

**Metropolitan Transportation Commission  
Programming and Allocations Committee**

July 8, 2009

Item Number 2i

**Resolution Nos. 3667, Revised; and 3833, Revised.**

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**Subject:** Rescission of approximately \$29 million in RM2 funds and \$20 million in RM1 funds.

**Background:** To date, MTC has allocated approximately \$939 million of the \$1.5 billion RM2 capital program.

*BART Extension to Warm Springs (Rescission of \$29 million in RM2 and \$20 million in RM1 capital funds):* In February 2009, MTC allocated \$167 million in RM2 funds and \$20 million in RM1 funds for the construction of the Fremont Central Park Subway portion of the Warm Springs Extension. On May 28, the BART Board of Directors authorized the award of this contract for roughly \$100 million less than the engineer's estimate. Therefore, because of the lower costs and in accordance with the funding agreement executed between MTC and BART, MTC recommends rescinding its proportional share of funding on this contract. All the project funding partners are aware of this action. The rescinded funds will remain programmed to the project for allocations towards the next phase of the project, the Line Segment, expected to be awarded in Fall 2009.

This rescission will bring the total RM2 funds allocated to the BART Warm Springs Extension to approximately \$144 million. In total, Resolution 3434 identifies \$176 million in RM2 funds available for the project, along with \$118 million in RM1/AB 1171 funds.

**Recommendation:** Refer Resolution Nos. 3667, Revised; and 3833, Revised, to the Commission for approval.

**Attachments:** MTC Resolution Nos. 3667, Revised; and 3833, Revised.

Date: December 15, 2004  
W.I.: 1255  
Referred by: PAC  
Revised: 02/25/09-C  
07/22/09-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.

This resolution was revised on July 22, 2009 to rescind \$29,093,000 from the prior allocation towards the construction of the Fremont Central Park Subway element owing to contract bid savings on the 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, February 11, 2009 and July 8, 2009.

## 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

<b>Allocation No. 31.2-1</b>						
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	

<b>Allocation No. 31.2-2</b>						
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	
09366703	22-Jul-09	\$ (29,093,000)	CON	FY 2008-09	\$ 143,907,000	

## **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**

<b>Lead Sponsor</b> BART	<b>Other Sponsors(s)</b> City of Fremont for Grade Separation Work	<b>Implementing Agency (if applicable)</b> BART
<b>Legislated Project Description</b> 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.		
<b>RM2 Legislated Funding (in \$1,000)</b> Total Overall Funding \$186,000 31.1 City of Fremont Grade Separation (\$10,000) 31.2 BART Extension to Warm Springs (\$176,000)		<b>Total Estimated Project Cost (in \$1,000)</b> \$890,000
<b>Project Purpose and Description</b> 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.		
<b>Funding Description</b> 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
<b>Total:</b>				<b>\$890,000</b>

## Total Project Funding Plan: Committed and Uncommitted Sources

(Amounts Escalated in Thousands)

<b>Project Title</b>	BART to Warm Springs Extension	<b>Project No.</b> 31.2
<b>Lead Sponsor</b>	BART	

Fund Source	Phase	Prior	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	Future	Total
<b>Committed</b>												
State TCRP	ENV	46,200										46,200
ACCMA TIP	ENV	2,200										2,200
State TCRP	ROW	54,200										54,200
Alameda Measure B	ROW	38,000										38,000
RM2	ROW	6,000										6,000
RM2	Construction				20,000	59,904	90,096					170,000
RM1	Construction							28,500	55,500			84,000
AB 1171	Construction							15,000	19,000			34,000
Prop 1B/MTC Spillover	Construction						20,000	20,000				40,000
SLPP (MTC/ACTIA/VTA)	Construction						43,000	43,000				86,000
BART	Construction						12,000	12,000				24,000
ACCMA STIP	Construction									55,000	14,000	69,000
MTC/ACTIA/BART Advance	Construction						38,000	16,000				54,000
Alameda Measure B	Construction				19,500	49,500	33,000	15,500	49,000	15,900		182,400
<b>Total:</b>		146,600			39,500	109,404	236,096	150,000	123,500	70,900	14,000	890,000
<b>Uncommitted</b>												
										0	0	0
<b>Total:</b>		0	0	0	0	0	0	0	0	0	0	0
<b>Total Project Committed and Uncommitted</b>												
		<b>Prior</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>	<b>2009-10</b>	<b>Future</b>	<b>Total</b>	<b>Total</b>	<b>Total</b>
<b>Total:</b>		146,600	0	0	39,500	109,404	236,096	150,000	123,500	70,900	14,000	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
<b>RM2 Funds Total</b>	-	4,000,000	2,000,000	-	-	20,000,000	59,904,000	58,003,000	-	-	-	143,907,000
<b>Environmental (ENV)</b>	48,400,000	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
<b>Final Design (PS&amp;E)</b>	0	0	0	0	0	0	0	0	0	0		0
												0
												0
												0
												0
<b>Right of Way</b>	64,200,000	32,000,000	2,000,000	0	0	0	0	0	0	0		98,200,000
RM 2		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
<b>Construction</b>	0	0	0	0	0	20,000,000	59,904,000	58,003,000	80,500,000	0		218,407,000
RM2						20,000,000	59,904,000	87,096,000				167,000,000
RM2								-29,093,000				-29,093,000
RM1									20,000,000			20,000,000
RM1									-20,000,000			-20,000,000
ACTIA									80,500,000			80,500,000
												0
												0
<b>TOTAL FUNDING</b>												
Environmental	48,400,000	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
Right of Way	64,200,000	32,000,000	2,000,000	0	0	0	0	0	0	0		98,200,000
Construction	0	0	0	0	0	20,000,000	59,904,000	58,003,000	80,500,000	0		218,407,000
<b>PROJECT TOTAL</b>	112,600,000	32,000,000	2,000,000	0	0	20,000,000	59,904,000	58,003,000	80,500,000	0		365,007,000

Date: February 25, 2009  
W.I.: 1255  
Referred by: PAC

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.

Date: November 28, 2007  
W.I.: 1514  
Referred by: PAC  
Revised: 02/25/09-C  
07/22/09-C

ABSTRACT

Resolution No. 3833, Revised

This resolution allocates Regional Measure 1 (RM1) 90% Rail Reserve East bridge toll revenues to eligible projects. Allocations made prior to this resolution are under MTC Resolution Nos. 3670, 3724, and 3786.

This resolution includes the following attachments:

Attachment A – Allocation of Bridge Toll Revenues

This resolution was revised on February 25, 2009 to allocate \$20 million towards the construction of the Fremont Central Park Subway element of the BART to Warm Springs Extension project.

This resolution was revised on July 22, 2009 to rescind \$20 million from the prior allocation towards the construction of the Fremont Central Park Subway element owing to contract bid savings on the project.

Further discussion of this allocation is contained in the MTC Summary Sheet dated November 14, 2007, February 11, 2009 and July 8, 2009.

Date: November 28, 2007  
W.I.: 1514  
Referred by: PAC  
Revised: 02/25/09-C  
Revised: 07/22/09-C

Attachment A  
Resolution No. 3833  
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**ALLOCATION OF REGIONAL MEASURE 1 (RM1) 90% RAIL RESERVE EAST REVENUES BEGINNING IN FY 2007-08**  
(For allocations prior to FY 2007-08, please refer to MTC Resolution Nos. 3670, 3724, and 3786.)

Allocation Authorization: S&H § 30919(b)

Alloc. #	Fund Reserve	Fiscal Year	Claimant	Project Description	Allocation Amount	Date of MTC Approval	Allocation Conditions
01	Regional Measure 1 (RM1) 90% Rail Reserve East	2007-08	BART	Oakland Airport Connector	\$31,000,000	11/28/2007	<p>1. Allocation and disbursement is contingent upon the execution of a funding agreement between MTC and BART for the 90% Rail Reserve East and Regional Measure 2 (RM2) funds. Such funding agreement shall include the following provisions:</p> <p>BART shall agree: (1) to complete the project described in its updated Initial Project Report, through its contractor; (2) that it shall not request any reimbursements until it executes a concession agreement with its contractor; and (3) to comply with all provisions of MTC Resolution No. 3636, Revised and that any RM1 funds received under the funding agreement be subject to MTC Resolution No. 3636, Revised.</p> <p>MTC shall agree: to provide BART an amount not to exceed \$99,000,000 comprised of \$68,000,000 in RM2 funds and \$31,000,000 in RM1 90% Rail Reserve East Funds.</p>

02	Regional Measure 1 (RM1) 90% Rail Reserve East	2008-09	BART	BART Extension to Warm Springs	\$20,000,000	02/25/2009	<p>2. Allocation and disbursement is contingent upon the execution of a funding agreement between MTC and BART for the 90% Rail Reserve East and Regional Measure 2 (RM2) funds. Such funding agreement shall include the following provisions:</p> <p>BART shall agree: (1) to complete the project described in its updated Initial Project Report, through its contractor; (2) to comply with all provisions of MTC Resolution No. 3636, Revised and that any RM1 funds received under the funding agreement be subject to MTC Resolution No. 3636, Revised.</p> <p>MTC shall agree: to provide BART an amount not to exceed \$187,000,000 comprised of \$167,000,000 in RM2 funds and \$20,000,000 in RM1 90% Rail Reserve East Funds.</p>
03	Regional Measure 1 (RM1) 90% Rail Reserve East	2008-09	BART	BART Extension to Warm Springs	(\$20,000,000)	07/22/2009	N/A
TOTAL					\$31,000,000		