

Date: November 28, 2007  
W.I.: 1512  
Referred by: PAC  
Revised: 01/28/09-C  
12/16/09-C

ABSTRACT

Resolution No. 3831, Revised

This resolution adopts the policy and programming for the Third Cycle CMAQ Bonus Program. The policy contains the project categories that are to be funded with FY 2008-09 Congestion Mitigation and Air Quality Improvement (CMAQ) Program funds for inclusion in the federal Transportation Improvement Program (TIP).

The resolution includes the following attachments:

- Attachment A – Third Cycle Bonus Guiding Principles
- Attachment B – Third Cycle Bonus Project List

Attachment B of this resolution was amended on January 28, 2009 to reflect changes associated with the 2008 Resolution 3434 Strategic Plan.

Attachment B of this resolution was amended on December 16, 2009 to reflect changes associated with the reassignment of \$35 million from the AC Transit Berkeley/Oakland/San Leandro Bus Rapid Transit project to implement restructured CMAQ eligible AC Transit bus services, subject to the conditions noted.

Further discussion of the Third Cycle CMAQ Bonus Program is contained in the MTC Executive Director's Memorandum to the Programming and Allocations Committee dated November 14, 2007, the Programming and Allocations Committee summary sheet dated January 14, 2009 and the MTC Executive Director's Memorandum to the Programming and Allocations Committee dated December 9, 2009.

Date: November 28, 2007  
W.I.: 1512  
Referred By: PAC

RE: Third Cycle CMAQ Bonus Program: Policies and Programming

METROPOLITAN TRANSPORTATION COMMISSION  
RESOLUTION NO. 3831

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

WHEREAS, MTC is the designated Metropolitan Planning Organization for the nine-county San Francisco Bay Area region (the region) and is required to prepare and endorse a Transportation Improvement Program (TIP) which includes a list of Surface Transportation Planning (STP) and Congestion Mitigation and Air Quality Improvement Program (CMAQ) funded projects; and

WHEREAS, MTC is the designated recipient for regional STP and CMAQ funds for the San Francisco Bay Area; and

WHEREAS, MTC has developed principles guiding the policies and procedures to be used in the selection of projects to be funded with CMAQ funds for the Third Cycle CMAQ Bonus Program (23 U.S.C. Section 133), as set forth in Attachment A of this Resolution, incorporated herein as though set forth at length; and

WHEREAS, using the principles and procedures and criteria set forth in Attachment A of this Resolution, MTC, in cooperation with the Bay Area Partnership, developed a program of projects to be funded with CMAQ funds in Third Cycle CMAQ Bonus Program for inclusion in the federal Transportation Improvement Program (TIP), as set forth in Amendment B of this Resolution, incorporated herein as though set forth at length; now therefore be it

RESOLVED that MTC approves the policies and programming for the Third Cycle CMAQ Bonus Program, as set forth in Attachments A and B of this Resolution; and be it further

RESOLVED that the CMAQ funding shall be included in the federal TIP; and be it further

RESOLVED that the Executive Director is authorized to revise Attachment B as necessary to reflect the programming of projects as the projects are identified and approved by the Commission.

METROPOLITAN TRANSPORTATION COMMISSION

  
\_\_\_\_\_  
Bill Dodd, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at the regular meeting of the Commission held in Oakland, California, on November 28, 2007

**METROPOLITAN TRANSPORTATION COMMISSION  
 SAFETEA THIRD CYCLE CMAQ BONUS Programming  
 Project List\*  
 Attachment B**

Project Category and Title	County	Implementing Agency	Third Cycle Funding (thousand \$)
<b>SAFETEA STP/CMAQ THIRD CYCLE BONUS PROGRAMMING</b>			
<b>1. Marin U.S. 101 HOV Gap Closure / PDA Plans</b>			
Marin 101 Gap Closure - Funding Exchange	Marin	TAM	Exchange
<i>Specific Priority Development Area (PDA) Plans TBD by the Commission *</i>	TBD	TBD	\$12,500
<b>SUBTOTAL</b>			<b>\$12,500</b>
<b>2. Golden Gate Bridge Median Barrier</b>			
Golden Gate Bridge Median Barrier	Marin/San Francisco	GGBHTD	Swap
<i>Specific project(s) TBD by the Commission **</i>	TBD	TBD	\$20,000
<b>SUBTOTAL</b>			<b>\$20,000</b>
<b>3. Ed Roberts Campus</b>			
<i>Ed Roberts Campus</i>	Alameda		\$4,500
<b>SUBTOTAL</b>			<b>\$4,500</b>
<b>4. Resolution 3434 Strategic Plan Reserve</b>			
<i>AC Transit CMAQ Eligible New Operating Service***</i>	Alameda	AC Transit	\$35,000
<b>SUBTOTAL</b>			<b>\$35,000</b>
<b>Third Cycle CMAQ Bonus Total</b>			<b>\$72,000</b>

\* Flexible funding provided by TAM in exchange for the Third Cycle CMAQ funds will be available to PDA planning activities. The programming commitments in this category are subject to the evaluation and approval of projects by the Commission.

\*\* The GGB is ineligible to receive CMAQ funding. Therefore, the funds must be swapped with other CMAQ-eligible projects. Attachment B will be revised once the projects to receive the fund swap are identified.

\*\*\* On December 16, 2009, the Resolution 3434 strategic plan reserve funding was redirected from the AC Transit BRT to CMAQ eligible operating purposes at AC Transit's request. The programming commitments in this category are subject to the following conditions:

1. Agency Financial Review: Prior to the release of the FY2010 portion of CMAQ funding, AC Transit agrees to an independent comprehensive, financial review that considers cost control and revenue enhancement strategies to support the District's long-term financial viability. AC Transit must take the necessary steps to implement the identified strategies before the release of the requested FY2011 portion of CMAQ funding.

2. East Bay Operations Analysis: Consistent with the Commission's direction to proceed with subregional analysis of service effectiveness as part of the Transit Sustainability Project, AC Transit agrees to an independent, comprehensive operational analysis for the east bay and transbay service areas, in cooperation with BART, WestCAT, Union City, and the Water Emergency Transportation Authority. Where financially feasible, AC Transit agrees to take all reasonable steps to implement the recommendations of this analysis.

3. Address Eligibility for Fund Sources: AC Transit will demonstrate to MTC and the Federal Transit Administration that the proposed operating expenses for the restructured service are eligible for CMAQ funds. If the proposed expenses are not CMAQ eligible, AC Transit will identify another project that can use the CMAQ funds in exchange for operating funds. In the event AC Transit does not have such a project in its own capital plan, AC Transit will be responsible for obtaining the agreement of another transit operator to assist in the exchange of funds.



**METROPOLITAN  
TRANSPORTATION  
COMMISSION**

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WEB [www.mtc.ca.gov](http://www.mtc.ca.gov)

## ***Memorandum***

TO: Programming and Allocations Committee                      DATE: December 9, 2009

FR: Executive Director

RE: Reassignment of \$35 million in Congestion Mitigation and Air Quality Improvement (CMAQ) Program funds

### **Summary**

Staff recommends reassigning \$35 million in CMAQ funds currently programmed to the AC Transit Berkeley/Oakland/San Leandro Bus Rapid Transit (BRT) project to restructured AC Transit operating services.

### **Background**

In November 2007, MTC adopted Resolution 3831, including the programming of \$72 million in federal CMAQ apportionment through FY 2008-09. The additional funding became available as a result of the region's successful delivery of CMAQ funds and apportionment coming in higher than programming. Resolution 3831 created a \$35 million reserve account designated for use in the 2008 Resolution 3434 Strategic Plan. As part of the strategic plan adoption, the \$35 million was assigned to complete the capital funding plan for the AC Transit BRT project.

### **AC Transit Reassignment Request**

In September 2009, AC Transit staff requested the redirection of roughly \$80 million in capital revenues currently dedicated to the proposed BRT line to new AC Transit operating services. The request was in response to budget shortfalls and aimed at minimizing service cuts. After further discussion with Board members, the immediate request was reduced to \$35 million in federal CMAQ funds over a two-year period.

In response to community outreach related to the service cuts, AC Transit is proposing service adjustments including a new system of neighborhood shuttle circulators. The roughly 700 hours of proposed circulator service is concentrated around heavily used transit hubs and within neighborhoods that are dependent on local transit service. AC Transit has submitted a proposed plan to FTA to establish CMAQ eligibility for these operating costs. Staff anticipates the services will be deemed CMAQ eligible, but is still awaiting federal confirmation.

On November 18, 2009, the AC Transit board adopted *Resolution No. 09-060*, requesting that MTC reassign \$35 million in CMAQ funds from the AC Transit Berkeley/Oakland/San Leandro Bus Rapid Transit project to implement CMAQ-eligible AC Transit bus services and affirming the AC Transit Board's compliance, in general, with reassignment conditions proposed by MTC staff as described further below. The AC Transit Board Resolution No. 09-060 is attached for reference.

### **MTC Staff Recommendation**

AC Transit is facing significant budget challenges due to the loss of State Transit Assistance funding and a steep decline in sales tax revenues. However, the frequency of AC Transit's requests to MTC to redirect capital to operating also suggests a more fundamental, and long-term challenge that must be addressed. Recognizing the current severe budgetary shortfalls and past requests, MTC staff recommends that the reassignment of funds be made subject to the following conditions:

1. **Agency Financial Review:** Prior to the release of the FY2010 portion of CMAQ funding, AC Transit agrees to an independent, comprehensive, financial review that considers cost control and revenue enhancement strategies sufficient to support the District's long-term financial viability. AC Transit must take the necessary steps to implement the identified strategies before the release of the requested FY2011 portion of CMAQ funding.
2. **East Bay Operations Analysis:** Consistent with the Commission's direction to proceed with subregional analysis of service effectiveness as part of the Transit Sustainability Project, AC Transit agrees to an independent, comprehensive operational analysis for the east bay and transbay service areas, in cooperation with BART, WestCAT, Union City, and the Water Emergency Transportation Authority. Where financially feasible, AC Transit agrees to take all reasonable steps to implement the recommendations of this analysis.
3. **Address Eligibility for Fund Sources:** AC Transit will demonstrate to MTC and the Federal Transit Administration that the proposed operating expenses for the restructured service are eligible for CMAQ funds. If the proposed expenses are not CMAQ eligible, AC Transit will identify another project that can use the CMAQ funds in exchange for operating funds. In the event AC Transit does not have such a project in its own capital plan, AC Transit will be responsible for obtaining the agreement of another transit operator to assist in the exchange of funds.

**Status of BRT Project**

The cities of Berkeley, Oakland and San Leandro are currently engaged in the process of adopting city sponsored Locally Preferred Alternatives (LPA) for the BRT project, expected in spring 2010. This will allow AC Transit to complete the environmental work and submit a request for Small Starts program funding in the FY 2011-12. The chart below compares the current and proposed project funding plans.

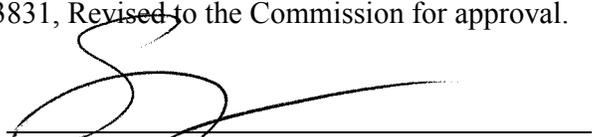
In million \$s

<b>Funding Available for the BRT Small Starts Project</b>	<b>Current Funding Plan</b>	<b>Proposed Funding Plan</b>
Alameda County Sales Tax	16.6	16.6
RTIP	52.7	52.7
Federal Earmarks	2.6	2.6
CMAQ	35	0
Small Starts	75	75
RM2	48.7	48.7
<b>Total Funding</b>	<b>230.6</b>	<b>195.6</b>

Given the competitive nature of the federal Small Starts program, the ability for the project to maintain its "high" rating and meet the 50% local match could be more challenging with the proposed funding revision. MTC staff will continue working with AC Transit and partner funding agencies to maximize federal participation on the project.

**Recommendation**

Staff recommends the referral of Resolution 3831, Revised to the Commission for approval.



Steve Heminger

**ALAMEDA-CONTRA COSTA TRANSIT DISTRICT  
RESOLUTION NO. 09-060**

**A RESOLUTION AFFIRMING THE ALAMEDA-CONTRA COSTA TRANSIT  
DISTRICT'S BOARD OF DIRECTORS' COMPLIANCE OF THE CONDITIONS AS  
ESTABLISHED BY THE METROPOLITAN TRANSPORTATION COMMISSION (MTC)  
AND FURTHER DEFINED HEREIN**

**WHEREAS**, Metropolitan Transportation Commission (MTC) is the federally designated recipient of the Congestion Mitigation Air Quality (CMAQ) Program funds for the San Francisco Bay Area; and

**WHEREAS**, the AC Transit Board directed staff to request that MTC redirect \$35 million in CMAQ funds committed to the E. 14<sup>th</sup> Street-International Blvd.-E. 14<sup>th</sup> Street Bus Rapid Transit Project to operations; and

**WHEREAS**, MTC has agreed to approve the diversion of revenues providing that AC Transit meets the following three conditions:

1. **Agency Financial Review:** Prior to the release of the FY 2010 portion of CMAQ funding, AC Transit agrees to an independent comprehensive, financial review that considers cost control and revenue enhancement strategies to support the District's long-term financial viability. AC Transit must take the necessary steps to implement the identified strategies before the release of the requested FY 2011 portion of CMAQ funding.
2. **East Bay Operations Analysis:** Consistent with the Commission's direction to proceed with subregional analysis of service effectiveness as part of the Transit Sustainability Project, AC Transit agrees to an independent, comprehensive operational analysis for the east bay transbay service areas, in cooperation with BART, WestCAT, Union City, and the Water Emergency Transportation Authority. Where financially feasible, AC Transit agrees to take all reasonable steps to implement the recommendations of this analysis.
3. **Address Eligibility for Fund Sources:** AC Transit will demonstrate to MTC and the Federal Transit Administration that the proposed operating expenses for the restructured service are eligible for CMAQ funds. If the proposed expenses are not CMAQ eligible, AC Transit will identify another project that can use the CMAQ funds in exchange for operating funds. In the event AC Transit does not have such a project in its own capital plan, AC Transit will be responsible for obtaining the agreement of another transit operator to assist in the exchange of funds.

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

**Section 1.** AC Transit will fully and cooperatively participate in a joint comprehensive financial review to identify cost control and revenue enhancement strategies to support the District's financial viability, and will fully and seriously consider the implementation of any identified strategies.

**Section 2.** AC Transit will cooperatively and enthusiastically participate in MTC's "sustainability study" and will support changes which improve the efficiency and quality of transit service provided in the East Bay.

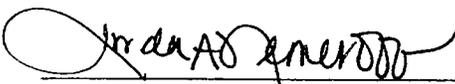
**Section 3.** AC Transit agrees that the District must work with FTA and MTC to assure that the proposed service changes are eligible for CMAQ funding and in the event that some or all of them are not, AC Transit will endeavor to obtain a funding exchange agreement with another transit operator to exchange the funds.

**Section 4.** This resolution shall become effective immediately upon its passage by four affirmative votes of the Board of Directors.

**PASSED AND ADOPTED** this 18<sup>th</sup> day of November, 2009.

  
\_\_\_\_\_  
Ryan "Rocky" Fernandez, President

Attest:

  
\_\_\_\_\_  
Linda A. Nemeroff, District Secretary

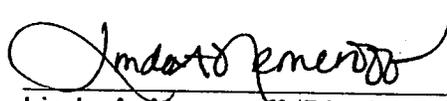
I, Linda A. Nemeroff, District Secretary for the Alameda-Contra Costa Transit District, do hereby certify that the foregoing Resolution was passed and adopted at a Special Meeting of the Board of Directors held on the 18<sup>th</sup> day of November 2009, by the following roll call vote:

AYES: VICE PRESIDENT PEEPLES, DIRECTORS ORTIZ, WALLACE, HARPER, DAVIS, YOUNG, PRESIDENT FERNANDEZ

NOES: NONE

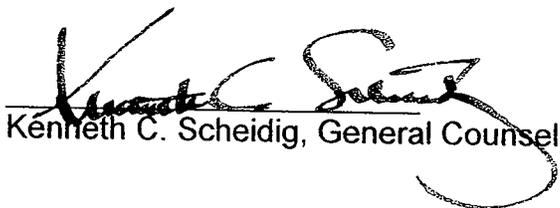
ABSENT: NONE

ABSTAIN: NONE



Linda A. Nemeroff, District Secretary

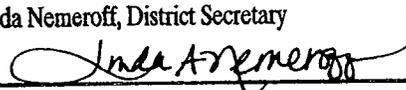
Approved as to Form:

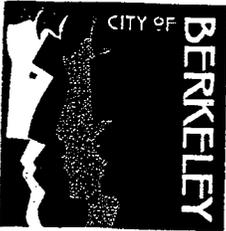


Kenneth C. Scheidig, General Counsel

I certify that the foregoing is a true and correct copy of Resolution No. 09-060 adopted by the Board of Directors of the Alameda-Contra Costa Transit District on November 18, 2009.

Linda Nemeroff, District Secretary

By 



City Clerk Department

October 15, 2009

Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607

AC Transit  
1600 Franklin Street  
Oakland, CA 94612

PAC Agenda Item 3c  
Attachment 2

RECEIVED  
OCT 19 2009

METROPOLITAN TRANSPORTATION  
COMMISSION

RE: Stop the Bus Cuts – Transfer BRT Capital \$ Into Operating Funds

At its meeting of October 13, 2009, the Berkeley City Council voted on the following recommendation:

**Action:** M/S/C (Worthington/Arreguin) to approve Councilmember Worthington's amended recommendation to send a letter to the Metropolitan Transportation Commission (MTC) and AC Transit requesting that they do everything possible, legally and operationally, to transfer funds to prevent cuts, including converting \$35 million in Congestion Mitigation and Air Quality (CMAQ) funding from the Berkeley Rapid Transit (BRT) project to the operating budget to minimize service reductions.

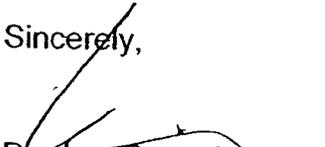
**Vote:** All Ayes

**Action:** M/S/C (Capitelli/Maio) to support the establishment of an independent task force to examine funding sources and potential service consolidation.

**Vote:** Ayes: Maio, Moore Anderson, Arreguin, Capitelli, Wengraf, Wozniak, Bates.  
Abstain: Worthington.

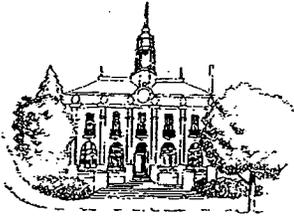
Enclosed is a copy of the staff report associated to this item.

Sincerely,

  
Deanna Despain, CMC  
City Clerk

Enclosure: Staff report

Cc: Kriss Worthington, Councilmember, District 7  
Phil Kamlarz, City Manager  
Lisa Caronna, Deputy City Manager



## Kriss Worthington

Councilmember, City of Berkeley District 7

2180 Milvia St. 5<sup>th</sup> Floor Berkeley, CA 94704

PHONE 510-981-7170 FAX 510-981-7177 [kworthington@ci.berkeley.ca.us](mailto:kworthington@ci.berkeley.ca.us)

### ACTION CALENDAR

October 13, 2009

To: Honorable Mayor and Members of the City Council  
From: Councilmember Kriss Worthington  
Subject: STOP THE BUS CUTS – TRANSFER BRT CAPITAL \$ INTO OPERATING FUNDS

#### RECOMMENDATION

Send a letter to the Metropolitan Transportation Commission (MTC) and AC Transit requesting that they do everything possible, legally and operationally, to transfer funds to prevent cuts.

#### BACKGROUND

Rick Fernandez, General Manager of AC Transit has proposed a possible way to stop many of the proposed bus service cuts. This could reduce half of the cuts for up to a six year period, if it is negotiated with MTC. It involves moving \$35 million in CMAQ funds and \$45.6 Million in RM2 funds from the BRT Capital funds into operating funds to avoid service reductions.

If the funds are not transferred, AC Transit will be forced to consider deep cuts, amounting to approximately 15% of the current operated service. If funds are not shifted, implementation of proposed cuts to service will begin in January 2010.

Thus, in an effort to prevent drastic cuts to transit service, Berkeley should request AC Transit and MTC to use this practical real world way of shifting \$80.6 million from BRT to operating funds.

These elected officials support a request to MTC to transfer \$35 million in CMAQ funds and \$45.6 Million in RM2 funds from BRT Capital funds to operating funds to minimize service reductions:

Berkeley Council Members Kriss Worthington, Darryl Moore, Linda Maio, Gordon Wozniak

Alameda County Supervisor Nate Miley

Oakland Council Members Rebecca Kaplan, and Larry Reid

San Leandro Mayor Tony Santos and Vice Mayor Joyce Starosciak

Alameda Mayor Beverly Johnson

Union City Mayor Mark Green

Pleasanton Mayor Jennifer Hosterman  
Hayward Council Member Olden Hanson

FINANCIAL IMPLICATIONS

None.

CONTACT PERSON

Councilmember Kriss Worthington 981-7170.