

Metropolitan Transportation Commission Programming and Allocations Committee

July 9, 2008

Item Number 4a

Resolution No. 3434, Revised - 2008 Strategic Plan Update

Subject: Resolution 3434 – Regional Transit Expansion Program: Revisions to Resolution 3434 to Incorporate Recommendations from the 2008 Strategic Plan

Summary: At the July 2007 meeting, this Committee directed staff to develop a Strategic Plan for Resolution 3434, the Regional Transit Expansion Program. At the June 2008 Programming and Allocations Committee meeting, staff presented the draft 2008 Strategic Plan for Resolution 3434, the Regional Transit Expansion Program.

The Committee directed staff to return with further information on several of the Strategic Plan recommendations. The attached memo includes the following: 1) responses to Commissioner inquiries; 2) an overview of the Strategic Plan; and 3) a summary of Strategic Plan recommendations and the companion changes to Resolution 3434.

Background: The purpose of the Strategic Plan is to provide a framework for successful program and project delivery by initially addressing: 1) escalating project costs; 2) near-term funding requests; and 3) the development of the financially constrained element of the Transportation 2035 Plan.

The Strategic Plan recommends the following: 1) place projects into four categories to address specific program and project challenges; 2) continue to monitor project progress and milestones; 3) provide advocacy support; 4) take specific programming actions to deliver otherwise ready-to-go projects; and 5) endorse one additional regional Small Starts project.

Funding solutions were identified for the following projects: 1) AC Transit Bus Rapid Transit project; and 2) BART Extension to Warm Springs project. The funding identified to close the shortfalls includes contributions from MTC, BART, Alameda County, and Santa Clara County. Further, staff recommends holding \$35 million in reserve for the BART Oakland Airport Connector (OAC) project. In the case of the OAC project, the exact amount of the public funding shortfall is being established through the procurement process between BART and its proposed public/private partnership contractor.

Recommendation: Staff recommends that the Committee refer Resolution 3434, Revised and the 2008 Strategic Plan to the Commission for approval.

Attachment: Deputy Executive Director's memorandum
Attachment 1: Estimated Project Schedules
Attachment 2: Funding Summary
Attachment 3: Comment Letters
MTC Resolution No. 3434, Revised



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TRANSPORTATION
COMMISSION

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Memorandum

TO: Programming and Allocations Committee

DATE: July 9, 2008

FR: Deputy Executive Director, Policy

RE: Resolution 3434 – Revisions to the Regional Transit Expansion Program to Incorporate Recommendation from the 2008 Strategic Plan

At the June 2008 Programming and Allocations Committee meeting, staff presented the draft 2008 Strategic Plan for Resolution 3434, the Regional Transit Expansion Program. The Committee directed staff to return with further information on several of the Strategic Plan recommendations. This memo includes the following: 1) responses to Commissioner inquiries; 2) an overview of the Strategic Plan; and 3) a summary of Strategic Plan recommendations and the companion changes to Resolution 3434.

Staff is recommending that this Committee refer the 2008 Strategic Plan and companion changes to Resolution 3434 to the Commission for approval.

Responses to Commissioner Inquiries

At the June PAC meeting, staff was directed to provide further information on the questions below.

1. Is adoption of the strategic plan necessary for Transportation 2035 development? Can adoption of the strategic plan be delayed until September? What new information would be available in September to inform strategic plan policy?

The Strategic Plan is focused on closing gaps in funding for transit expansion projects, and ensuring that the funding availability is compatible with the project construction timeframe. To the first point, the Strategic Plan would ideally be completed in conjunction with the financially constrained plan. Based on the timing for the development of the plan, staff believes that a September adoption of the Strategic Plan could still inform Transportation 2035.

Postponement until September could provide additional information or public outreach for at least three projects: 1) Dumbarton Rail; 2) BART Extension to Silicon Valley; and 3) BART Oakland Airport Connector.

- **Dumbarton Rail:** The Dumbarton Rail Policy Advisory Committee (PAC) is scheduled to meet on July 22. The PAC will receive an updated project schedule and discuss next steps in light of the Resolution 3434 Strategic Plan staff recommendations and the Santa Clara County Civil Grand Jury's recommendation to suspend further funding actions from the Santa Clara Valley Transportation Authority (VTA) to the Dumbarton Rail project.

- BART Extension to Silicon Valley: In August, VTA is scheduled to receive a staff report outlining investment options for Measure A sales tax revenues. The VTA Board will consider these options and decide whether to proceed with a November 2008 sales tax ballot measure. Given that staff's recommendation for closing the funding gaps in the Warm Springs project are conditioned on a full funding plan for the extension to Silicon Valley, the decision on whether the revenue measure will be pursued could provide another key data point for the Commission.
- BART Oakland Airport Connector: As reported at your June meeting, the BART Oakland Airport Connector (OAC) project is in the public private partnership procurement phase. This phase was originally slated for completion in the July timeframe, and BART staff indicated that additional public funding might be necessary to complete this process. While staff was hoping that BART would be able to provide a full funding plan for the project in July, including specifics on any additional public funding, this timeline has now been delayed, with the procurement phase extended until mid-August.

2. The staff proposal recommends shifting \$91 million in RM2 funds from the Dumbarton Rail project to the BART Extension to Warm Springs project. Do the statutes allow this, and if so, what is the process?

Section 30914(f) of the California Streets and Highways Code allows the Commission to reassign funds between RM2 projects where a project either fails or will be implemented with other funds.

If this specific recommendation were adopted as part of the Strategic Plan, two actions would be necessary: 1) the Alameda County Congestion Management Agency would need to formalize the assignment of Regional Transportation Improvement Program (RTIP) funds to the Dumbarton Rail project through a board adopted resolution; and 2) the Commission would need to hold a RM2 public hearing to receive input on the proposed change. After considering input, the Commission would vote on the proposed amendment to the RM2 program to reassign funding from Dumbarton Rail to the BART to Warm Springs project.

3. Are there alternative fund sources available to the Dumbarton Rail project if the \$91 million proposed Alameda County Regional Transportation Improvement Program (RTIP) funds are delayed or not available?

Currently, the Alameda RTIP commitment is the most secure funding source available to the Dumbarton Rail project as an alternative to RM2 funds. RTIP funding is available to Alameda County based on a county share formula implemented under Senate Bill 45 (Statutes of 1997). The California Transportation Commission considers RTIP allocation requests. Based on staff estimates, the \$91 million in RTIP funds would be available to the Dumbarton Rail project between FY2019-20 and FY2026-27; advancing the funds may be possible should proposed

legislation aimed at expanding the use of Grant Anticipation Vehicles (GARVEE) financing be approved.

However, note that the primary challenge facing the Dumbarton Rail project is the roughly \$300 million funding shortfall, which is distinct from the RM2 proposed funding reassignment. The current \$4 bridge toll structure does not have additional capacity beyond the existing commitments.

If a future bridge toll increase were approved, the Commission may have discretion over funding for congestion relief projects in the toll bridge corridors. The Commission could adopt the Dumbarton Rail project as a priority for this funding. In that case, future bridge toll revenues beyond the current \$4 toll could be explored as both a means to close the underlying project funding gap and as a backstop measure to the RTIP funds in the event that the RTIP funding is not available or not accessible during the Dumbarton Rail project construction period.

4. What are the project schedules/state of readiness for the following projects:

1. BART Extension to Warm Springs
2. BART Extension to Silicon Valley
3. Dumbarton Rail

The project schedules are included in Attachment 1. Of particular note is that the BART to Warm Springs project has environmental clearance and is in the final stages of right-of-way acquisition. The project could begin construction as early as summer of 2009 for the early delivery segment of Central Park subway, and begin construction on the remaining line segment by early 2010.

The BART Extension to Silicon Valley has met state environmental certification but is still in the process of obtaining federal environmental approval. The project has completed a significant amount of preliminary engineering and design work, and could begin construction elements as soon as mid-2009.

The Dumbarton Rail project is not expected to complete the environmental process until early 2010. The right-of-way acquisition phase is scheduled to begin in 2009 but could be complicated depending on the locally preferred alternative selected and the extent of negotiations required with Union Pacific Railroad. If the project were able to close its significant funding shortfall, the earliest it could go to construction is 2012.

Comments Received to Date

Attachment 3 includes comment letters received to date on the 2008 Strategic Plan recommendations. Two of the letters, from the Chair and Vice Chair of the Dumbarton Rail Corridor Policy Advisory Committee, oppose the reassignment of RM2 funds from the Dumbarton Rail project to the BART to Warm Springs project. The final letter, from a member of the Dumbarton Rail Corridor Project Citizen's Advisory Panel, supports this reassignment of RM2 funds.

Overview of Strategic Plan

At the July 2007 meeting, this Committee directed staff to develop a Strategic Plan for Resolution 3434, the Regional Transit Expansion Program. The purpose of the Strategic Plan is to provide a framework for successful program and project delivery by initially addressing: 1) escalating project costs; 2) near-term funding requests; and 3) the development of the financially constrained element of the Transportation 2035 Plan.

As discussed in June, the Strategic Plan placed projects into the following four categories to address specific program and project challenges:

- Tier 1: No Current Scope, Schedule, or Budget Issues Reported by Sponsor
- **Tier 2: Projects Needing More Scope/Cost Refinement**
- Tier 3: Projects Needing On-Going Operating Funds
- Tier 4: Projects with a Capital Shortfall greater than 50% of Total Cost

Attachment 2 summarizes projects by tier. For Tier 1, staff is recommending continued monitoring of project progress and milestones. For Tiers 3 and 4, staff is recommending that the Commission provide advocacy support. Tier 2 is the focus of the Strategic Plan effort, with the objective of allowing these otherwise ready-to-go projects to proceed.

As a reminder, Tier 2 includes the following four projects: 1) BART/Oakland Airport Connector Project; 2) AC Transit Berkeley/Oakland/San Leandro Bus Rapid Transit; 3) BART to Warm Springs; and 4) Caltrain Electrification.

Staff has identified the following funds as potential sources to close the funding gaps on otherwise ready-to-go projects in Resolution 3434. As a reminder, at present the State Local Partnership Program (SLPP) funds remain without a distribution formula. The estimate below assumes bridge tolls are eligible and receive a proportional share of the \$1 billion statewide SLPP program.

Potential New Funding Available for Programming

Source	(\$ in millions)
MTC Third Cycle STP/CMAQ Bonus Round	35
Proposition 1B - MTC State Local Partnership Program	75
Revised RM1 and AB 1171 Bridge Toll Estimate	112
Total	222

Staff Recommendations and Companion Revisions to Resolution 3434

In summary, the Strategic Plan recommends closing the funding gaps for two of the four projects listed in Tier 2. For the BART Oakland Airport Connector project, staff recommends holding funds in reserve subject to a full funding plan being finalized through the procurement process between BART and its proposed public/private partnership contractor. For the Caltrain Electrification project, a funding agreement between the member agencies has not been reached.

Staff recommends that the Commission direct staff to continue working with the partner agencies to develop a funding plan solution for the project

A brief summary of the strategy to close the funding gaps and address cash flow challenges is outlined below and detailed in Attachment 2. The companion changes to Resolution 3434, including new funding conditions, are also attached.

1) AC Transit Berkeley/Oakland/San Leandro Bus Rapid Transit

Original Shortfall: \$75 million

Proposed Funding Plan: \$35 million CMAQ and \$40 million RTIP

The recommended MTC commitment of \$35 million is subject to the following conditions:

1. Alameda County Congestion Management Agency (ACCMA) adopts an RTIP funding commitment plan.
2. AC Transit submits documentation for inclusion into the 2009 Federal Transit Administration (FTA) Small Starts report.
3. AC Transit adopts a board resolution committing to the following: 1) use the \$35 million to deliver a useable bus rapid transit segment; and 2) develop a phasing plan to deliver the full Berkeley/Oakland/San Leandro Bus Rapid Transit project, if the entire project as submitted to FTA for the Small Starts program, is not immediately deliverable.

2) BART to Warm Springs

Original Shortfall: \$144 million

Proposed Funding Plan: \$40 million MTC State Local Partnership Program (SLPP);
\$34 million bridge tolls;
\$30 million Alameda SLPP;
\$16 million Santa Clara SLPP
\$24 million BART agency contribution

The recommended MTC commitment of \$74 million is subject to the following conditions:

1. Santa Clara VTA adopts a full funding plan for an operable BART segment in Santa Clara County.
2. BART, Alameda County Transportation Improvement Authority and Santa Clara Valley Transportation Authority adopt resolutions committing to the project the funds listed above in the proposed funding plan.

The project funding plan includes \$145 million derived from the projected surplus in operating revenue on the BART San Francisco Airport (SFO) Extension. These funds are not available during the BART to Warm Springs construction period. To address this cash flow issue, staff recommends the following funding exchanges:

Step 1: Reassign \$91 million in RM2 funds currently programmed to the Dumbarton Rail projects to the BART to Warm Springs project. In exchange, the Dumbarton Rail project would receive \$91 million in future year (FY 2019-20 to FY 2026-27) Alameda County Regional

Transportation Improvement Program (RTIP) funds, recently pledged through the ACCMA 2008 RTIP programming resolution, to the BART to Warm Springs project. This exchange would allow the BART to Warm Springs project access to cash flow within the project’s construction timeframe.

(\$ in millions)	RM2	ALA RTIP
BART to WSX	91	-91
Dumbarton Rail	-91	91

Step 2: MTC and ACTIA/BART advance \$27 million each to the BART to Warm Springs project to be repaid when SFO Surplus funds become available. After MTC and ACTIA/BART are paid back, the remaining SFO Surplus of \$91 million is available for cost increases on the project, if needed.

SFO Extension Surplus

Total Expected	145
Programmed to BART to Warm Springs (ACTIA/BART and MTC each will advance \$27 Million)	54
Remaining for Cost Increase	91

3) BART Oakland Airport Connector

Original Shortfall: TBD

Proposed Funding Plan: \$35 million MTC SLPP held in reserve for project

The recommended MTC commitment of \$35 million is subject to BART adopting a full funding plan for the project.

The chart below summarizes the recommended programming actions.

Resolution 3434 - Strategic Plan - Summary of Funding Contributions

(\$ in millions)	MTC				Alameda SLPP	Santa Clara SLPP/ Other	BART SLPP/ Other	Total
	CMAQ	SLPP	Revised RM1	Revised AB 1171				
AC BRT	35							35
BART to WSX*		40	29	5*	30	16	24	144
eBART				5				5
BART Oakland Airport Connector		35						35
Northern Bridge Group				60				60
Subtotal by Source	35	75	29	70	30	16	24	279
Total Contribution		209			30	16	24	279

* Requires change to AB 1171 requirements of Res 3434 to redirect Tri-Valley portion to WSX.

Additional Small Start Candidate Endorsement

As described in June, staff is also recommending that the region endorse Van Ness Bus Rapid Transit Project as a Small Starts project. The project is proposed for addition into Resolution 3434.

Recommendation

Staff recommends that the Committee refer Resolution 3434, Revised and the 2008 Strategic Plan to the Commission for approval.

Therese W. McMillan

Attachment 1

Resolution 3434 - 2008 Strategic Plan - Estimated Project Schedules

BART to Warm Springs Extension

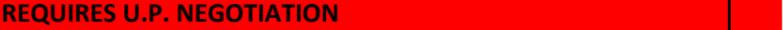
Task	Complete	2008	2009	2010	2011	2012	2013	2014	2015	2016
Environmental EIR Certified (2003) /EIS Record of Decision (2006)										
Preliminary Engineering/Design										
Right-of-way Acquisition/Utility Relocation										
Design/Build Contract										

◆ = Early delivery segment complete

Santa Clara Valley Rapid Transit Corridor

Task	Complete	2008	2009	2010	2011	2012	2013	2014	2015	2016
Environmental EIR Certified (2004) / Supplemental EIR Certified (2007)										
EIS Record of Decision										
Final Design										
Right-of-Way Acquisition										
Construction										

Dumbarton Rail

Task	Complete	2008	2009	2010	2011	2012	2013	2014	2015	2016
Environmental EIR Certified /EIS Record of Decision										
Final Design										
Right-of-Way Acquisition										
Construction										

Notes:  Assumes 50% Funding shortfall closed

Construction includes advertising and testing periods.

Schedules are based on MTC staff assessment after consulting with project sponsors

ATTACHMENT 2: Resolution 3434 Strategic Plan Funding Summary

Project Capital Cost/Funding in Millions and Year of Expenditure \$ Alphabetical by Tier				RECOMMENDED STRATEGIC PLAN INVESTMENTS						AFTER STRATEGIC PLAN	
Project	Sponsor	BEFORE STRATEGIC PLAN		CMAQ	MTC SLPP	MTC Bridge Tolls	Alameda SLPP/ Other/ RTIP	Santa Clara SLPP/ Other	BART SLPP/ Other	Project Cost (YOE \$)	Capital Shortfall
		Project Cost (YOE \$)	Capital Shortfall								

Tier 1 - No Current Scope, Schedule, Budget Issues as Reported By Sponsors

East Contra Costa BART Extension (eBART)	BART/CCTA	525	-							525	-
Capitol Corridor Expansion	CCJPA	108	-							108	-
Capitol Corridor: Phase 2 Enhancements	CCJPA	89	-							89	-
MUNI Third Street Light Rail Transit Project - Central Subway	SFMTA	1,290	-							1,290	-
Transbay Transit Center: Phase 1	TJPA	1,189	-							1,189	-
Tri-Valley Transit Access Improvements to/from BART	BART/ACCOMA/ LAVTA	168	-							168	-
Downtown to East Valley: Light Rail and Bus Rapid Transit Phase 1 and 2	VTA	465	-							465	-
Alameda/Oakland/Harbor Bay, Hercules, Richmond, and South San Francisco; and other improvements.	WETA	180	-							180	-

Tier 2 - Projects Needing More Scope/Cost Refinement

BART/Oakland Airport Connector	BART	459	TBD		35					459	TBD
AC Transit Berkeley/Oakland/San Leandro Bus Rapid Transit	AC Transit	250	75	35			40			250	-
BART to Warm Springs	BART	890	144		40	34	30	16	24	890	-
Caltrain Electrification	Caltrain JPB	626	182							626	182

Tier 3 - Projects Needing Ongoing Operating Funds

Sonoma-Marin Rail	SMART	606	454							606	454
BART: Warm Springs to San Jose/Santa Clara	VTA	6,133	-							6,133	-

Tier 4 - Shortfall is equal to or greater than 50% project cost

AC Transit Enhanced Bus: Grand-MacArthur corridor	AC Transit	41	30							41	30
Caltrain Express: Phase 2	Caltrain JPB	427	358							427	358
Dumbarton Rail	SMTA, ACCMA, VTA, ACTIA, Capitol Corridor	596	295							596	295
Altamont Commuter Express (ACE) Right-of-Way Acquisition for Service Expansion	SJRRC, ACCMA, VTA	150	75							150	75
Transbay Transit Center: Phase 2	TJPA	2,996	2,047							2,996	2,047
TOTAL		\$ 17,417	\$ 3,659							\$ 17,417	\$ 3,440



34009 ALVARADO-NILES ROAD
UNION CITY, CALIFORNIA 94587
(510) 471-3232

June 11, 2008

Steve Heminger, Executive Director
Metropolitan Transportation Commission
101 Eighth Street
Oakland, CA 94607

*All Considered
X COMMISSIONER*

Re: Resolution 3434 Strategic Plan

Dear Mr. Heminger:

The City of Union City requests the Programming and Allocations Committee not to divert \$91 million in Regional Measure 2 funds programmed for Dumbarton Rail to the Warm Springs project. The trading of secure Regional Measure 2 funds with future uncertain RTIP funds would hinder the ability to negotiate with Union Pacific Railroad to acquire the Oakland Subdivision.

The intent of Resolution 3434 and Priority Development Areas is to encourage Transit Oriented Development around the rail stations. Union City, Hayward, San Leandro and Oakland each have designated PDAs adjacent to their BART stations that would benefit from the acquisition of the Oakland Subdivision and the preservation of the right-of-way for future transportation uses. Although Warm Springs is an important regional project, it does not include a PDA.

Acquisition of the Oakland Subdivision in conjunction with track improvements evaluated in Union City's Passenger Rail EIR would have independent utility even if the Dumbarton Rail project is delayed. Capitol Corridor and ACE could provide service to the Union City BART station and to San Jose. Union City's Intermodal Station would provide direct connectivity to three rail providers, Dumbarton Express, Union City Transit and AC Transit. The diversion of Regional Measure 2 funds is inconsistent with the voter mandate which specifically identified funding for Dumbarton Rail with a station in Union City. The diversion of funds is also inconsistent with the recommendations of the Regional Rail Plan to acquire the Oakland Subdivision and preserve the right-of-way.

Union City recommends that the Programming and Allocations Committee modify the Resolution 3434 2008 Strategic Plan to program Regional Measure 2 funds to acquire the Oakland Subdivision and to authorize negotiations with Union Pacific Railroad.

Sincerely,

Mark Green
Mayor City of Union City
Chair Dumbarton Rail Corridor Advisory Committee



June 16, 2008

Mr. Steve Heminger, Executive Director
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607

Dear Mr. Heminger:

The Chair of the Dumbarton Policy Advisory Committee (PAC), Mark Green, is currently out of town. As Vice-Chair of the Dumbarton PAC, I am writing to request that the MTC delay its pending July decision to reprogram or shift \$91 million in RM2 monies from Dumbarton Rail Corridor project to the BART to Warm Springs Project. This delay in your decision-making schedule is requested in order to allow the Dumbarton Policy Advisory Committee time to discuss our position on the matter and convey that position to you prior to your decision. Since the Dumbarton project has been included in numerous ballot proposals approved by the voters, we do not take the proposed reprogramming action lightly, and wish to fully consider the options before us rather than make a hasty decision.

The Policy Advisory Committee is scheduled to meet on July 22, 2008. It is Chair Green's and my intent to lead the Committee through a discussion of the merits and drawbacks of the MTC proposal, and form the basis for a Committee position on the matter. Because of our schedule, we request that your July decision be deferred until after we have met.

Thank you very much for considering our request. If you have any questions, please do not hesitate to call me.

Sincerely,

Sue Lempert
(by Paul Matsuoka)

Sue Lempert
Vice-Chair, Dumbarton Policy Advisory Committee

cc: Adrienne Tissier, Chair, Program and Allocations Committee
MTC Commissioners
Dumbarton PAC members

June 25, 2008

RECEIVED

TO: Commissioner Bill Dodd
Metropolitan Transportation Commission, (MTC)
101 8th Street
Oakland CA 94607

JUN 30 2008

MTC

FROM: Tim Pitsker, Vice-Chair Dumbarton Rail Corridor Project Citizen
Advisory Panel
36863 Montecito Dr.
Fremont CA 94536

RE: Resolution 3434 July 9, 2008 meeting regarding the Transfer of
\$91,000,000 from the Dumbarton Rail Corridor Project to the BART to
Warm Springs Project

MTC SHOULD LOAN DUMBARTON RAIL CORRIDOR PROJECT
FUNDS TO THE BART-TO-WARM SPRINGS PROJECT AND PUT
THE DUMBARTON RAIL CORRIDOR PROJECT ON HOLD

1. The Union Pacific RR is not selling the needed right-of-way from Hayward to Fremont. See Santa Clara County Civil Grand Jury report of May 2008. The Dumbarton Rail Corridor Project has been around for many years and still there is no contract to purchase the right-of-way. Note: Tim Pitsker presented the Dumbarton Rail Corridor Project to the Civil Grand Jury.
2. Transportation money is getting scarce and the funds would be better spent finishing BART to Warm Springs. Getting BART to San Jose is a top priority project and the Dumbarton Rail Corridor Project is of minor importance.
3. There is no back-up of traffic on the Dumbarton auto bridge that would justify spending \$600,000,000 for this project. See the above-mentioned Civil Grand Jury Report.
4. Only \$300,000,000 is actually funded and it is not known how long it will take to obtain the balance. Thus \$300,000,000 is being kept idle when it could be put to good use in other needed projects such as BART.
5. Segment F of the Dumbarton Rail Corridor Project is the Niles freight bridge. This freight only bridge is not authorized by any of the taxpayer approved funding measures being used to fund the Dumbarton Rail Corridor Project. It is a free gift to the Union Pacific RR which will be allowed to use the bridge

in any manner it so chooses. This is an unauthorized and possibly illegal use of taxpayer money.

6. Why is the Dumbarton Rail Corridor Project continuing work its environmental impact report including the free freight bridge for the Union Pacific RR when the Union Pacific RR is not selling the needed right-of-way? The Dumbarton Rail Corridor Project should cease work on its environmental impact report until there is an agreement to purchase the needed right-of-way. More importantly, the Dumbarton Rail Corridor Project should not continue with the environmental impact work which includes the freight bridge, when the Union Pacific RR will be effectively shutting down the primary purpose of the project by not selling the needed right-of-way. The primary purpose or goal being for commuters to travel by rail from Union City to the peninsula.
7. The environmental impact report is vulnerable on many grounds, with the most significant issues being:
 - a) The Niles freight bridge crosses Alameda Creek with a 90 degree turn directly above Alameda Creek. This is the exact location where the Alameda Water District takes in 40% of its water for Fremont, Union City and Newark. A "Dunsmuir" like derailment could poison tens of thousands of people by spilling toxic chemicals into the water system.
 - b) Segment G of the Dumbarton Rail Corridor Project is the Union City Intermodal Station which includes the right-of-way that the Union Pacific RR is not selling. Union City committed fraud in 2005 when it completed the environmental impact report for the Intermodal Station. This environmental impact report FALSELY claimed that the Union City Intermodal Project was a separate project from the Dumbarton Rail Corridor Project and that any changes in freight would be speculative. The project study report for the Dumbarton Rail Corridor Project was completed in 2004 and included the Union City project as Segment G. Furthermore, the Dumbarton Rail Corridor Project is incorporating the Union City Intermodal Station environmental impact report in Segment G of its report. These are clear violations of CEQA (California Environmental Quality Act) regulations and the Dumbarton Rail Corridor's Project environmental impact report will be easily defeated. It is also important to note that funding for Dumbarton Rail Corridor Project was used for the Union City Intermodal Station environmental impact report. Also, the Dumbarton Rail Corridor Project summary report of 2004 clearly indicates that the intent is to put passenger traffic through the Union City Intermodal Station and to switch freight from the Centerville Line to the Niles Line. It is an obvious misrepresentation when the Union City Intermodal environmental report claims that changes in freight would be speculative.

- c) It is highly doubtful that the Union Pacific RR will transfer its freight traffic from the Centerville Line to the Niles Line and over the Niles freight bridge because the Union Pacific RR needs the Centerville Line to service the Fremont auto plant (NUMMI). This is evident in that the project summary report for the Dumbarton Rail Corridor Project includes an option to build a freight only third track on the Centerville Line.
 - d) It was a huge mistake for Union City to spend taxpayer money on the environmental impact report for the Intermodal Station when there is no contract with the Union Pacific RR to sell the needed right-of-way that will service the Intermodal Station. Furthermore, it was a complete waste of money to complete this environmental impact report separately from the Dumbarton Rail Corridor environmental impact report. The Dumbarton Rail Corridor Project needs to be put on hold before any more money is squandered.
8. The Dumbarton Rail Corridor Project will also be challenged on many other issues in addition to those mentioned in this memorandum. It is anticipated that the environmental impact report for this project will be tied up in court for years and that the Court at the very least will order that the Niles freight bridge be excluded from the project and that the section of the environmental impact report for Segment G will have to be completely re-done.
9. Therefore, it does not make sense to get involved in extensive litigation over the environmental impact report when it is all moot, absent the Union Pacific RR selling the needed right-of-way.

CONCLUSION

It is respectfully requested that the Dumbarton Rail Corridor Project be put on hold and that \$91,000,000 be loaned to the BART to Warm Springs project.

PS The opinions contained herein are the opinions of Tim Pitsker as an individual and not as a representative of any group or organization.

Date: December 19, 2001
W.I.: 12110
Referred by: POC
Revised: 01/30/02-C 07/27/05-C
04/26/06-C 10/24/07-C
07/23/08-C

ABSTRACT

Resolution No. 3434, Revised

This resolution sets forth MTC's Regional Transit Expansion Program of Projects.

This resolution was amended on January 30, 2002 to include the San Francisco Geary Corridor Major Investment Study to Attachment B, as requested by the Planning and Operations Committee on December 14, 2001.

This resolution was amended on July 27, 2005 to include a Transit-Oriented Development (TOD) Policy to condition transit expansion projects funded under Resolution 3434 on supportive land use policies, as detailed in Attachment D-2.

This resolution was amended on April 26, 2006 to reflect changes in project cost, funding, and scope since the 2001 adoption.

This resolution was amended on October 24, 2007 to reflect changes in the Transit-Oriented Development (TOD) Policy in Attachment D-2.

This resolution was amended on July 23, 2008 to reflect changes associated with the 2008 Strategic Plan effort.

Further discussion of these actions are contained in the MTC Executive Director's Memorandum dated December 14, 2001, July 8, 2005, April 14, 2006, October 12, 2007 and July 9, 2008.

ATTACHMENT C: Regional Transit Expansion Policy - Funding Strategy

Project Capital Cost/Funding in Millions and Year of Expenditure \$ Alphabetical by Tier			Committed Funding						Regional Discretionary Funding											Capital Shortfall		
Project	Sponsor	Project Cost (YOE \$)	TCRP	Sales Tax	Resolution 1876	RTIP	Federal Earmarks	Other [see notes]	Section 5309 New Starts	Section 5309 Small Starts	Section 5309 Fixed Guideway Modernization	Ferryboat Discretionary	RM1	RM 2	AB 1171	Prop 1B - Transit	Prop 1B - SLPP	ITIP	ITIP Intercity Rail	CARB/ AB 434	Capital Shortfall	
Caltrain Express: Baby Bullet ** OPEN FOR SERVICE**	Caltrain JPB	128	127					1														-
Regional Express Bus **OPEN FOR SERVICE**	MTC	102	40											62								-

Tier 1 - No Current Scope, Schedule, Budget Issues as Reported By Sponsors

AC Transit Berkeley/Oakland/San Leandro Bus Rapid Transit	AC Transit	250		24		50	2	35		75												-
BART to Warm Springs	BART	890	100	221	205	69		26					53	85	5	40	86					-
East Contra Costa BART Extension (eBART)	BART/CCTA	525	7	196		14		6					52	96	115	40						-
Capitol Corridor Expansion	CCJPA	108	24			4		15											64			-
Capitol Corridor: Phase 2 Enhancements	CCJPA	89	1										3						85			-
MUNI Third Street Light Rail Transit Project - Central Subway	SFMTA	1,290	14	126		92		45	762							250						-
SFCTA and SFMTA: Van Ness Avenue Bus Rapid Transit	SFCTA and SFMTA	88		18						70												-
Transbay Transit Center: Phase 1	TJPA	1,189		105		28	64	646					53	142	150							-
Tri-Valley Transit Access Improvements to/from BART	BART/ACCOMA/LAVTA	168	3	10				14		11			16	16	95	2						-
Downtown to East Valley: Light Rail and Bus Rapid Transit Phase 1 and 2	VTA	465		318		58										90						-
Alameda/Oakland/Harbor Bay, Hercules, Richmond, and South San Francisco; and other improvements.	WETA	180		47			19					25		89								-

Tier 2 - Projects Needing More Scope/Cost Refinement

BART/Oakland Airport Connector	BART	459		99		21		231					31	68					10			TBD
Caltrain Electrification	Caltrain JPB	626		360		28		23			4									29		182

Tier 3 - Projects Needing Ongoing Operating Funds

Sonoma-Marin Rail	SMART	606	37	24			14	42							35							454
BART: Warm Springs to San Jose/Santa Clara	VTA	6,133	649	4,734					750													-

Tier 4 - Shortfall is equal to or greater than 50% project cost

AC Transit Enhanced Bus: Grand-MacArthur corridor	AC Transit	41				7		1						3								30
Caltrain Express: Phase 2	Caltrain JPB	427						13		41						15						358
Dumbarton Rail	SMTA, ACCMA, VTA, ACTIA, Capitol Corridor	596		113		15								135					39			295
Altamont Commuter Express (ACE) Right-of-Way Acquisition for Service Expansion	SJRRC, ACCMA, VTA	150		67				3		5												75
Transbay Transit Center: Phase 2	TJPA	2,996		73				868						8								2,047
TOTAL		\$ 17,504	\$ 1,002	\$ 6,533	\$ 205	\$ 385	\$ 99	\$ 1,971	\$ 1,512	\$ 156	\$ 50	\$ 25	\$ 205	\$ 807	\$ 365	\$ 437		\$ 10	\$ 188	\$ 29	\$ 3,440	

Notes: For all projects, see Terms and Conditions.

Detail on 'other' funding is provided below:

- AC Transit Berkeley/Oakland/San Leandro Bus Rapid Transit: \$35 million in CMAQ bonus funds programmed in 2008.
- BART to Warm Springs: \$2.2 M local CMA funds. \$24 M in BART agency contribution. Prop 1B Transit funds are 50% MTC and 50% BART. Of the \$205 million in Resolution 1876 commitment, \$145 million is SFO Extension Revenues. Then SFO Extension revenues are subject to the provisions outlined in Attachment D, subsection 5.
- East Contra Costa BART Extension: \$6 million in developer fees. Prop 1B Transit funds are 50% MTC and 50% BART.
- Capitol Corridor Expansion: Other includes \$10 million in ACE funds, \$5 million in Caltrain funds, \$2.1 million in CCJPB funds, \$2.3 million in State PTA funds and \$0.5 million in Prop 116 funds.
- Muni Third Street Light Rail Project: New Starts request is \$762 million in Year of Expenditure dollars. Prop 1B Transit funds are 40% MTC and 60% SFMTA.
- Transbay Transit Center Phase 1: Other funds include \$411 million in land sales and tax increment revenue, \$8.8 million in FTA 1601 funds, and \$227 million in TIFIA loan proceeds.
- Tri-Valley Transit Access Improvements to BART: \$6 million in federal CMAQ funds, \$6.4 million in federal 5307 funds, and \$1.6 million in TDA funds. Prop 1B Transit funds are LAVTA Revenue-based.
- VTA Downtown to East Valley: Prop 1B Transit funds are 50% MTC and 50% VTA.
- BART/Oakland Airport Connector: \$31.5 million is Port of Oakland funds, \$25 million federal Public/Private Pilot Program and \$174 million private financing.
- Caltrain Electrification: \$12 million in regional STP/CMAQ funds and \$11.3 million in PJPB funds.
- Sonoma-Marin Rail: Other includes \$28 million in Prop. 116 and \$14 million in North Coast Rail Authority funds
- BART: Warm Springs to San Jose/Santa Clara: New Starts request is \$750 million in Year of Expenditure dollars. Confirmation of RTIP commitment pending reconciliation by VTA between the Santa Clara county-wide plan and MTC's Transportation 2030.
- AC Transit Enhanced Bus: Grand MacArthur Corridor: \$8 million is Transportation Fund for Clean Air funds through BAAQMD
- Caltrain Express: \$13.2 million is Joint Powers Board member contributions.
- ACE Service Expansion: Other includes \$3 million in San Joaquin federal fund contributions.
- Transbay Transit Center Phase 2: Other funds include \$424 million in land sales and tax increment revenue and \$445 million in TIFIA loan proceeds.

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Definitions and Assumptions of Regional Discretionary Funding

- Federal Section 5309 New Starts: the total shown is an estimate for the 25-year RTP period. This estimate trends against recent historical averages of the Bay Area's New Starts funding compared to the nation, an average of 7% over the last 10 years. This represents a target for advocacy in Washington, D.C.; actual authorizations and appropriations are at the discretion of Congress.
- Federal Section 5309 Small Starts: estimate for the 25-year RTP period, beginning with the federal reauthorization in 2005. Small Start Capital Grants may not exceed \$75 million under law. This represents a target for advocacy in Washington D.C.; actual authorization and appropriations are at the discretion of Congress. This estimate does not include the Very Small Starts program.
- Federal Section 5309 Rail Modernization: These Federal Transit Administration formula funds are eligible for fixed guideway infrastructure projects. In the MTC region these funds are by policy devoted to capital replacement. The funding would replace diesel locomotives with electric locomotives when eligible for the Caltrain Electrification project.
- Federal Ferryboat Discretionary Program: estimate for the 25-year RTP period, beginning with the federal reauthorization in 2005; provides a special category for the construction of ferry boats and ferry terminal facilities. This represents a target for advocacy in Washington D.C.; actual authorization and appropriations are at the discretion of Congress.
- Regional Measure 1 Rail Reserve: the total shown is an estimate for the 25-year RTP period, net of existing commitments to the BART Warm Springs extension. These funds from the base \$1 Bay Bridge toll are directly allocated by the Commission to rail projects in the bridge corridor according to a statutory formula splitting the funds 70% to East Bay projects, and 30% to West Bay projects. This funding estimate assumes debt financing against this revenue stream. This estimate was revised as part of the 2008 Strategic Plan effort.
- Regional Measure 2: Regional voter-approved measure providing \$812 million to Resolution 3434 projects. The specific amounts are identified in statute for each project. This funding estimate assumes debt financing against this revenue stream.

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- AB 1171: This is a discretionary funding source passed by the Legislature and signed by the Governor in October 2001. AB 1171 (Dutra) extends the \$1 seismic surcharge (the second half of the current \$2 auto toll) on the seven state-owned Bay Area toll bridges for up to 30 years to finance retrofit work. Under certain financing provisions, a portion of that toll revenue will return to MTC acting as the Bay Area Toll Authority (BATA). This funding can be used for projects consistent with the voter approved Regional Measure 1 program—including congestion relief projects in corridors served by some proposed transit expansion projects—and is estimated over the 25-year period of the RTP to total \$500-570 million based on debt financing; \$360-370 million of this amount is being assigned to the Regional Transit Expansion program of projects. This estimate was revised as part of the 2008 Strategic Plan effort.
- Proposition 1B Transit: Proposition 1B, approved by California voters in November 2006, directed \$3.6 billion toward transit capital improvements, including about \$1.3 billion for projects in the Bay Area. Within this \$1.3 billion, roughly \$1 billion is distributed directly to the transit operators, and about \$347 million is anticipated to come directly to MTC through statutorily defined formulas. On June 27th, 2007 the Commission adopted the MTC Proposition 1B Regional Transit Program - Resolution 3814. Resolution 3814 committed \$185 million in Proposition 1B - Population-based funds conditioned upon operators committing \$185 million in Propostion 1B - Revenue-based funds. Operator contributions may exceed the matching requirement of Resolution 3814.
- Proposition 1B State Local Partnership: Proposition 1B, approved by California voters in November 2006, directed \$1 billion toward the State/Local Partnership Program (SLPP). This program was included in the bond measure to reward local jurisdictions for their financial contributions to California's transportation system. The program may match county sales taxes, transit sales taxes, and voter-approved bridge tolls such as Regional Measures 1 and 2. Should the eligible match element of the program include bridge tolls, MTC commits the initial \$75 million to Resolution 3434 projects conditioned on SLPP contributions from partner agencies, as outlined in Attachment D.
- Interregional Transportation Improvement Program: the total shown is an estimate for the 25-year RTP period; other ITIP funding is assumed for highway and other projects. ~~An additional estimate for the 25-year period is assumed for the state's Intercity Rail Plan, for Capitol Corridor, Dumbarton Rail, and ACE projects.~~ As ITIP funds are the state's discretionary portion of the State Transportation Improvement Program, this represents a

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target for advocacy in Sacramento. Actual programming commitments and allocations are at the discretion of the California Transportation Commission.

- CARB/AB 434: Both the California Air Resources Board (CARB) and the Bay Area Air Quality Management District (AB 434) administer discretionary funding programs focused in whole or in part on reducing emissions from diesel engines. \$29 million is assumed from the two programs combined to help fund the Caltrain electrification project. This funding target for advocacy over the RTP period is sized to the annual funding levels of the two programs.

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Terms and Conditions

General Terms

1. Operating Funding – In order for an extension of service to be included in the Regional Transportation Plan (RTP), the project sponsor must provide evidence of its ability to fund operation of the service for a minimum of 10 years, or the duration of operations within the 25-year RTP time horizon, whichever is longer. These financial capacity determinations must also include a demonstration of the transit operator's ability to sustain levels of core bus services to low-income and minority populations, as required under MTC Resolution No. 3357. Should the transit operator's financial stability deteriorate, or the expansion project in question experience significant cost increases, these financial capacity determinations will be revisited in MTC's review of the operator's applicable Short Range Transit Plan.
2. Cost Increases – Commitments of regional discretionary funds (Section 5309 New Starts, Small Starts, and Fixed Guideway Modernization, Regional Measure 1 Rail Reserve, ITIP, AB 1171, CARB/AB 434, Regional Measure 2, Ferry Boat Discretionary) are capped at the amounts shown in Attachment C in ~~2006~~ year of expenditure dollars. ~~Escalation adjustments will be made at the time funds are secured or allocated, except for bridge toll funds that are shown in year of financing dollars.~~ Project sponsors are responsible for funding any cost increases (including financing costs) above the estimates shown in Attachment C from other sources. Funding shortfalls must be addressed for projects to be included in the Regional Transportation Plan.
3. Amendment – The Commission shall consider amending this regional transit expansion program following the passage of major new funding sources that could advance projects with current shortfalls into the RTP. New funding sources also could be used to offset cost increases for projects already included in the RTP.
4. Station Access Planning: Consistent with recommendations of MTC's Regional Bicycle Plan, all new transit stations that are built as result of Resolution No. 3434 investments must provide direct and convenient pedestrian and bicycle access from adjacent walkways and bicycle facilities. Station access planning shall be consistent with the conclusions reached from the evaluation of FSM 5 in the 2001 Bay Area Ozone Attainment Plan.

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Specific Conditions

1. Section 5309 New Starts – The region’s ~~first priority~~ priorities for federal New Starts funds ~~are is the BART extension to San Francisco International Airport until such time that the project receives its final appropriation from Congress, currently expected in 2006.~~ Thereafter, the BART Extension to Silicon Valley and Warm Springs to San Jose extension and the Muni Central Subway project, with ~~will share equal priority.~~
2. Section 5309 Small Starts – The region’s ~~priority~~ priorities for federal Small Starts funds ~~is are the AC Transit Oakland/San Leandro Bus Rapid Transit Project project and the Van Ness Avenue Bus Rapid Transit project in San Francisco, with equal priority.~~ Given that the regulations are still being finalized and that there are other projects in the region that may be eligible and have a demonstrated need for more secure funding, the Commission may consider endorsing one additional regional candidate project after FTA finalizes the regulations.
3. AB 1171 – These funds will be subject to terms and conditions established by MTC acting as the Bay Area Toll Authority (BATA), ~~and are contingent upon the availability of excess toll revenue net of debt service.~~ The balance of these funds not committed in Attachment C will be reserved as follows: ~~\$100 million reserved for the north connector and weave correction components of the I-80/680 interchange project, and \$40 million for other congestion relief improvements in the Northern Bridge group – Antioch, Benicia Martinez, Carquinez and Richmond-San Rafael – corridors. Should AB 1171 funds exceed \$500 million, the next increment up to \$60 million will also be reserved for Northern Bridge group corridor improvements. The next increment above the \$60 million will be distributed evenly between the East Contra Costa BART Extension (eBART) and Tri Valley Transit Access Improvements to BART projects, not to exceed \$25 million each, in addition to the sums stipulated in Attachment C. Any increment above these amounts will be allocated at the discretion of the Commission.~~
 - Corridor Improvements Adjacent to the I-80/680 Interchange: \$100 million reserved for improvements in the vicinity of the I-80/680 interchange. These AB1171 funds are in addition to the \$100 million approved through Regional Measure 2 (RM2) for corridor improvements in the vicinity of the I-80/680 interchange.
 - Other Northern Bridge Group Improvements: \$100 million for other congestion relief improvements in the Northern Bridge group corridors.

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4. BART Warm Springs to San Jose – In addition to the general terms for operating funding imposed on all projects, the BART Warm Springs to San Jose project is included in the RTP contingent upon approval by the BART and VTA Boards of an operating and maintenance agreement regarding extension of service into Santa Clara County and associated impacts of the extension on the core BART system. If a TDA “lien” is implemented pursuant to the BART/VTA agreement after 2009, MTC will condition allocation of the remaining TDA funds subject to the following:

At the time that the BART to San Jose extension commences revenue service, or at any point thereafter, should VTA’s bus service levels have not achieved, or later fall below, a 600 fleet/500 peak target, then MTC shall hold public hearings at which VTA must demonstrate that services to Title VI communities have been assured, based on MTC’s Lifeline Transportation analysis, as validated and amended by transit operators and the Congestion Management Agencies.

—Should VTA choose to identify TDA funds as the guaranteed operating and maintenance subsidy pursuant to the BART/VTA agreement and demonstrate that it has secured other funding sources to replace the TDA revenue so guaranteed, then MTC shall not condition its allocation of TDA funds as described above.

~~5. Caltrain Electrification: Continued Commission support for a regional commitment of STP/CMAQ and CARB/AB 434 funds to the project is contingent upon the three JPB member agencies reaching agreement by December 1, 2007 on project scope and how to close the project’s remaining funding shortfall.~~

~~6. Caltrain Express Phase 2: Before the next revision to Resolution 3434 or by the 2009 RTP, whichever occurs first, Peninsula JPB member agencies agree to define the member contributions for the funding plan.~~

~~7. Downtown to East Valley: Light Rail and Bus Rapid Transit: Before the next revision to Resolution 3434 or by the 2009 RTP, whichever occurs first, VTA will confirm their funding commitment through Measure A, or identify alternative revenue sources that may be requested to close any funding shortfall that could result should the Measure A expenditure plan not cover the entire cost.~~

5. BART Extension to Warm Springs: MTC commits the following funds subject to availability: \$40 million from MTC’s share of Proposition 1B State Local Partnership Program, \$29 million in RM1 and \$5 million in AB 1171. These funding commitments are conditioned upon: 1) BART contributing an additional \$24 million; 2) Alameda and Santa

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Clara Counties contribute \$30 million and \$16 million, respectively, from Proposition 1B State Local Partnership Program proceeds; and 3) VTA's Board committing to a full funding plan for an operable BART segment in Santa Clara County.

To address the cash flow challenges wherein the \$145 million surplus fare revenue on the BART SFO Extension are not expected to be available during the BART to Warm Springs construction period, \$91 million of Regional Measure 2 (RM2) and \$54 million, shared equally, in funding advanced from MTC and BART/ACTIA are proposed. This proposal is conditioned on the following: 1) the Commission holding a public hearing and approving reassignment of \$91 million in RM2 funds from the Dumbarton Rail project and the BART to Warm Springs project; and 2) first priority and equivalent repayment of \$27 million each to MTC and ACTIA/BART from the surplus BART SFO Extension revenues

6. AC Transit Berkeley/Oakland/San Leandro Bus Rapid Transit: MTC commits \$35 million in -CMAQ funds subject to the following conditions: 1) Alameda County Congestion Management Agency (ACCMA) adopts an RTIP funding commitment plan and strategy to advance the \$40 million RTIP funds commitment; 2) AC Transit submits documentation for inclusion into the 2009 Federal Transit Administration (FTA) Small Starts report; and 3) AC Transit adopts a board resolution committing to the following: a) use the \$35 million to deliver a useable bus rapid transit segment; and b) develop a phasing plan to deliver the full Berkeley/Oakland/San Leandro Bus Rapid Transit project, if the entire project as submitted to FTA for the Small Starts program, is not immediately deliverable.
7. BART Oakland Airport Connector: -MTC commits to holding \$35 million of Proposition 1B State/Local Partnership Program funds in reserve to close the funding gap for the project. This commitment is subject to the availability of Proposition 1B State Local Partnership Program funds and the project having a full funding plan.
8. Dumbarton Rail: Should the Commission hold an RM2 Public Hearing and reassign \$91 million in RM2 funds from the Dumbarton Rail project to the BART to Warm Springs project, the \$91 million will be replaced with \$91 million in Alameda Regional Transportation Improvement Program (RTIP) funds. The reassignment is conditioned on the Alameda County Congestion Management Agency adopting a board resolution committing the RTIP funds to the project.