents the use of up to \$638,500~~113,000~~ in matching funds, from sources as follows:

- ~~1) Park Boulevard Path, \$197,500 to be provided in Fund 2212 (Measure B Bicycle and Pedestrian Fund); FY 13/14 CIP Projects, project number to be determined~~
- 2)1) Fruitvale Alive Gap Closure Streetscape Project, \$206~~113,000~~ to be provided by Fund 2211, (Measure B Local Streets and Roads Fund), Local Match Fund, FY 14/15
- 3)2) Lake Merritt Channel Bridge to Bay Trail Feasibility Study, \$150,000 in Fund 2212, FY 13/14 CIP Projects, project number to be determined and \$85,000 in Fund 5312 (Bond Measure DD), and be it

**FURTHER RESOLVED** that should additional funds be received for these projects, the City Administrator or her designee, is hereby authorized to accept and allocate the same for the purposes described above; and be it

**FURTHER RESOLVED** that the City Council hereby authorizes the City Administrator or her designee to negotiate grant terms, execute, modify, amend and extend agreements, allocate revenue, make expenditures, and take all other actions with respect to the Alameda CTC Program grants and these Projects in accordance with this Resolution and its basic purposes; and be it

**FURTHER RESOLVED** that a copy of this resolution will be transmitted to Alameda CTC by June 30, 2013, and another copy of this resolution be placed on file with the City Clerk.

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

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California