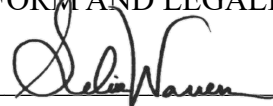


APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION:

- 1) **AUTHORIZING THE CITY ADMINISTRATOR TO SUBMIT AN APPLICATION WITH THE METROPOLITAN TRANSPORTATION COMMISSION (MTC) FOR REGIONAL DISCRETIONARY FUNDING IN THE AMOUNT OF TWO MILLION TWO HUNDRED FIFTY-SIX THOUSAND DOLLARS (\$2,256,000);**
- 2) **ACCEPTING AND APPROPRIATING TWO MILLION TWO HUNDRED FIFTY-SIX THOUSAND DOLLARS (\$2,256,000) FROM MTC FOR THE 42ND AND HIGH STREET I-880 ACCESS IMPROVEMENTS PROJECT;**
- 3) **COMMIT MATCHING FUNDS IN AN AMOUNT UP TO TWELVE MILLION THREE HUNDRED THOUSAND DOLLARS (\$12,300,000);**
- 4) **STATING ASSURANCES TO COMPLETE THE 42ND AND HIGH STREET I-880 ACCESS IMPROVEMENTS PROJECT; AND**
- 5) **ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

WHEREAS, the City of Oakland (City) is submitting an application to the Metropolitan Transportation Commission (MTC) for Two Million Two Hundred Fifty-Six Thousand Dollars (\$2,256,000) in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program funding, Congestion Mitigation and Air Quality Improvement Program funding, Carbon Reduction Program funding, Transportation Alternatives set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the 42ND and High Street I-880 Access Improvements Project (PROJECT) for the State Transportation Improvement Program (PROGRAM); and

WHEREAS, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant

Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149), the Carbon Reduction Program (CRP) (23 U.S.C. § 175), and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

WHEREAS, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, 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 the FEDERAL TRANSPORTATION ACT, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program; 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 REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, the City is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

WHEREAS, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- the commitment of any required matching funds; and
- 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
- 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
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
- that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- that the CITY has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective County Transportation Agency, MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by the CITY; and
- in the case of a transit project, the PROJECT 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; and
- in the case of a highway project, the PROJECT will comply with MTC Resolution No. 4104, which sets forth MTC's Traffic Operations System (TOS) Policy to install and activate TOS elements on new major freeway projects; and
 - in the case of an RTIP project, state law requires PROJECT be included in a local congestion management plan, or be consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the County Transportation Agency; and

WHEREAS, that the City is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

WHEREAS, there is no legal impediment to the City making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of the City to deliver such PROJECT; and

WHEREAS, the City authorizes its City Administrator to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application; and

WHEREAS, the two million two hundred fifty-six thousand dollars (\$2,256,000) in REGIONAL DISCRETIONARY FUNDS will be accepted and appropriated into project and fund numbers to be determined; and

WHEREAS, the matching funds up to twelve million three hundred thousand dollars is available as follows: 1) \$10,000,000 – already awarded ACTC Capital Investment Plan grant funds, Project 1003983, Fund 2214 and 2) \$2,300,000 from Complete Streets Capital Program – Project 1003348, Funds 2214, 2218, 2230, 2232, 5342; now, therefore, be it

RESOLVED: That the City is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and be it

FURTHER RESOLVED: That the two million two hundred fifty-six thousand dollars (\$2,256,000) in REGIONAL DISCRETIONARY FUNDS will be accepted and appropriated into project and fund numbers to be determined; and be it

FURTHER RESOLVED: That the City will provide any required matching funds up to Twelve Million Three Hundred Thousand Dollars (\$12,300,000); and be it

FURTHER RESOLVED: That the City understands that the REGIONAL

DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the City from other funds, and that the City does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and be it

FURTHER RESOLVED: That the 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 the City has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective County Transportation Agency, MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by the City; and be it

FURTHER RESOLVED: That PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and be it

FURTHER RESOLVED: That the City has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and be it

FURTHER RESOLVED: That PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and be it

FURTHER RESOLVED: That, in the case of a highway project, the City agrees to comply with the requirements of MTC's Traffic Operations System Policy as set forth in MTC Resolution No. 4104; and be it

FURTHER RESOLVED: That, in the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the County Transportation Agency; and be it

FURTHER RESOLVED: That the City is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it

FURTHER RESOLVED: That the City is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it

FURTHER RESOLVED: That there is no legal impediment to the 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 PROJECT, or the ability of the City to deliver such PROJECT; and be it

FURTHER RESOLVED: That the City authorizes the City Administrator to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; 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 be it

FURTHER RESOLVED: That the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal Transportation Improvement Program upon submittal by the project sponsor for Transportation Improvement Program programming; and be it

FURTHER RESOLVED: That the Council finds and determines that a Mitigated Negative Declaration was prepared for this PROJECT pursuant to the provisions of the California Environmental Quality Act (CEQA), that the PROJECT has a less than significant environmental impact, and that a Notice of Determination for the project was approved on February 7, 2012; and be it

FURTHER RESOLVED: That the City Administrator is authorized to execute and submit all documents, payment requests and related actions consistent with the purposes of this Resolution.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG AND
PRESIDENT JENKINS

NOES —

ABSENT —

ABSTENTION —

ATTEST:_____

ASHA REED
City Clerk and Clerk of the Council of the City
of Oakland, California