STAFF REPORT

TO: AC Transit Board of Directors
FROM: Michael A. Hursh, General Manager
SUBJECT: Application for FY 2018-19 Operating Funds

ACTION ITEM

RECOMMENDED ACTION(S):

Consider adoption of Resolution No. 18-021 Authorizing the General Manager, or his designee, to file and execute applications and funding agreements with the Metropolitan Transportation Commission (MTC) for FY 2018-2019 allocations of Transportation Development Act (TDA), State Transit Assistance (STA), Assembly Bill 1107 (AB 1107) and Regional Measure 2 (RM2) bridge toll revenues.

BUDGETARY/FISCAL IMPACT:

Staff plans to submit an allocation request for TDA, STA, AB 1107 (BART half-cent sales tax), and RM2 funds to the MTC. Staff fully expects to receive these funds for FY 2018-2019 and is including the funds in the FY 2018-2019 operating budget.

Approval of Resolution 18-021 would allow AC Transit to receive approximately $155.6 million in operating funds for FY 2018-19. The funding details are provided in Table 1.

BACKGROUND/RATIONALE:

Each fiscal year, AC Transit submits an allocation request ("claim") for TDA, STA, AB 1107 (BART half-cent sales tax), and RM2 funds to the MTC. The claim is based upon the fund estimate prepared annually by MTC. The fund estimate is updated in conjunction with the Governor’s budget proposal, and adjusted in accordance with the state budget May revision and other periodic adjustments during the fiscal year.

The passage of RM2 in March 2004 provides operating funding for Regional Express Bus Service on the San Francisco-Oakland Bay, San Mateo-Hayward, and Dumbarton Bridge corridors, Owl Service, and the District’s lines 1 and 6 operating along Telegraph-International-E. 14th Street. The RM2 funding allows for expansion of AC Transit’s Express Bus service in accordance with the Regional Express Bus Plan and allows AC Transit to implement rapid bus operations and owl service.

Approval of Resolution 18-021 would allow AC Transit to receive approximately $155.6 million in operating funds for FY 2018-19. The funding details are provided in Table 1.
### TDA - Article 4 Transit Services

<table>
<thead>
<tr>
<th>County</th>
<th>District</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alameda County</td>
<td>District 1</td>
<td>51,143,012</td>
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<tr>
<td>Alameda County</td>
<td>District 2</td>
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<td>Contra Costa County</td>
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### TDA - Article 4.5 Paratransit Services

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### STA

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### AB 1107 (BART $.05 sales Tax)

<table>
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### Transfer/Pass Through

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<td>BART Transfer</td>
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<td>Union City Services</td>
<td>TDA -Article 4 116,699</td>
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### Regional Measure 2

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<tr>
<td>Express Bus South</td>
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<tr>
<td>1 Rapid</td>
<td>3,000,000</td>
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<tr>
<td>Owl Service</td>
<td>1,510,623</td>
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<tr>
<td>Dumbarton Service</td>
<td>2,816,976</td>
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<td></td>
<td>Sub-Total</td>
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</table>

**Table 1: FY 2018-19 Operating Revenues**

This year’s claim is 17 percent higher than last year’s claim, which was $133.5 million. The increase is largely in STA revenues due to Senate Bill 1 (SB1) which was signed into law in April 2017. Fiscal Year 2018-2019 is the first full year to see revenues from SB1. TDA and AB 1107 are both funded by county sales taxes and have seen moderate increases due to continuing positive economic conditions. RM2 is funded by bridge toll revenues and has remained steady over the last few years.

Chart 1 provides a comparison of revenues over the past three years.
ADVANTAGES/DISADVANTAGES:

There are no disadvantages to approving this staff report. Applying for the funds would allow the region to provide $155.6 million in operating funds for FY 2018-19.

ALTERNATIVES ANALYSIS:

There are no alternatives to the course of action recommended in this report.

PRIOR RELEVANT BOARD ACTION/POLICIES:

Staff Report 17-101 / Resolution 17-011, FY 17-18 Claim
Staff Report 16-109 / Resolution 16-109, FY 2016-17 Claim
Staff Report 15-079 / Resolution 15-014, FY 2015-16 Claim

ATTACHMENTS:

1. Resolution 18-021 with Exhibit A

Approved by: Claudia Allen, Chief Financial Officer
Reviewed by: Denise C. Standridge, General Counsel
              Chris Andrichak, Director of Management and Budget
Prepared by: Eve Ng, Senior Capital Planning Specialist
ALAMEDA-CONTRA COSTA TRANSIT DISTRICT
RESOLUTION NO. 18-021

A RESOLUTION AUTHORIZING THE GENERAL MANAGER, OR HIS DESIGNEE, TO FILE AND EXECUTE APPLICATIONS AND FUNDING AGREEMENTS WITH THE METROPOLITAN TRANSPORTATION COMMISSION FOR FY 2018-19 ALLOCATIONS OF TRANSPORTATION DEVELOPMENT ACT, STATE TRANSIT ASSISTANCE, ASSEMBLY BILL 1107 AND REGIONAL MEASURE 2 BRIDGE TOLL REVENUES

WHEREAS, the Transportation Development Act (TDA) (Public Utilities Code Section 99200 et seq.), provides for the disbursement of funds from the Local Transportation Fund (LTF) of the Counties of Alameda and Contra Costa for use by eligible applicants for the purpose of providing public transportation services; and

WHEREAS, pursuant to the provisions of TDA and the applicable rules and regulations thereunder (21 Cal. Code of Regs. Section 6600 et seq.), a prospective applicant wishing to receive an allocation from LTF shall file its claim with the Metropolitan Transportation Commission (MTC); and

WHEREAS, the State Transit Assistance (STA) Fund is created pursuant to Public Utilities Code (PUC) Section 99310 et seq. and makes funds available pursuant to PUC Section 99313.6 for allocation to eligible applicants to support approved transit projects; and

WHEREAS, TDA funds from the LTF of the Counties of Alameda and Contra Costa and STA funds will be required by the Alameda-Contra Transit District (AC Transit) in Fiscal Year 2018-19 for the purpose of providing public transportation services; and

WHEREAS, PUC Section 29140, et seq. makes available 25 percent of the half-cent sales tax revenues collected in the counties of Alameda, Contra Costa, and San Francisco in accordance with Assembly Bill 1107 (AB 1107) for allocation by the MTC to eligible applicants; and

WHEREAS, Streets and Highways Code Section 30892 makes bridge tolls available for allocation by the MTC to eligible applicants; and

WHEREAS, pursuant to Streets and Highways Code Section 30913 and Section 30914, eligible applicants for allocation of RM1 funds are public entities; and

WHEREAS, AC Transit is in compliance with the requirements established by the MTC pursuant to PUC Section 29140, et seq. and Government Code Section 66517.5; and

WHEREAS, SB 916 (Chapter 715, Statutes 2004), commonly referred to as Regional Measure 2 (RM2) Bridge Toll Revenues, identified projects eligible to receive funding under the Regional Traffic Relief Plan and the MTC is responsible for funding projects eligible for RM2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d); and
WHEREAS, the MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for RM2 funds consistent with procedures and conditions as outlined in RM2 Policy and Procedures; and

WHEREAS, AC Transit is an eligible applicant for TDA/STA funds pursuant to PUC Section 99260, et seq., for AB 1107 funds pursuant to PUC Section 29142.2, and for RM2 funds for operating assistance and capital program(s) in accordance with California Streets and Highways Code 30914(d), as attested by the Opinion of AC Transit's General Counsel attached to this Resolution as Exhibit A; and

WHEREAS, AC Transit's Express Bus Project, Owl Service Project, Telegraph-International – E. 14th Street Enhanced Bus Operations Project, and Dumbarton Bus Project are eligible for consideration in the Regional Traffic Relief Plan of RM2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

WHEREAS, the RM2 allocation request, included in the updated Operating Assistance Proposal being submitted along with this resolution to the MTC, demonstrates a fully funded operating plan that is consistent with the adopted performance measures, as applicable, for which AC Transit is requesting that the MTC allocate RM2 funds; and

WHEREAS, the certification by AC Transit of assurances required for the allocation of RM2 funds by the MTC has been incorporated into Document J(a) of AC Transit’s application for TDA Article 4 funds;

NOW THEREFORE, the Board of Directors of the Alameda-Contra Costa Transit AC Transit does resolve as follows:

Section 1. The General Manager, or his designee, is authorized to file and execute applications and funding agreements, and revisions if required, together with all necessary supporting documents, with the MTC for allocations of appropriate FY 2018-19 TDA, STA, AB 1107 and RM2 funds in accordance with California Streets and Highways Code 30914(d).

Section 2. AC Transit and its agents shall comply with the provisions of the MTC’s RM 2 Policy and Procedures (MTC Resolution No. 3636), certify that the RM2-funded projects are consistent with the Regional Transportation Plan, and approve the purposes and amounts included in the updated Operating Assistance Proposal for RM2 funding, being submitted along with this resolution to MTC.

Section 3. AC Transit approves the certification of assurances required for allocation of RM2 funds that has been incorporated into the certifications for allocating TDA Article 4 funds and certifies that the projects and purposes for which RM2 funds are being requested are 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 hereunder.
Section 4. There is no legal impediment to AC Transit making allocation requests for TDA, STA, AB 1107 or RM 2 funds and there is no pending or threatened litigation which might in any way adversely affect the proposed projects, or the ability of AC Transit to deliver such projects.

Section 5. AC Transit agrees to indemnify and hold harmless the 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 AC Transit, 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 the MTC may be retained until disposition has been made of any claim for damages.

Section 6. If AC Transit receives any revenues or profits from any non-governmental use of property (or project) it shall use those revenues or profits exclusively for the public transportation services for which the property (or project) was initially approved, either for capital improvements or maintenance and operational costs; otherwise the MTC is entitled to a proportionate share of those revenues or profits equal to the MTC’s percentage participation in the property (or project(s)).

Section 7. A copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application authorized in Section 1 and revisions to the application. The MTC is requested to grant the allocations of funds as specified herein.

Section 8. This resolution shall become effective immediately upon its passage by four affirmative votes of the Board of Directors.

PASSED AND ADOPTED this 25th day of April, 2018.

Elsa Ortiz, President

Attest:

Linda A. Nemeroff, District Secretary
I, Linda A. Nemeroff, District Secretary for the Alameda-Contra Costa Transit District, do hereby certify that the foregoing Resolution was passed and adopted at a regular meeting of the Board of Directors held on the 25th day of April, 2018, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Linda A. Nemeroff, District Secretary

Approved as to Form and Content:

Denise C. Standridge, General Counsel
TO: METROPOLITAN TRANSPORTATION COMMISSION
FROM: ALAMEDA-CONTRA COSTA TRANSIT DISTRICT
DATE: April 25, 2018
RE: Eligibility for Allocations of:
1. Transportation Development Act (TDA) Funds
2. State Transit Assistance (STA) Funds
3. Half-cent Sales Tax (AB1107) Revenues
4. AB664 Net Bridge Toll Revenues
5. Regional Measure 2 (RM2) Funds

This document will serve as the requisite opinion of counsel in connection with the application of the Alameda-Contra Costa Transit District (AC Transit) for allocations of TDA funds made available pursuant to Public Utilities Code (PUC) 99200 et seq.; STA funds made available pursuant to PUC 99310 et seq.; AB 1107 Sales Tax Revenues made available pursuant to PUC 29140 et seq.; Net Bridge Toll Revenues made available pursuant to Street and Highways Code Section 30892 et seq.; and RM2 funds from Regional Measure 2 Regional Traffic Relief Plan made available pursuant to Streets and Highways Code Section 30914(c)(d) for Express Bus Service Project, Owl Service Project, and Telegraph – International – E. 14th Street Rapid Bus Operations Project.

1. AC Transit is authorized to provide and assist public transportation by acquisition, construction, and operation of existing or additional transit facilities. This assistance may be provided directly or by contractual arrangements with other parties.

2. AC Transit is an eligible claimant for TDA/STA funds pursuant to PUC Section 99260; AB 1107 Sales Tax Revenues pursuant to the provisions of PUC Sections 29142.4 and 29142.5; and Bridge Toll Revenues in accordance with the provisions of Street and Highways Code Sections 30892 and 30893.

3. AC Transit is an eligible sponsor for the RM2 funding.

4. AC Transit is authorized to submit an allocation request for RM2 funding for Express Bus Service Project, Owl Service Project, Telegraph – International – E. 14th Street Rapid Bus Operations Project, and Dumbarton Service Project.

5. I have reviewed the pertinent State and local laws and I am of the opinion that there is no legal impediment to AC Transit making an application for TDA/STA funds; AB 1107 Sales Tax Revenues; Bridge Toll Revenues; and RM 2 funds. Furthermore, as a result of my examination, I find that there is no pending or threatened litigation that might in any way adversely affect the proposed projects, or AC Transit’s ability to carry out such projects.

Sincerely,

Denise C. Standridge
General Counsel