



Legislation Text

File #: 13-461, **Version:** 1

ADOPT: Resolution of Project Compliance for Regional Measure 2 (RM 2) Implementing Agency for the Downtown San Leandro BART Pedestrian and Bicycle Access Project (allows for the allocation of RM 2 funding for the design and environmental phases of the subject project, assures that the City will comply with the MTC's RM 2 policy provisions, approves the Initial Project Report, and assures the City's completion of the project at a cost of \$831,000 using \$400,000 provided by the RM 2 SR2T program; \$346,000 of Measure B Bicycle/Pedestrian Countywide Discretionary Funds; and \$85,000 in matching funds from the City's Measure B Pass-Thru Funds to be appropriated during the Budget Adjustment process)

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 (RM 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 RM 2 funding; and

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

WHEREAS, the City of San Leandro is an eligible sponsor of transportation project(s) in RM 2, Regional Traffic Relief Plan funds; and

WHEREAS, the Downtown San Leandro BART Pedestrian and Bicycle Access Project is eligible for consideration in the Regional Traffic Relief Plan of RM 2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

WHEREAS, the RM 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 San Leandro is requesting that MTC allocate RM 2 funds.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

That the City of San Leandro, and its agents shall comply with the provisions of the MTC's RM 2 Policy Guidance (MTC Resolution No. 3636); and

That the City of San Leandro certifies that the project is consistent with the Regional Transportation Plan (RTP); and

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

That the RM 2 phase or segment is fully funded, and results in an operable and useable segment; and

That the City of San Leandro approves the updated Initial Project Report, attached to this resolution; and

That the City of San Leandro approves the cash flow plan, attached to this resolution; and

That the City of San Leandro 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

That the City of San Leandro is an eligible sponsor of projects in the RM 2 Regional Traffic Relief Plan, Capital Program, in accordance with California Streets and Highways Code Section 30914(c); and

That the City of San Leandro is authorized to submit an application for RM 2 funds for the Downtown San Leandro BART Pedestrian and Bicycle Access Project in accordance with California Streets and Highways Code Section 30914(c); and

That the City of San Leandro certifies that the projects and purposes for which RM 2 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

That there is no legal impediment to the City of San Leandro making allocation requests for RM 2 funds; and

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 San Leandro to deliver such project; and

That the City of San Leandro 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 San Leandro, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM 2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM 2 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages, and

That the City of San Leandro shall, if any revenues or profits from any non-governmental use

of property (or project) occur, that those revenues or profits 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 MTC is entitled to a proportionate share equal to MTC's percentage participation in the project (s); and

That assets purchased with RM 2 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 their useful lives, that the 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 RM2 funds were originally used; and

That the City of San Leandro 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 RM 2 Toll Revenues; and

That the City of San Leandro authorizes its City Manager or his designee to execute and submit an allocation request for the environmental and design phases with MTC for RM2 funds in the amount of \$40,000.00 for the project, purposes and amounts included in the project application attached to this resolution; and

That the City Manager or his designee is hereby delegated the authority to make non-substantive changes or minor amendments to the Initial Project Report as he deems appropriate.

BE IT FURTHER RESOLVED:

That a copy of this resolution shall be transmitted to MTC.