

RESOLUTION NO. 73-09

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND
VERIFYING PROJECT COMPLIANCE AND AUTHORIZING THE CITY
ENGINEER TO SUBMIT OFFICIAL ALLOCATION REQUEST TO THE
METROPOLITAN TRANSPORTATION COMMISSION REGIONAL
MEASURE 2 FOR THE PRELIMINARY ENGINEERING OF THE
OHLONE/RICHMOND GREENWAY GAP CLOSURE 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; 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 City of Richmond is an eligible sponsor of transportation projects in Regional Measure 2, Regional Traffic Relief Plan funds; and

WHEREAS, the Richmond/Ohlone Greenway Gap Closure – Class I Access to 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, attached hereto in the Initial Project Report 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 Richmond is requesting that MTC allocate Regional Measure 2 funds; and

RESOLVED, that the City of Richmond, 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 Richmond certifies that the project is consistent with the Regional Transportation Plan (RTP).

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.

RESOLVED, that the Regional Measure 2 phase or segment is fully funded, and results in an operable and useable segment.

RESOLVED, that the City of Richmond approves the updated Initial Project Report, attached to this resolution; and be it further

RESOLVED, that the City of Richmond approves the cash flow plan, attached to this resolution; and be it further

RESOLVED, that the City of Richmond 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 City of Richmond 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 the City of Richmond 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 Richmond, 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 Richmond shall, if any revenues or profits from any non-governmental use of property (or project) are collected, 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 project; 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 Richmond 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 City of Richmond authorizes its City Engineer to execute and submit an allocation request for the Environmental studies and Preliminary Engineering phase with MTC for Regional Measure 2 funds in the amount of \$200,000 for the project, purposes and amounts included in the project application attached to this resolution; and be it further

RESOLVED, that the City Engineer is hereby delegated the authority to make non-substantive changes or minor amendments to the IPR as he/she deems appropriate.

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

I hereby certify that the foregoing resolution of the Council of the City of Richmond was duly passed and adopted at the regular meeting thereof held July 21, 2009, by the following vote:

AYES: Councilmembers Bates, Butt, Rogers, Ritterman, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:
GAYLE McLAUGHLIN
Mayor

Approved as to form:
RANDY RIDDLE
City Attorney

State of California }
County of Contra Costa :ss
City of Richmond }

I certify that the foregoing is a true copy of Resolution No. 73-09, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on July 21, 2009.