

Date: December 15, 2004
W.I.: 1255
Referred by: PAC
Revised: 02/25/09-C 07/22/09-C
01/27/10-C 07/28/10-C
07/27/11-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.

This resolution was revised on January 27, 2010 to allocate \$10.31 million towards the early expenses including soft costs and some materials procurement costs (rail, fiber optic etc.) on the Line, Track, Station and Systems contract for the Warm Springs Extension project.

This resolution was revised on July 28, 2010 to allocate \$21.8 million towards the Line, Trackwork, Systems & Station (LTSS) construction and related activities for the Warm Springs Extension project.

This resolution was revised on July 27, 2011, to add conditions to Attachment E specifying principles for addressing any potential construction cost increases on the LTSS segment.

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, July 8, 2009, January 13, 2010 and July 14, 2010, and in the Programming and Allocations Committee Summary Sheet dated July 13, 2011.

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 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

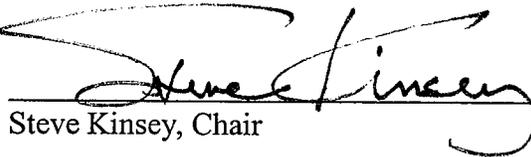
RESOLVED, that the allocation and reimbursement of RM2 funds are further conditioned upon the project specific conditions as set forth in Attachment B; and, be it further

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.

Date: February 25, 2009
W.I.: 1255
Referred by: PAC
Revised: 07/27/11-C

Attachment E
Resolution No. 3667
Page 1 of 2

Synopsis of Terms for Funding Agreement

Subway Segment

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.

LTSS Segment

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 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 and AB1171 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 \$21,777,043 in RM2 funds and \$113,000,000 in RM1 90% Rail Reserve East Funds, and \$5,000,000 in AB1171 funds.

Mutually Agreed:

- The approved BART to Warm Springs LTSS construction plus soft cost, as of June 2011, totals \$437 million, which includes a 12.4% contingency. The 12.4% contingency is a reduction of approximately \$10 million from the 15% contingency previously estimated by BART to be required for successful completion of the LTSS phase. While this amount is within the financial envelope of \$890 million, it is higher than the currently identified and available funding.
- Bridge Tolls, Measure B, State Proposition 1B, BART, and VTA Measure A funds total \$421 million.

- Roughly \$16 million from the Right of Way phase and Central Park Subway segment combined can be assigned to the LTSS funding plan based on identified cost savings and budget adjustments as of June 2011.
- BART and the funding partners have agreed to proceed with the project using the available funding.
- Principles for addressing construction costs up to the \$10 million difference between approved project cost and available funding include, in priority order:
 1. Apply any additional savings from the Right of Way phase or Subway Segment after June 2011;
 2. Apply any savings from the LTSS construction contract or soft costs; and
 3. If additional funding is still needed, direct SFO net operating surplus revenues and Alameda STIP funds or other funds under the control of the Alameda County Transportation Commission to the project, in equal shares to the original funding plan adopted in September 2008 (44% and 56%, respectively).
- Should unexpected changes to the LTSS funding plan or costs occur beyond the \$10 million described above, the funding partners would need to agree on new principles for delivering the LTSS phase.