

## RESOLUTION NO. 21-75

### **Resolution Of The City Council Of The City Of Emeryville Authorizing The Filing Of An Application For Funding Assigned To Metropolitan Transportation Commission And Committing Any Necessary Matching Funds And Stating Assurance To Complete The Project**

**WHEREAS**, the City of Emeryville (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$1,347,000 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 (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the 40<sup>th</sup> Street Protected Bikeway and Pedestrian Improvements (herein referred to as PROJECT) for MTC's 2021 Regional Active Transportation Program (ATP) Cycle 5 (herein referred to as 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) 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 (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 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:

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- 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 APPLICANT 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 Congestion Management Agency (CMA), 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 APPLICANT; and

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

**WHEREAS**, there is no legal impediment to APPLICANT 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 APPLICANT to deliver such PROJECT; and

**WHEREAS**, APPLICANT authorizes its Executive Director, General Manager, City Manager, or designee 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; now, therefore, be it

**RESOLVED**, by the City Council of the City of Emeryville that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL

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DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and, be it, further

**RESOLVED**, by the City Council of the City of Emeryville that APPLICANT will provide any required matching funds; and, be it, further

**RESOLVED**, by the City Council of the City of Emeryville that APPLICANT 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 APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and, be it, further

**RESOLVED**, by the City Council of the City of Emeryville that APPLICANT 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 APPLICANT 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 Congestion Management Agency (CMA), 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 APPLICANT; and, be it, further

**RESOLVED**, by the City Council of the City of Emeryville 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**, by the City Council of the City of Emeryville that APPLICANT 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**, by the City Council of the City of Emeryville 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**, by the City Council of the City of Emeryville that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and, be it, further

**RESOLVED**, by the City Council of the City of Emeryville that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and, be it, further

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**RESOLVED**, by the City Council of the City of Emeryville that there is no legal impediment to APPLICANT making applications for the funds; and, be it, further

**RESOLVED**, by the City Council of the City of Emeryville that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and, be it, further

**RESOLVED**, by the City Council of the City of Emeryville that APPLICANT authorizes its Executive Director, General Manager, City Manager, or designee 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**, by the City Council of the City of Emeryville 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**, by the City Council of the City of Emeryville 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 TIP upon submittal by the project sponsor for TIP programming.

**ADOPTED**, by the City Council of the City of Emeryville at a regular meeting held Tuesday, July 6, 2021, by the following vote:

AYES:	<u>4</u>	Mayor Martinez, Vice Mayor Donahue, and Council Members Bauters and Medina
NOES:	<u>0</u>	_____
ABSTAIN:	<u>0</u>	_____
ABSENT:	<u>0</u>	_____

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 MAYOR

ATTEST:

APPROVED AS TO FORM:

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 CITY CLERK

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 INTERIM CITY ATTORNEY

**ATTACHMENTS**

- None