

Metropolitan Transportation Commission Programming and Allocations Committee

September 8, 2010

Item Number 4a

Concurrence Request for STIP Amendments

Subject: Request for MTC concurrence for the following proposed amendments to the 2010 State Transportation Improvement Program (STIP):

The Alameda County Congestion Management Agency (ACCMA) has requested MTC's concurrence for amendments to the 2010 State Transportation Improvement Program (STIP). The first proposed amendment adds a project that was previously in an earlier STIP: BART's Oakland Airport Connector project. This project will utilize \$20 million in STIP funds that have been freed up from two projects in Alameda County: the I-880 North Safety Improvements (29th-23rd) project and the I-880/Mission Interchange Phase 1B/2 project. The CTC reduced the funding for these two projects in the technical adjustments to the 2010 STIP, adopted on July 1, 2010. The STIP project changes are shown below:

Existing 2010 STIP Programming:

<u>PPNO</u>	<u>Sponsor</u>	<u>Phase</u>	<u>Amount</u>	<u>FY</u>	<u>Project Title</u>
0044C	ACCMA	PSE	\$5,000,000	2010-11	I-880 Op. and Safety Imps. at 29th Ave.
0044C	ACCMA	CON	\$7,000,000	2011-12	I-880 Op. and Safety Imps. at 29th Ave.
0016V	ACTIA	CON	\$10,000,000	2014-15	Mission Blvd/I-880 I/C Reconst, ph. 1B/2

Proposed 2010 STIP Programming:

<u>PPNO</u>	<u>Sponsor</u>	<u>Phase</u>	<u>Amount</u>	<u>FY</u>	<u>Project Title</u>
<i>2103</i>	<i>BART</i>	<i>CON</i>	<i>\$20,000,000</i>	<i>2010-11</i>	<i>Oakland Airport Connector</i>
0044C	ACCMA	PSE	<i>\$2,000,000</i>	2010-11	I-880 Op. and Safety Imps. at 29th Ave.
0044C	ACCMA	CON	\$7,000,000	2011-12	I-880 Op. and Safety Imps. at 29th Ave.
0016V	ACTIA	CON	\$10,000,000	2014-15	Mission Blvd/I-880 I/C Reconst, ph. 1B/2

The second proposed amendment would add a new project in to the 2010 STIP. The amendment would program \$200,000 in FY 2010-11 in Transportation Enhancement (TE) funds to the Rideo Bus Restoration project, sponsored by the Livermore Amador Valley Transit Authority (LAVTA). These funds would come from Alameda County's unprogrammed STIP share. The STIP project change is shown below:

Proposed 2010 STIP Programming:

<u>PPNO</u>	<u>Sponsor</u>	<u>Phase</u>	<u>Amount</u>	<u>FY</u>	<u>Project Title</u>
<i>NEW</i>	<i>LAVTA</i>	<i>CON</i>	<i>\$200,000</i>	<i>2010-11</i>	<i>Rideo Bus Restoration project (TE)</i>

Background: The 2010 Regional Transportation Improvement Program (RTIP) was adopted by MTC on January 27, 2010 (MTC Resolution No. 3938). The 2010 RTIP was submitted to the California Transportation Commission (CTC) for inclusion in the 2010 STIP.

Oakland Airport Connector: As reported by the Executive Director to the Commission on July 28 (memo attached), the CTC re-noticed the OAC item for action as a STIP amendment at its August 11-12 meeting, for action in September.

Pursuant to MTC Resolution No. 3928, this STIP amendment requires the concurrence of MTC's Programming and Allocations Committee.

In addition to the STIP amendment described above, MTC staff will send CTC a letter requesting the CTC proceed with programming the remaining \$19 million in Proposition 1B State Local Partnership Program (SLPP) funds to the OAC project. This is consistent with MTC Resolution No. 3884, as amended in July 2009. No further Committee action is required since the SLPP funds have been programmed by prior Commission action. However, the programming request is noted in this item for the Committee's information.

LAVTA Rideo Bus Restoration: Alameda County allowed approximately \$200,000 in TE funds to lapse from TE Reserve in FY 2009-10. While these funds are not lost to the county, they generally are not available for programming until the adoption of the 2012 STIP. ACCMA requests that these funds be programmed now to LAVTA's Rideo Bus Restoration project. This amendment would result in a net zero change to Alameda County's STIP County Share in the 2012 STIP.

Issues:

There are at least three issues to highlight regarding the BART OAC project:

1. The BART Board's OAC contract authorization action prescribes that both the STIP funds subject to this action and the \$25 million in New Starts funds from the Federal Transit Administration (FTA) be obligated prior to award of the contract. BART and FTA are making progress on obligation of these federal funds but as of September 1, the funds have not been obligated.
2. On August 31, Commissioners received an email from Transform regarding a new study that examines the cost effectiveness of the OAC project in relation to other alternatives, such as Bus Rapid Transit (BRT). However, staff believes the study does not compare "apples to apples," since the OAC project has environmental clearance and is substantially designed, while the BRT options are concepts only. Further, BART is poised to award the OAC contract, and we believe it is inappropriate to consider reopening project alternatives after years of effort and public approvals to advance OAC to construction.
3. On September 1, Commissioners received their latest monthly missive from Public Advocates Inc. alleging various improprieties in MTC staff's handling of the STIP funding request for OAC. Our response is contained in the attached memorandum dated September 2, 2010.

Recommendation: Direct staff to send a letter of concurrence for the requested STIP actions.

Attachments:

BART Oakland Airport Connector

Executive Director Memo to the Committee, September 2, 2010

Executive Director Memo to the Commission, July 28, 2010

ACCMA Amendment Request Letter, July 29, 2010

ACTIA Amendment Request Letter, July 29, 2010

BART Amendment Request Letter, July 29, 2010

LAVTA Rideo Bus Restoration

ACCMA Amendment Request Letter, August 23, 2010



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Memorandum

TO: Programming and Allocations Committee

DATE: September 2, 2010

FR: Executive Director

W.I.: 1255

RE: Response to Public Advocates Letter

Committee members have received further correspondence from Public Advocates Inc. dated September 1, 2010 regarding the procedures and timing of amendments to the State Transportation Improvement Program (STIP) as it relates to funding for the Oakland Airport Connector (OAC). The letter questions staff's actions and the effect or the appearance thereof on your consideration of this item at your September 8, 2010 meeting. This memorandum responds to points raised in that letter and clarifies what staff has done to forward this matter to the California Transportation Commission (CTC).

As I reported to the Commission on July 28, the CTC voted unanimously on July 1, 2010 for a technical change to the STIP that would provide \$20 million for the OAC project. Because of procedural questions raised by a member of the public regarding the noticing of the July 1 action, the CTC reclassified the action from a technical change to a STIP amendment. As a STIP amendment, MTC policy (Resolution No. 3928) requires that the Programming and Allocations Committee take action to concur with the changes to be reflected in the STIP amendment, before the CTC takes action on the amendment. This is the action before your Committee on September 8th.

Pursuant to the relevant section in the Government Code requiring a 30 day notice of a STIP amendment, the CTC places a notice of each proposed STIP amendment on the agenda one month prior to taking action on that amendment. This practice provides an extended notification period that the CTC intends to take an action affecting the STIP. In support of the CTC's notification process, and per the request of ACCMA, ACTIA and BART, MTC's Deputy Executive Director, Policy, wrote to the Caltrans District 4 Director on July 30 to request the noticing of the amendment at the August CTC meeting. The letter further states that the MTC action on this amendment, per Resolution No. 3928, would take place at the next scheduled meeting of the Programming and Allocations Committee on September 8 and that MTC would notify the CTC of this action prior to the CTC taking action on September 23.

Public Advocates takes exception to the language used in the letter that the Programming and Allocations Committee is "scheduled to take appropriate action" on September 8. However, this

language simply informed Caltrans and the CTC that the matter is subject to this Committee's review and that this review would take place prior to the CTC's action. Indeed, the letter was merely to facilitate procedural efficiency at the CTC. Nothing in this notification process presupposes the outcome of the Programming and Allocations Committee's deliberation or action. Should this Committee approve the STIP amendment, the CTC funding action can move forward without further delay. Conversely, if this Committee votes not to concur in the STIP amendment, CTC staff has informed us that they will pull the STIP amendment item from the September agenda. Therefore the Programming and Allocations Committee should consider its ability to fully debate the merits and legality of the matter as completely unencumbered.

Public Advocates also asserts that, for various reasons, the CTC lacks the power to approve the requested amendment in any event. We have forwarded a copy of their letter to the CTC, and will appraise the Committee of CTC's response at your September 8th meeting.

Public Advocates concludes their letter by stating that MTC staff "has not been candid either with this Commission or with the public" about our efforts to secure replacement funding for the OAC project after federal economic recovery act funds were redirected to other transit projects. This charge is false. I informed the Commission at least twice in public session that MTC staff was cooperating with other public agencies to secure such funding. Despite the outraged tone and overheated rhetoric of the Public Advocates letter, it should come as no surprise to any party that MTC staff is attempting to secure funds for a project that has been identified as a regional priority in your adopted Resolution 3434 transit expansion program. That is our job.

I would be happy to respond to any further questions or concerns at your September 8th meeting.

Steve Heminger

SH: AW



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Memorandum

TO: Commission

DATE: July 28, 2010

FR: Executive Director

W. I.

RE: Oakland Airport Connector STIP Funding

There have been recent inquiries regarding the funding for the Oakland Airport Connector (OAC) in the State Transportation Improvement Program (STIP). A letter from Public Advocates was sent to MTC on July 13, 2010, public comment was made during the July 14 Programming and Allocations Meeting and several Commissioners subsequently have been contacted regarding the process involved to fund this project in the STIP. This memorandum is to clarify that the process followed is consistent with the policies and procedures adopted by the Commission.

The 2010 Regional Transportation Improvement Program (RTIP) was adopted by the Commission at its January 2010 meeting (MTC Resolution No. 3938), and submitted to the California Transportation Commission (CTC) for inclusion in the 2010 STIP. The 2010 RTIP contained the projects proposed by the nine Congestion Management Agencies (CMAs) in their individual county submittals to MTC, consistent with the 2010 RTIP policies and procedures adopted by the Commission in October 2009 (MTC Resolution No. 3928).

In developing the STIP, the CTC aggregates the RTIPs submitted by all regions and evaluates how the proposed projects fit within the annual capacity limit as identified in the STIP Fund Estimate. Based on the capacity restrictions, CTC staff reconcile the annual capacity allowances with the proposed RTIP projects. In conjunction with the release of CTC staff recommendations, and adoption of the STIP, CTC staff contact MTC staff to discuss proposed changes to the submitted RTIP.

Although the projects in the RTIP are adopted by the Commission, the CTC is not precluded from making a different decision, given they are the final decision makers with regards to the STIP. The CTC routinely adopts a STIP that is different from the submitted RTIP. MTC Resolution No. 3938 adopting the RTIP specifically authorized the Executive Director to make adjustments to the RTIP project list in consultation with affected CMAs to respond to direction from the CTC.

Regarding the Oakland Airport Connector, the CTC approached MTC staff to facilitate full funding of the OAC using State Highway Operations and Protection Program (SHOPP) funding identified by the state after the RTIP was submitted. Caltrans and CTC staff determined that while the SHOPP funding was available, it could not be programmed directly to the OAC project

due to eligibility restrictions. The CTC requested MTC staff's assistance to find SHOPP related projects that were already programmed in the STIP in order to free up a like amount of STIP funds for the OAC project.

This process took longer than anticipated, and the programming of funds to the OAC project was delayed from the May 20 STIP adoption to the July 1 CTC approval of technical changes to the 2010 STIP. CTC staff made a notation in the STIP staff recommendations that the OAC project was being considered for programming in the STIP, but that additional information was needed to make a recommendation and finalize the programming. After the funding mechanism was finalized the CTC noticed the project as a technical change to the STIP, and approved the change at its July 1 meeting.

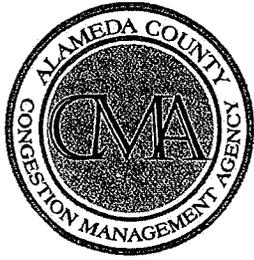
Since the July 1 action, CTC has re-noticed the OAC item for action as a STIP amendment at its August 12 meeting in response to concerns expressed by a member of the public that the July 1 action was not adequately noticed. This re-classification of the proposed CTC action from a "technical change" of the action originally adopting the STIP to a "STIP amendment" requires a different response by MTC as the agency submitting the RTP. While "technical changes" to the STIP adoption can be accomplished with only MTC staff concurrence, a STIP amendment adding a new project requires approval of the MTC Programming and Allocations Committee pursuant to MTC Resolution No. 3928. The next regularly scheduled meeting of the Programming and Allocations Committee is September 8.

We are currently in discussions with CTC staff about whether the CTC will postpone action on OAC until its September 23 meeting or proceed to act conditionally on the STIP amendment on August 12, subject to MTC concurrence on September 8. Time is of the essence because BART staff is seeking to award the OAC construction contract as soon as the outstanding federal New Starts and STIP funds are secured.

We will continue to keep the Commission apprised about developments regarding the OAC project as they occur.



Steve Heminger



ALAMEDA COUNTY
CONGESTION MANAGEMENT AGENCY

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July 29, 2010

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Greg Harper

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Scott Haggerty

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City of Emeryville
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Robert Wieckowski

City of Hayward
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City of Livermore
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City of Oakland
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City of Union City
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Mark Green
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Ross McKeown
Programming and Funding Manager
Metropolitan Transportation Commission
101 Eighth Street
Oakland, CA 94607-4700

**Subject: State Transportation Improvement Program (STIP) Amendment Request
I-880 Reconstruction, 29th-23rd (PPNo. 44C)
I-880 / Mission Blvd Interchange Phase 1B/2 (PPNo. 16V)
BART Oakland Airport Connector (OAC) (PPNo. 2013)**

Dear Ms. Fung / Mr. Green / Mr. McKeown:

The purpose of this letter is to request three amendments to the 2010 STIP.

In the 2010 STIP approved May 20, 2010, the I-880 Reconstruction, 29th-23rd project, sponsored by the ACCMA, has \$5 million programmed in PS&E in FY 2009/10 and \$7 million programmed in construction in FY 2011/12.

The ACCMA requests deleting \$10 million in STIP funds from the I-880 Reconstruction, 29th-23rd project (\$3 million from PS&E and \$7 million from Construction). Caltrans has committed to programming \$10 million in State

Highway Operation and Protection Program (SHOPP) funds to the I-880 Reconstruction, 29th-23rd project to backfill the reprogrammed STIP funds.

The second amendment requests deleting \$10 million in STIP funds from the I-880/Mission Blvd I/C project programmed for Construction in FY 2014/15. Prop 1B CMIA funds, through a future CTC action, are proposed to backfill the reprogrammed STIP funds for the I-880/Mission Blvd I/C project.

Based on the two amendments detailed above \$20 million in STIP capacity would be created. The third amendment is requesting reprogramming the \$20 million STIP funds to the BART OAC Project for Construction in FY 2010/11. Along with other funds assembled by BART, this proposed STIP amendment will provide a full funding plan for the BART OAC Project.

The requested amendments were approved July 22, 2010 by our Board. The ACCMA requests that the proposed amendments be noticed at the August 2010 CTC meeting and approved at the September 2010 CTC meeting. Additional documents supporting the above actions are attached.

Please contact Matt Todd at 510-350-2315 if you have any comments or questions.

Sincerely,



Dennis Fay
Executive Director

Attachments

cc: Kenneth Kao, MTC
Art Dao, ACTIA
Alan Lee, BART
Stanley Gee, Caltrans District 4
Mark Zabaneh, Caltrans District 4



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July 29, 2010

Mr. Dennis Fay, Executive Director
Alameda County Congestion Management Agency
1333 Broadway, Suite 220
Oakland, CA 94612

Subject: Amendment to 2010 State Transportation Improvement Program
PPNo. 0016V: Mission Blvd/Rte 880 Interchange Phase 1B/2

Mark Green, Chair
Mayor, City of Union City

Scott Haggerty, Vice-Chair
Supervisor, District 1

Keith Carson
Supervisor, District 5

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Mayor, City of Pleasanton

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Alice Lai-Bitker
Supervisor, District 3

Nate Miley
Supervisor, District 4

Anthony Santos
Mayor, City of San Leandro

Gail Steele
Supervisor, District 2

Christine Monsen
Executive Director

~~Dear~~ Mr. Fay:

This letter serves to document our concurrence with the proposed amendment to the 2010 State Transportation Improvement Program (STIP) which would effectively delete the subject project from the STIP by removing the \$10 million of Alameda County Regional Improvement Program (RIP) funding programmed for construction in fiscal year 2014/15. The amendment is consistent with the 2010 STIP Technical Adjustment pertaining to the subject project considered at the June 30/July 1, 2010 meeting of the California Transportation Commission.

Please contact me if you have any questions or need additional information.

Sincerely,

Christine Monsen,
Executive Director

cc: Arthur L. Dao, ACTIA
Matt Todd, ACCMA



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

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2010

July 29, 2010

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Bob Franklin
VICE PRESIDENT

Dorothy W. Dugger
GENERAL MANAGER

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Executive Director
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6TH DISTRICT

Lynette Sweet
7TH DISTRICT

James Fang
8TH DISTRICT

Tom Radulovich
9TH DISTRICT

Subject : Request to amend the 2010 STIP to add \$20 million for the Oakland Airport Connector Project

Dear Mr. Fay,

The Bay Area Rapid Transit District (BART) is pleased to submit a request to the California Transportation Commission (CTC) for an amendment to the 2010 STIP to add the Oakland Airport Connector (OAC) Project. On July 22, 2010 the BART Board of Directors reaffirmed its commitment to the OAC Project based upon a revised funding plan. This funding plan includes \$20 million in STIP funds. Please find attached the OAC Project Full Funding Plan approved by the BART Board.

The OAC project will use Automated Guideway Technology (AGT) to provide a vital link between the Oakland International Airport (OAK) and the regional rail system at BART's Coliseum Station. OAC will improve access to OAK's air passenger service, and consequently benefit the Airport's attractiveness and competitiveness both regionally and internationally. Thank you for your continued support of BART and the Oakland Airport Connector Project. We look forward to bringing this important regional connection to the Bay Area.

Sincerely yours,

Carter Mau
Executive Manager of Planning & Budgeting

Cc Alan Lee-BART, Tom Dunscombe-BART, Ross McKeown-MTC,

OAC Project Full Funding Plan

OAC Sources (\$ millions)

Local

Alameda County Transportation Improvement Agency (ACTIA) Measure B	89.1
Port of Oakland [1]	29.3
Regional Measure 1 (1988 Bridge Toll)	31.0
Regional Measure 2 (2004 Bridge Toll)	115.2
SFO Reserves Account	10.0
Total Local	274.5

State

State Transportation Improvement Program (STIP)	20.7
CMIA/RTIP Funding Exchange	10.0
SHOPP/RTIP Funding Exchange	10.0
MTC/State-Local Partnership Program (SLPP) Prop 1B	20.0
PTMISEA (Prop 1B)	12.8
High-Speed Passenger Train Bond	5.4
Total State	78.9

Federal

Federal Transit Administration - Small Starts	25.0
Total Federal	25.0

Sub-total agency/public grant funding **378.4**

Debt draws [2] 105.7

Total sources of funds **484.1**

[1] \$16.1M of Port funding received during operations. Borrowing is increased to bridge this delay in funding.

[2] TIFIA interest expense is capitalized during construction and added to TIFIA loan balance

August 23, 2010

Ross McKeown
Metropolitan Transportation Commission
101 Eighth Street
Oakland, CA 94607-4700

Subject: State Transportation Improvement Program (STIP) Transportation Enhancements (TE) Programming for LAVTA Rideo Bus Rehabilitation

Dear Mr. ^{Ross}McKeown:

The purpose of this letter is to provide Alameda County Transportation Commission (Alameda CTC) concurrence for programming \$200,000 of STIP-TE funding from the Alameda TE-Reserve (PPNo. 2100C) to the Livermore-Amador Valley Transportation Authority (LAVTA) for the subject project. The Alameda CTC, acting on behalf of the Alameda County Congestion Management Agency (ACCMA) through the powers delegated to the Alameda CTC by the joint powers agreement which created Alameda CTC, approved this programming at its July 22, 2010 Board meeting.

The \$200,000 of STIP-TE will be used to rehabilitate a 1960s-vintage Historic Coach. This bus was one of the last ones operated by the City of Livermore's Rideo bus system. The coach requires significant interior and exterior restoration and requires a comprehensive engine repair to make it operable. Once restored, the Rideo coach will be used in parades and static displays throughout the Tri-valley area.

Please contact me at (510) 836-2560 if you have any comments or questions.

Sincerely,



Matt Todd
Manager of Programming

cc: Arthur L. Dao, Alameda CTC
Kenneth Kao, MTC
Paul Matsuoka, LAVTA