
AC TRANSIT DISTRICT**Board of Directors**

Executive Summary

GM Memo No. 09-240

Meeting Date: October 28, 2009

Committees:Planning Committee External Affairs Committee Rider Complaint Committee **Board of Directors** Finance and Audit Committee Operations Committee Paratransit Committee **Financing Corporation**

SUBJECT: Consider the Adoption of Resolution No. 09-054 Authorizing the General Manager or His Designee to File and Execute Applications and Funding Agreements with the California Department of Transportation and the Metropolitan Transportation Commission for Allocations of FY 2009-10 Public Transportation Modernization, Improvement, and Service Enhancement Program Account Funds.

RECOMMENDED ACTION:

Information Only Briefing Item Recommended Motion

Recommend Adoption of Resolution No. 09-054

Fiscal Impact:

\$8.8 million for District Capital Program in Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) revenue-based funds.

Background/Discussion:

The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters on November 7, 2006, established \$3.6 billion to be deposited in PTMISEA. The funds were made available to transit operators eligible to receive State Transit Assistance (STA). Funds are appropriated by the State Controller's Office based on the STA formula.

In FY 2007-08, Senate Bill 88 (Perata) designated the California Department of Transportation (Caltrans) as the administering agency. The Legislature appropriated \$600 million to the Program. In FY 2008-09 the Legislature extended the procedures for another year, and appropriated \$350 million. The FY 2009-10 Governor's Budget includes \$350 million of PTMISEA funds.

\$8.8 million in FY 2009-10 PTMISEA revenue based funds will be committed to fund a portion of the (49) 45' Suburban Buses which are scheduled to be procured in July of 2011.

AB 1072 approved by the Governor on October 11, 2009 extends the application of the existing formula for distributing Proposition 1B transit capital funds to future appropriations. In addition, AB 1072 was amended to make the following changes to the existing program that would enable transit operators to better manage these funds:

- A project sponsor may retain its funding share and can accumulate and utilize that funding in a subsequent year. This fixes the formula for revenue generation to the average of FYs 2004-05 to 2006-07 State Transit Assistance formula.
- Authorizes a project sponsor to loan its allocation to another project sponsor with an eligible project to ensure that all allocations are put to use in a given fiscal year.
- Authorizes allocations to be used in a subsequent fiscal year to fund completion of projects that were approved in a previous fiscal year.

AB 1072 also authorizes an expenditure program mechanism, whereby transit sponsors will be required to provide an expenditure plan of proposed transit capital project(s) to be funded with the remaining PTMISEA funds. Staff proposes to submit the bus replacement schedule outlined in Attachment B.

AB 672 allows local and regional agencies to apply for a Letter of No Prejudice (LONP) for any project funded by the other Proposition 1B programs, if approved by the administrative agency responsible for the Proposition 1B program. The LONP will allow the project sponsor to proceed with a project using its own funds for future reimbursement by the I-Bond program. Note the LONP does not guarantee reimbursement.

Approval of Resolution 09-054, attached, would allow the District to receive \$8.8 million in FY 2009-10 PTMISEA revenue based funds and submit the bus replacement schedule outlined in Attachment A.

Prior Relevant Board Actions/Policies:

GM Memo 08-286; Resolution No. 08-060: FY 2008-09 PTMISEA Funds

Attachments:

Attachment A - Resolution No. 09-054

Attachment B – Bus Replacement Schedule

Approved by: **Rick Fernandez, General Manager**
 Jim Gleich, Deputy General Manager
 Kate Miller, Manager, Capital Development, Legislation & Grants

Reviewed by: **Kenneth C. Scheidig, General Counsel**
Prepared by: **Kiran Bawa, Senior Capital Planning and Legislative Analyst**
Date Prepared: **October 15, 2009**

**ALAMEDA-CONTRA COSTA TRANSIT DISTRICT
RESOLUTION NO. 09-054**

**A RESOLUTION AUTHORIZING THE FILING AND EXECUTION OF APPLICATIONS
AND FUNDING AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF
TRANSPORTATION OR THE METROPOLITAN TRANSPORTATION COMMISSION
FOR ALLOCATIONS OF FY 2009-10 PUBLIC TRANSPORTATION
MODERNIZATION, IMPROVEMENT, AND SERVICE ENHANCEMENT PROGRAM
FUNDS.**

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B on November 7, 2006, authorized \$3.6 billion to be deposited in Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) and \$1 billion to be deposited in the State-Local Partnership program (SLPP) Account; and

WHEREAS, implementing legislation for the Bond Act enacted in 2007 (SB 88 and AB 193) designated California Department of Transportation (Caltrans) as the administering agency for PTMISEA and the California Transportation Commission (CTC) as the administrative agency for the SLPP Account; and

WHEREAS, Government Code Section 8879.71 requires the CTC to distribute the funds from each annual appropriation to the SLPP Account based on 95% Voter-Approved Taxes and Fees and 5% Developer Fees; and

WHEREAS, Proposition 1B requires that the SLPP funds are matched dollar for dollar with the source of revenues that qualifies the applicant for SLPP funding; and

WHEREAS, for AC Transit, the eligible voter-approved fund sources include Alameda and Contra Costa County property taxes; and

WHEREAS, AB 1072 adopted in October 2009 extends the PTMISEA provisions of the existing formula for distribution of Proposition 1B transit capital funds to future appropriations and authorizes an expenditure program mechanism; and

WHEREAS, AB 672 authorizes local and regional agencies to apply for a Letter of No Prejudice (LONP) for any project using Prop 1B funds; and

WHEREAS, the program priorities for the Proposition 1B funding as set forth in General Manager Memo 09-240 are consistent with the District's Short Range Transit Plan;

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 Caltrans and the Metropolitan Transportation

Commission (MTC) for allocations of FY 2009-10 PTMISEA funds and submit bus replacement schedule outlined in Attachment A, and make non-substantive changes to the application including adjustments to revenues and fleet data should there be changes.

Section 2. A copy of this resolution will be transmitted to Caltrans and MTC in conjunction with the filing of the application authorized in Section 1 and revisions to the application. Caltrans and MTC are requested to grant the allocations of funds as specified herein.

Section 3. AC Transit and its agents shall comply with the provisions of the PTMISEA Program Guidelines and CTC Program Guidelines which certify that the PTMISEA-funded projects and SLPP-funded projects respectively are consistent with the District's Short Range Transit Plan.

Section 4. AC Transit approves the certification of assurances as required for allocation of PTMISEA and SLPP funds, including compliance with the California Air Resources Board's regulations governing transit equipment and emissions.

Section 5. There is no legal impediment to AC Transit making allocation requests for PTMISEA 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 project.

Section 6. AC Transit agrees to indemnify and hold harmless Caltrans, MTC, CTC, their governing bodies, 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 PTMISEA and SLPP funds.

Section 8. The General Manager, or his designee is hereby delegated the authority to make non-substantive changes or minor amendments to the application as deemed appropriate.

Section 9. This resolution shall become effective immediately upon its passage by four affirmative votes of the Board of Directors.

PASSED AND ADOPTED THIS 28th day of October, 2009

Ryan "Rocky" Fernandez, President

Attest:

Linda Nemeroff, District Secretary

I, 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 28th day of October 2009, by the following roll call vote:

Ayes:

Noes:

Absent:

Abstain:

Linda Nemeroff, District Secretary

Approved as to Form:

Kenneth C. Scheidig, General Counsel

Bus Procurement Program - Expenditure Plan

Year Put in Service	Buses Replaced	Revised Quantity	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY2015-16	FY 2016-17	FY 2017-18	FY 2018-19	Total	
30' Urban Transit - Local Service														
2006	30 ft. Van Hool	61	-	-	-	-	-	-	-	3,526,031	30,550,700	-	-	
2008	30 ft. Van Hool ⁵	25	-	-	-	-	-	-	-	-	-	1,533,101	-	
2009	30 ft VanHool	14	-	-	-	-	-	-	-	-	-	-	-	
Total		100	-	-	-	-	-	-	-	3,526,031	30,550,700	1,533,101	35,609,831	
40' Urban Transit - Local Service														
1998	40' NABI ⁴	0	-	-	-	-	-	-	-	-	-	-	-	
2000	40' Low Floor NABI	28	-	1,394,476	12,136,461	-	-	-	-	-	-	-	-	
2002	40' Low Floor NABI ⁶	40	-	-	-	2,113,427	18,393,673	-	-	-	-	-	-	
2003	40' Van Hool	102	-	-	-	-	5,550,917	48,310,982	-	-	-	-	-	
2008	40' Van Hool ⁵	25	-	-	-	-	-	-	-	-	-	1,577,214	-	
2009	40' Van Hool	2	-	-	-	-	-	-	-	-	-	-	-	
2011	40' Van Hool	68	3,287,945	28,615,788	-	-	-	-	-	-	-	-	-	
2011	40' Urban Transit (Measure J-72R)	10	483,521	4,208,204	-	-	-	-	-	-	-	-	-	
Total		275	3,771,467	34,218,468	12,136,461	2,113,427	23,944,590	48,310,982	-	-	-	1,577,214	126,072,609	
60' Urban Artics - Local Service														
1996	60' New Flyers	9	5,797,260	-	-	-	-	-	-	-	-	-	-	
2003	60' Van Hool	57	-	-	-	-	3,968,686	40,120,453	-	-	-	-	-	
2006	60' Van Hool	15	-	-	-	-	-	-	-	1,141,234	11,537,027	-	-	
Total		81	5,797,260	-	-	-	3,968,686	40,120,453	-	1,141,234	11,537,027	-	62,564,661	
Transbay Service														
2000	45' MCI	40	-	-	-	-	-	2,841,845	25,576,600	-	-	-	-	
2002	45' MCI	39	-	-	-	-	-	-	-	2,939,540	26,455,860	-	-	
2002	40' Gillig ³	6	-	-	-	376,873	2,699,192	-	-	-	-	-	-	
2003	40' Gillig Suburbans (DB Service-TFCA)	4	-	-	-	-	263,966	2,393,603	-	-	-	-	-	
2006	60' Van Hool	10	-	-	-	-	-	-	-	845,217	7,606,957	-	-	
2009	1989 DB Gilligs with 45' Suburbans (Expansion-DB B)	6	-	-	-	-	-	-	-	-	-	-	-	
2009	45' Suburbans (Expansion - Security \$ Exchange)	10	incl	-	-	-	-	-	-	-	-	-	-	
2009	45' Suburbans (Expansion-\$TBD)	3	incl	-	-	-	-	-	-	-	-	-	-	
2009	45' Suburbans	11	incl	-	-	-	-	-	-	-	-	-	-	
2010	45' Suburbans	49	2,872,996	25,886,408	-	-	-	-	-	-	-	-	-	
2010	45' MCIs (Suburbans?)	18	1,024,647	9,232,323	-	-	-	-	-	-	-	-	-	
Total		196	3,897,643	35,118,730	-	376,873	2,963,158	5,235,448	25,576,600	3,784,757	34,062,817	-	111,016,026	
Fleet Vehicles cashed out for PM eligible for Replacement⁸														
1988	35' New Flyers	29	-	-	-	-	-	-	1,633,518	14,612,762	-	-	-	
1990	40' Gillig	51	-	-	-	-	-	-	2,944,484	25,626,560	-	-	-	
Total		80	-	-	-	-	-	-	4,578,002	40,239,322	-	-	44,817,325	
Grand Total			732	13,466,370	69,337,198	12,136,461	2,490,300	30,876,435	93,666,884	30,154,602	48,691,344	76,150,544	3,110,315	380,080,452

Revenue Sources:

PTMISEA	75,960,715
SLPP	11,800,000
5307 PM / Property Tax (Match) Funds	292,319,737
Total	380,080,452