

**Metropolitan Transportation Commission**  
**January 27, 2010**  
**Agenda Item 9 - Handout**

**Oakland Airport Connector (OAC) –**  
**Summary of Correspondence Received To-date**

| <b>Attachment No.</b> | <b>Date of Letter</b> | <b>Name</b>                                    | <b>Agency / Organization</b>                | <b>Comments</b>   |
|-----------------------|-----------------------|--|---|---|
| 1                     | January 20, 2010      | Stuart Cohen, Executive Director               | TransForm                                   | Re-allocation of ARRA funds                                   |
| 2                     | January 21, 2010      | Chi-Hsin Shao, Pricipal                        | CHS Constulting Group                       | Support of OAC  |
| 3                     | January 21, 2010      | Jim Wunderman, President and CEO               | Bay Area Council                            | Support of OAC  |
| 4                     | January 21, 2010      | Joseph J. Haraburda, President and CEO         | Oakland Metropolitan Chamber of Commerce    | Support of OAC  |
| 5                     | January 22, 2010      | Richard A. Marcantonio, Managing Attorney      | Public Advocates                            | Re-allocation of ARRA funds                                   |
| 6                     | January 22, 2010      | Richard A. Marcantonio, Managing Attorney      | Public Advocates                            | Violations of FTA Circular 4702.1A and California's Brown Act |
| 7                     | January 25, 2010      | Barbara Lee, Member of Congress                | House of Representatives                    | Support of OAC  |
| 8                     | January 25, 2010      | Jim Wunderman, President and CEO               | Bay Area Council                            | Letter to FTA in Support of OAC                               |
| 9                     | January 25, 2010      | Nathaniel P. Ford, Sr., Executive Director/CEO | SFMTA                                       | Ready-to-go Tier II projects                                  |
| 10                    | January 25, 2010      | Marc Caswell, Program Manager                  | San Francisco Bicycle Coalition             | Re-allocation of ARRA funds                                   |
| 11                    | January 25, 2010      | Wendy Alfsen, Chair                            | Sierra Club                                 | Re-allocation of ARRA funds                                   |
| 12                    | January 26, 2010      | Victor Uno, President                          | Oakland Board of Port Commissioners         | Support of OAC  |
| 13                    | January 26, 2010      | Jerry McNerny, Member of Congress              | House of Representatives                    | Support of OAC  |
| 14                    | January 26, 2010      | Mark Green, Chair                              | Alameda County Congestion Management Agency | Support of OAC  |

**Summary of Email Comments Received To-date**

MTC staff has received 113 emails, between January 20 and January 25 advocating the reprogramming of ARRA stimulus funding to transit agencies throughout the region away from the Oakland Airport Connector project. An example of one of the letters can be found in the next page, with a list of individual's names and the cities they represent in Attachment 15.

**Example Letter:**

Commissioners and Staff  
Metropolitan Transportation Commission

Subject: Save jobs and transit now by reprogramming ARRA Funds to transit agencies.

Good afternoon:

I'm writing to urge you to stand up for the commitments you made last February when you voted to use \$70 million in ARRA stimulus funding to support transit agencies across the region if the Oakland Airport Connector could not meet its funding and contractual obligations.

That day is here. The Federal Transit Administration has alerted BART and MTC that the Bay Area region is at risk of losing this stimulus funding. BART has been found out of compliance with the FTA's civil rights requirements and questions are being asked about MTC's oversight of these issues.

BART told MTC in July that it had completed an equity analysis, something they now acknowledge was not done. Then last week, BART hastily submitted an analysis to the FTA which was resoundingly rejected.

Last July, hoping to avoid doing a study of alternatives, MTC and BART staff told you that any analysis that looked at alternatives to the OAC would take months to complete. There is no quick fix to the issues raised by the FTA, which makes the risk of proceeding with this project is too great for the Bay Area.

MTC must act to keep the stimulus funding in the Bay Area for the benefit of the region's transit riders and workers. Please do not risk this critical funding. Please declare the Oakland Airport Connector out of compliance for \$70 million in ARRA stimulus funding and disperse these funds to the regions transit agencies, as per your February ARRA resolution.

Thank you in advance for supporting better public transit in the Bay Area.

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# TRANSFORM



Attachment 1

January 20, 2010

Commissioners  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, CA 94607

Dear MTC Commissioners,

You are being given a tremendous opportunity to do something great for the region. On Friday, January 15, the Federal Transit Administration (FTA) delivered a letter to BART and MTC explaining that the \$70 million in ARRA stimulus funds are at risk of being lost to the Bay Area because BART has failed to conduct an equity analysis or considered an equitable alternative to the disastrous Oakland Airport Connector project.

FTA has concurred with the Title VI complaint filed by Public Advocates on behalf of TransForm, Urban Habitat, and Genesis, that contrary to BART's statements to MTC's inquiries, "BART staff acknowledged if failed to integrate Title VI into BART's service planning and monitoring activities for the project." The letter goes further to indicate that BART has subsequently attempted to develop a fast-turnaround equity analysis for the project but that the FTA "finds it insufficient to meet the [Title VI circular] requirements."

This analysis should have been conducted last spring, as several members of the BART Board, Oakland City Council and other OAC funding agencies had suggested. Instead TransForm and our partners were not just stonewalled, but BART spent thousands of taxpayer and BART rider dollars working to "discredit" and "poke holes" in a rapid bus alternative. Because of this failure, this \$70 million is now at risk.

MTC's resolution 3885 had clearly stated that if the OAC did not meet the ARRA's deadlines for funding, the \$70 million in ARRA funds would be distributed to the regions transit agencies. With brutal service cuts and fare hikes planned for this spring and, likely to continue through next year, this is an incredible opportunity to reduce the severity of these budget shortfalls while taking the time it really needs to study a better alternative.

Ironically, BART's board is being asked to vote the day after your next meeting to cut 74 positions in order to close a massive deficit. Redistribution of the ARRA funds would deliver an immediate cash influx that would allow the District to retain these jobs. SF Muni is in a similar position, as are AC Transit and VTA. These stimulus funds can save jobs and transit service and maintain current fares if you act immediately.

The FTA's letter stands out for its strong tone, stating that there is a significant risk of the Bay Area's losing \$70 million in stimulus funds if BART and MTC continue to insist on using ARRA funding on the OAC. The letter mentions this risk multiple times. It also says that while even if BART submits, and FTA accepts, a remedial action plan, BART's implementation actions will certainly extend beyond the March 5, 2010 deadline for obligating funds. BART would not be able to "draw down any funds until it completes the action plan, implements any mitigation measures, and fully remediates non-complicance with all Title VI requirements". The letter then italicizes the following warning:

*If BART were to fail in any respect to make progress or to meet its deadlines as established in the action plan, FTA would have to de-obligate the ARRA funds for the Project and would be prohibited by law from re-obligating those funds to alternative projects in the San Francisco Bay area.*

Given the disastrously slow technology that was chosen, the long walks (much longer than AirBART) to use the OAC, and the low projected ridership, it is quite likely that an alternative bus system – studied objectively – would be more effective and equitable. If that is the finding, the region would lose these funds.

Reallocating the funds would *not* mean that the OAC could not move forward. Indeed, MTC is a master at finding funds for worthy projects. It simply means it would not get this \$70 million while it worked with the FTA through the spring and maybe summer to provide all of the necessary information.

We are writing you to urge each of you to act to keep these funds in the Bay Area and to save jobs, preserve transit for Bay Area residents and keep regional fares down. We look forward to working with BART, MTC and the community in addressing the equity and alternatives analysis that is required of the OAC. After that analysis is complete, we can work together to fund the appropriate project for replacing the successful AirBART service with a higher quality system.

Feel free to contact either of us by e-mail or at 510-740-3150 to discuss this issue in greater detail. It will be agendaized and must be decided upon at the January 27 Commission meeting.

Sincerely,

Stuart Cohen  
Executive Director

John Knox White  
Program Director



**CHS** Consulting  
Group

January 21, 2010

RECEIVED

JAN 25 2010

MTC

Mr. Steve Heminger, Executive Director  
MTC – Metro Center  
101 Eighth Street  
Oakland, CA 946076

Dear Mr. Heminger:

I am Owner of CHS Consulting Group in San Francisco. We are a small disadvantaged business (SBE and DBE) firm providing Transportation Engineering and Transit Planning Consulting Services.

My firm is part of the Flatiron/Parsons/Doppelmayr design-build team for the BART Oakland Airport Connector project. Our team was selected by BART for award of this \$361 million project on December 10, and we were mobilizing our resources in preparation for the project.

I am very concerned about the letter BART received from the Federal Transit Administration (FTA) Administrator last week, essentially telling BART that the FTA was prepared to deny BART \$70 million in federal stimulus funding for the project because of some apparent technicalities related to Title VI. BART officials were stunned by both the tone and the timing of the letter. Previously, FTA has been a partner with BART at every step of the project's planning.

BART is clear that they are absolutely committed to meeting the deadlines and requirements of Title IV. **BART is equally clear that the project will not move forward without the stimulus funding.**

This project is very important to my firm in these difficult economic times; it will allow me **to retain our current employees and potentially hire one more.** The project will provide Oakland and its residents with both short-term construction jobs, and long-term economic development benefits for the Oakland Airport, the Hegenberger corridor, and the planned Coliseum Transit Village. With Oakland's unemployment rate at 17.5% overall, and in excess of 30% for construction labor, the project is a perfect model for President Obama's stimulus program – job creation in an economically depressed community.

As a SBE and DBE firm, we are outraged by the threat to kill a project that the region has been pursuing for more than twenty years, and take away short-term and long-term jobs that are desperately needed.

As your constituent, I am urging you to help address this injustice by assisting BART in fighting FTA's efforts to take away OAC project funding. Thousands of jobs and the economic well being of the City of Oakland and its residents are in the balance.

Sincerely yours,

Chi-Hsin Shao, Principal



# BAY AREA COUNCIL

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Ex Officio  
**JIM WUNDERMAN**  
President & CEO, Bay Area Council

January 21, 2009

Honorable Scott Haggerty  
Chairman  
Metropolitan Transportation Commission  
101 8<sup>th</sup> Street  
Oakland, CA 94607

*Re: Support for Oakland Airport Connector project*

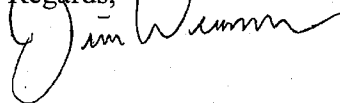
Dear Chairman Haggerty:

I was dismayed to learn of the opinion of the Federal Transit Administration that BART has failed to comply with the requirements of Title VI in planning for the Oakland Airport Connector. For such an important project that has had such an extended gestation period, to have this problem threaten the project at the last minute is, to put it mildly, extremely frustrating.

Notwithstanding whatever lapses of process or communication there may have been at BART and FTA, there should be no confusion about the merits of the Oakland Airport Connector. This is a project that has been on the books for many years; that has been subject of extensive public outreach; and that has been supported in many public votes by BART, MTC, the Port of Oakland, Alameda County CMA, ACTIA, and the City of Oakland. It will provide a reliable direct connection between regional transit and the region's second largest airport (an airport that, I might add, the Regional Airport Planning Committee envisions as absorbing a significant share of the region's future air travel growth). The connector will demonstrate the highest and best goals of the federal stimulus program, creating thousands of well-paid construction jobs while building a legacy project that will provide convenient, carbon-free mobility for decades to come.

I urge the MTC to maintain its commitment to the Oakland Airport Connector and to resist efforts to reallocate ARRA funds to other expenditures. Dedicated and collaborative effort by BART, MTC, and the FTA can, I am confident, appropriately address the Title VI issues that have been raised. The Bay Area Council is prepared to offer whatever support and assistance is necessary to ensure that FTA requirements are met, ARRA funding is preserved, and the Oakland Airport Connector is brought to fruition. Please do not hesitate to contact me if we may be of any assistance.

Regards,



Jim Wunderman  
President and CEO

cc: Steve Heminger, Executive Director, MTC  
Dorothy Dugger, General Manager, BART

RECEIVED

JAN 25 2010

MTC



January 21, 2010

Scott Haggerty, Chairman  
Metropolitan Transportation Commission  
101 8th Street  
Oakland, CA 94607

Dear Chair Haggerty & MTC Commissioners:

**RE: SUPPORT for Oakland Airport Connector**

On behalf of the Board of Directors and the Chamber's business members and affiliates, I urge the Metropolitan Transportation Commission to continue its commitment to the Oakland Airport Connector (OAC). After years of consistent support for this project, I reiterate the business community's interest in seeing this project move forward. We urge the MTC to reaffirm its commitment to the initiation of this long-awaited and much needed project.

We are aware of recent discussions between BART and the Federal Transit Administration (FTA) regarding development of an action plan to address concerns raised by a lawsuit. The Chamber is confident that BART will meet the expectations of the FTA within the required timeline just as it has cooperated with FTA throughout the long development of this project. We do not believe that this last-minute development should jeopardize MTC's allocation of American Recovery and Reinvestment Act (ARRA) funds for the OAC.

Small factions of the community do not want to see the OAC built. Although some of these individuals claim to be transit advocates, they oppose this particular transit project. It is unsurprising, then, that they see this as another opportunity to derail this shovel-ready project which will put thousands of people to work creating a lasting piece of infrastructure guaranteed to improve the BART system. I respectfully remind you that stimulus funds are intended for job creation and building 21<sup>st</sup> century infrastructure! We ask you to reject any requests to reallocate ARRA funds and remind opponents that stimulus investments need to provide benefits to future generations. This is why the Chamber and other public transportation agencies -- including yours -- believe the OAC deserves to be built.

Although the OAC has been in development for many years, it will last even longer. This project has been supported by a broad coalition of partners committed to see it built. We are grateful for the partnership shown by the MTC throughout the evolution of the OAC.

The Chamber urges the MTC to continue its commitment to the Oakland Airport Connector project. Completing this key train to plane connector project is vital for the future of our region.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph J. Haraburda".

Joseph J. Haraburda  
President & CEO

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Administrative Staff

January 22, 2010

**VIA ELECTRONIC MAIL**

**Chair Haggerty and Commissioners**  
**Metropolitan Transportation Commission**  
**101 Eight Street**  
**Oakland, California 94607**

Re: Re-Allocation of Economic Stimulus Funds

Public Advocates' civil rights complaint to the Federal Transit Administration last year, on behalf of Urban Habitat, Genesis and TransForm, led to a comprehensive FTA compliance review of BART's Title VI program. FTA's on-site investigation in December concluded that our complaint was well-founded in its allegations about BART's failure to comply with the requirement to complete a service and fare equity analysis for the Oakland Airport Connector project, as set forth in Administrator Peter Rogoff's strongly-worded letter of January 15.

In the wake of Administrator Rogoff's letter, the Commission faces a stark choice. On the one hand, it can fulfill its commitment in Resolution 3885 by immediately redistributing \$70 million in stimulus funds to ailing transit systems across the region, saving jobs and transit service from further deep cuts. On the other hand, it can risk the loss of every penny of those stimulus funds to the region by rolling the dice on BART's ability to "fully remediate non-compliance with *all* Title VI requirements" – not just those associated with the Oakland Airport Connector project – to FTA's satisfaction before the March 5 deadline.

When the Commission adopted Res. 3885 last February, it agreed that the allocation of \$70 million in stimulus funds to OAC would be contingent on BART's ability to make timely use of those funds. The Commission explicitly set out a contingency plan:

**“Funding for Non-System Preservation projects [such as OAC] that do not meet the prescribed deadlines will be redistributed to the system preservation projects within the applicable categories.”**  
(Res. 3885, att. A, p. 7 of 10.)

Attachment C to the Resolution is the “Tier 2 Contingency List” for the reallocation of that \$70 million in FTA formula funds in the event the money could not be timely used by BART. That contingency

