

Date: December 15, 2004
W.I.: 1255
Referred by: PAC
Revised: 02/25/09-C

ABSTRACT

MTC Resolution No. 3667, Revised

This resolution approves the allocation of Regional Measure 2 funds for the BART Extension to Warm Springs Project sponsored and implemented by the San Francisco Bay Area Rapid Transit District.

This resolution includes the following attachments:

- Attachment A - Allocation Summary Sheet
- Attachment B - Project Specific Conditions for Allocation Approval
- Attachment C - MTC staff's review of San Francisco Bay Area Rapid Transit District's Initial Project Report (IPR) for this project
- Attachment D - RM2 Deliverable/Useable Segment Cash Flow Plan
- Attachment E - Synopsis of Terms for Funding Agreement

This resolution was revised on February 25, 2009 to allocate \$167 million towards the construction of the Fremont Central Park Subway element of the BART to Warm Springs Extension project.

Additional discussion of this allocation is contained in the Executive Director's memorandum to the MTC Programming and Allocations Committee dated December 8, 2004 and February 11, 2009.

Date: December 15, 2004
W.I.: 1255
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Re: Approval of Allocation of Regional Measure 2 funds for the BART Extension to Warm Springs

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION No. 3667

WHEREAS, pursuant to Government Code Section 66500 et seq., the Metropolitan Transportation Commission (“MTC”) is the regional transportation planning agency for the San Francisco Bay Area; and

WHEREAS, Streets and Highways Code Sections 30950 *et seq.* created the Bay Area Toll Authority (“BATA”) which is a public instrumentality governed by the same board as that governing MTC; and

WHEREAS, on March 2, 2004, voters approved Regional Measure 2, increasing the toll for all vehicles on the seven state-owned toll bridges in the San Francisco Bay Area by \$1.00, with this extra dollar funding various transportation projects within the region that have been determined to reduce congestion or to make improvements to travel in the toll bridge corridors, as identified in SB 916 (Chapter 715, Statutes of 2004), commonly referred as Regional Measure 2 (“RM2”); and

WHEREAS, RM2 establishes the Regional Traffic Relief Plan and lists specific capital projects and programs and transit operating assistance eligible to receive RM2 funding as identified in Streets and Highways Code Sections 30914(c) & (d); and

WHEREAS, RM2 assigns administrative duties and responsibilities for the implementation of the Regional Traffic Relief Plan to MTC; and

WHEREAS, BATA shall fund the projects of the Regional Traffic Relief Plan by transferring RM2 authorized funds to MTC; and

WHEREAS, MTC adopted policies and procedures for the implementation of the Regional Measure 2 Regional Traffic Relief Plan, specifying the allocation criteria and project compliance requirements for RM 2 funding (MTC Resolution No. 3636); and

WHEREAS, the San Francisco Bay Area Rapid Transit District has submitted a request for the allocation of RM 2 funds for the BART Extension to Warm Springs Project; and

WHEREAS, the BART Extension to Warm Springs Project is identified as capital project number 31 under RM 2 and is eligible to receive RM 2 funding as identified in Streets and Highways Code Sections 30914(c); and

WHEREAS, the San Francisco Bay Area Rapid Transit District has submitted an Initial Project Report (“IPR”), as required pursuant to Streets and Highway Code Section 30914(e), to MTC for review and approval; and

WHEREAS, Attachment A to this resolution, attached hereto and incorporated herein as though set forth at length, lists the project and phase for which the San Francisco Bay Area Rapid Transit District is requesting RM2 funding and the reimbursement schedule and amount recommended for allocation by MTC staff; and

WHEREAS, Attachment B to this resolution, attached hereto and incorporated herein as though set forth at length, lists the required project specific conditions which must be met prior to execution of the allocation and any reimbursement of RM2 funds; and

WHEREAS, Attachment C to this resolution, attached hereto and incorporated herein as though set forth at length, includes MTC staff’s review of the San Francisco Bay Area Rapid Transit District’s Initial Project Report (IPR) for this project; and

WHEREAS, Attachment D attached hereto and incorporated herein as though set forth at length, lists the cash flow of RM2 funds and complementary funding for the deliverable/useable RM2 project segment; now, therefore be it

WHEREAS, the claimants to which funds are allocated under this resolution have certified that the projects and purposes listed and recorded in Attachment A 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.); now, therefore, be it

RESOLVED, that MTC approves MTC staff's review of the San Francisco Bay Area Rapid Transit District's IPR for this project as set forth in Attachment C; and be it further

RESOLVED, that MTC approves the allocation and reimbursement of RM2 funds in accordance with the amount and reimbursement schedule for the phase, and activities as set forth in Attachment A; and, be it further

RESOLVED, that the allocation and reimbursement of RM2 funds as set forth in Attachment A are conditioned upon the San Francisco Bay Area Rapid Transit District's complying with the provisions of the Regional Measure 2 Regional Traffic Relief Plan Policy and Procedures as set forth in length in MTC Resolution 3636; and be it further

RESOLVED, that the allocation and reimbursement of RM2 funds are further conditioned upon the project specific conditions as set forth in Attachment B; and, be it further

RESOLVED, that the allocation and reimbursement of RM2 funds as set forth in Attachment A are conditioned upon the availability and expenditure of the complementary funding as set forth in Attachment D; and be it further

RESOLVED, that reimbursement of RM2 funds as set forth in Attachment A is subject to the availability of RM2 funding; and be it further

RESOLVED, that a certified copy of this resolution, shall be forwarded to the project sponsor.

METROPOLITAN TRANSPORTATION COMMISSION

Steve Kinsey, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at the regular meeting of the Commission held in Oakland, California, on December 15, 2004.

REGIONAL MEASURE 2 PROGRAM Allocation of Funds

Project Title: BART Extension to Warm Springs
Sponsor: San Francisco Bay Area Rapid Transit Dist.
Project Number: 31.2

Allocation No. 31.2-1						
Activities to be funded with Allocation #1:						
Relocation of utilites, site preparation and clearance in between Washington Blvd. And Paseo Padre in conjunction with the City of Fremont's grade separation project.						
Funding Information:						
Allocation Instruction No.	Approval Date	Amount	Phase	Reimbursement Year	Cumulative Total To Date	
05366701	15-Dec-04	\$ 4,000,000	ROW	FY 2004-05	\$ 4,000,000	
06366702	15-Dec-04	\$ 2,000,000	ROW	FT 2005-06	\$ 6,000,000	

Allocation No. 31.2-2						
Activities to be funded with Allocation #2:						
This allocation will fund all the below mentioned costs associated with the construction of the Fremont Central Park Subway: (Contract includes a one mile long double track subway box, two trackway transition and ventilation structures associated with the subway as well as a trackway embankment)						
1) Direct labor of implementing agency: Including but not limited to planning, engineering, project management, system safety, technical support, community relations and accounting.						
2) Capital costs associated with the subway contract.						
3) Consultants: Design services during constuction, construction management and community relations.						
4) Other Direct Costs: Including but not limited to inventory issues, telephone, office supplies and services and insurance.						
Allocation Instruction No.	Approval Date	Amount	Phase	Reimbursement Year	Cumulative Total To Date	
09366703	25-Feb-09	\$ 167,000,000	CON	FY 2008-09	\$ 173,000,000	

REGIONAL MEASURE 2 PROGRAM Project Specific Conditions

Project Title: The BART Extension to Warm Springs Project
Sponsor: San Francisco Bay Area Rapid Transit District
Project Number: 31.2

The allocation and reimbursement of RM2 funds for the above project are conditioned upon the following :

1. Receipt of these funds by the Bay Area Rapid Transit District is conditioned on working cooperatively with MTC and the relevant local jurisdictions to encourage Transit-Oriented Development with the goal of assuring that an appropriate number of residences, jobs, services and other activities will be planned for and located within proximity to the rail service.
2. BART may invoice MTC for eligible project expenses as frequently as monthly, in accordance with the cash flow plan.
3. Utility relocation will be limited to the project boundaries between Paseo Padre and Washington Boulevard.
4. The Bay Area Rapid Transit District (BART) shall spend allocated Traffic Congestion Relief Program (TCRP) funds before RM2 funds on segments of the project where TCRP funds are scoped and eligible. On segments of the project where the TCRP funds are not scoped and eligible, RM2 funds shall be available to proceed with RM2 funding reimbursements.

On February 25, 2009, the Commission approved the following conditions pertaining specifically to Allocation No. 2:

- 1 ACTIA's allocation of \$80 million in Measure B funds towards the construction phase of the project; this allocation is an effort on the part of ACTIA, to advance later year Measure B funds to offset the Proposition 1B shortfall and allow the project to proceed on schedule.
- 2 The BART board's approval of the Initial Project Report (IPR) and the resolution of project compliance.
- 3 Execution of a funding agreement between MTC and BART before the contract award, for the Regional Measure 1 90% Rail Reserve East and RM2 funds.
- 4 BART shall request the State Proposition 1B funds at the earliest time. Once available and approved for allocation towards this project, MTC would rescind the \$37 million in RM2 funds which are currently being used as an advance due to the unavailability of State funds.
- 5 If the bids for the subway construction contract are lower than anticipated, the savings against the MTC and ACTIA allocations would be moved to fund remaining sections of the project at a later time. At the completion of the project, any savings would be split among the local funding partners in amounts proportional to the capital contribution of each agency.



RM2 Project Number: 31.2

BART Extension to Warm Springs

Lead Sponsor BART	Other Sponsors(s) City of Fremont for Grade Separation Work	Implementing Agency (if applicable) BART
Legislated Project Description Extension of the existing BART system from Fremont to Warm Springs in southern Alameda County. The project would facilitate a future rail service extension to the Silicon Valley.		
RM2 Legislated Funding (in \$1,000) Total Overall Funding \$186,000 31.1 City of Fremont Grade Separation (\$10,000) 31.2 BART Extension to Warm Springs (\$176,000)		Total Estimated Project Cost (in \$1,000) \$890,000
Project Purpose and Description The Warm Springs Extension will add 5.4-miles of new tracks from the existing Fremont Station south to a new station in the Warm Springs District of the City of Fremont, with an optional station to be located approximately midway in the heart of the Irvington District. The optional Irvington Station is dependent upon future funding through the City of Fremont. The project will provide increased transportation capacity for future growth in employment and population in the southern part of the region. The Project, to be implemented via the Design-Build contracting method, will include all necessary interfaces with the operating system at the Fremont Station as well as provision of all facilities systems and equipment normally associated with BART service. South of the Warm Springs Station, tail-tracks will continue for about 3,000 feet and a small maintenance facility will be constructed.		
Funding Description Committed Funds: Funding is fully committed. Operating Capacity: BART has included service to this project in its future operating budget.		

Overall Project Cost and Schedule

Phase	Scope	Start	End	Cost (in \$1,000)
1	Final Environmental Document	01/2002	10/2006	\$8,713
2	Plans, Specifications and Estimates	12/2002	04/2011	\$39,565
3	Right-of-Way	02/2002	06/2011	\$98,322
4	Construction	06/2009	07/2014	\$743,400
Total:				\$890,000

REGIONAL MEASURE 2 PROGRAM
Project Cash Flow Plan

Project Title: BART Extension to Warm Springs
 Sponsor: San Francisco Bay Area Rapid Transit District
 RM2 Project Number: 31.2

RM2 Project # 31.2	PRIOR	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	Future	TOTAL
RM2 Funds Total	-	4,000,000	2,000,000	-	-	20,000,000	59,904,000	87,096,000	-	-	-	173,000,000
Environmental (ENV)	48,400,000	0	0	0	0	0	0	0	0	0	0	48,400,000
State TCRP	46,200,000											46,200,000
ACCMA TIP	2,200,000											2,200,000
												0
												0
Final Design (PS&E)	0	0	0	0	0	0	0	0	0	0	0	0
												0
												0
												0
Right of Way	64,200,000	32,000,000	2,000,000	0	0	0	0	0	0	0	0	98,200,000
RM 2	4,000,000	4,000,000	2,000,000									6,000,000
Alameda County Measure B	10,000,000	28,000,000										38,000,000
State TCRP	54,200,000											54,200,000
												0
Construction	0	0	0	0	0	20,000,000	59,904,000	87,096,000	100,500,000	0	0	267,500,000
RM2 (includes \$37m advance)						20,000,000	59,904,000	87,096,000				167,000,000
RM1 (includes \$37m advance)									20,000,000			20,000,000
ACTIA advance									80,500,000			80,500,000
												0
												0
TOTAL FUNDING												
Environmental	48,400,000	0	0	0	0	0	0	0	0	0	0	48,400,000
Final Design (PS&E)	0	0	0	0	0	0	0	0	0	0	0	0
Right of Way	64,200,000	32,000,000	2,000,000	0	0	0	0	0	0	0	0	98,200,000
Construction	0	0	0	0	0	20,000,000	59,904,000	87,096,000	100,500,000	0	0	267,500,000
PROJECT TOTAL	112,600,000	32,000,000	2,000,000	0	0	20,000,000	59,904,000	87,096,000	100,500,000	0	0	414,100,000

Date: February 25, 2009
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Attachment E
Resolution No. 3667
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Synopsis of Terms for Funding Agreement

BART shall agree:

1. To complete the project described in its updated Initial Project Report, through its contractor.
2. That it shall not award the subway construction contract until MTC and BART agree to the terms of the funding agreement, including specific cash flow projections for bridge toll funds.
3. To comply with all provisions of MTC Resolution No. 3636, Revised and that any RM1 funds received under the funding agreement in addition to the RM2 funds be subject to MTC Resolution No. 3636 as revised.

MTC shall agree to provide BART an amount not to exceed \$167,000,000 in RM2 funds and \$20,000,000 in RM1 90% Rail Reserve East Funds.