

**Metropolitan Transportation Commission  
Programming and Allocations Committee**

November 14, 2012

Item Number 4a

**Resolution No. 3738, Revised**

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**Subject:** Status update on the BART Car Replacement Project and amendment to the BART Car Replacement Agreement. MTC Resolution No. 3738, Revised.

**Background:** MTC Resolution No. 3738, Revised, memorializes MTC's agreement with BART to exchange federal and local funds, and create a reserve account for the future costs of replacing BART's 669 railcars. Under the agreement, MTC programs federal funds to BART preventive maintenance, which otherwise would have been funded with BART's local funds, and BART deposits an equal amount of local funds into the account. Withdrawals from the account to help cover project expenses require prior approval by the Commission and the BART Board.

MTC made a policy commitment of \$871 million toward the costs of the replacement cars (including programming for the reserve account) in the Phase 1 Funding Plan (MTC Resolution No. 3918), which was anticipated to cover the costs of the first 200 replacement cars at a total cost of approximately \$1 billion. Subsequently BART contracted with Bombardier to build 410 railcars – 350 replacement cars and 60 expansion cars for the Berryessa extension into Santa Clara County. Costs of the Berryessa extension cars would not be funded with reserve account or other regional funds programmed by MTC. Costs for the 410 cars are projected to total approximately \$1.4 billion. The additional cost to advance more cars into Phase 1 will be covered by BART and VTA.

This action updates the amount of federal programming subject to the exchange agreement to include the roughly \$50 million in total funding programmed by MTC in FY2010-11 and FY2011-12, and authorizes BART to withdraw up to \$15.5 million from the account in the current fiscal year.

Project expenditures are projected to total approximately \$130 million, through December 2012, including a progress payment of about \$90 million due in December. BART has requested to withdraw \$15.5 million from the reserve account to help meet project expenses related to the replacement cars. The BART Board is expected to consider this request at its meeting on November 8, 2012.

BART staff will be at the meeting to provide a brief update on the BART Car Replacement project.

**Issues:** Over the next few months staff will work with BART to address several issues raised by this request to access the reserve account.

1. Phase 1 Funding Agreement. As noted above, BART has contracted for 350 replacement cars instead of the 200 anticipated in the Phase 1 Funding Plan. Staff will work with BART to update the Phase 1 Funding Plan to reflect these new project parameters, and will return to the Commission with a revised agreement in early 2013. Despite the increased number of cars ordered, no change in the amount of MTC's funding commitment is anticipated because the cost per car under the Bombardier contract is less than was anticipated at the time the Funding Plan was developed and BART has committed additional local funds.

2. Project Cash Flow and Programming. At the time the Phase 1 Funding Plan was developed, it was anticipated that the project would not require withdrawals from the reserve account until FY2016-17 based on expected cash flow needs. The Phase 1 Funding Plan had assumed interest earnings would help to meet future expenses. Withdrawing funds from the account at this early stage of the project will reduce interest earnings. Staff will work with BART to update the cash flow projections and plan the timing of MTC's contributions to meet the project's expenditure needs while maximizing interest earnings on the account.

3. BART Deposits Into Exchange Account. Delays in BART's deposits of local funds into the exchange account have also contributed to a reduction in account earnings. Staff will work with BART to add an enforcement mechanism to ensure deposits are made as scheduled in order to maximize earnings.

The outcome of the discussions related to items #2 and #3 above will likely be brought back to the Commission in spring 2013 for consideration, as proposed revisions to the terms of the BART Car Replacement Funding Exchange and Reserve Account agreement.

**Recommendations:** Refer MTC Resolution No. 3738, Revised to the Commission for approval.

**Attachments:** MTC Resolution No. 3738, Revised

Date: May 24, 2006  
W.I.: 1512  
Referred By: PAC  
Revised: 11/15/06-ED  
09/26/07-C  
12/15/10-C  
11/28/12-C

ABSTRACT

Resolution No. 3738, Revised

This resolution approves the principles, process, and schedule for exchanging federal, state, and local funds and the criteria for reserving these funds for BART's A, B, C1, and C2 cars until the cars are eligible for replacement, beginning in 2013, and the funds are needed by BART.

This resolution was revised through administrative action by the Executive Director on November 15, 2006 to include the final version of the agreement between MTC and BART. The revisions specify that the amount of local funds BART agrees to deposit into the Account is equal to 100% of the federal reimbursement less any BART principal previously withheld for retention in the Account, delete a reference to early termination of the agreement, and made a few other terminology changes.

This resolution was revised by the Commission on September 26, 2007 to make a minor correction in Attachment B to the amount programmed in FY 2006-07, and to include in Attachment B a reference to \$45 million in Third Cycle STP funds that were programmed to the BART Car Replacement project by the Commission in MTC Resolution 3723, Revised.

This resolution was revised by the Commission on December 15, 2010 to incorporate references to FTA funds programmed to the BART Car Replacement Project in conjunction with MTC Resolution 3918.

This resolution was revised by the Commission on November 28, 2012 to amend Attachment B to update the amount of federal programming subject to the Funding Exchange Agreement, and to authorize the withdrawal of up to \$15.5 million from the Funding Exchange Account under specified conditions.

Further discussion of the BART car fund exchange and reserve account is contained in the "Executive Director" memorandum and the Programming and Allocations Summary Sheet dated

**ABSTRACT**

MTC Resolution No. 3738, Revised

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May 10, 2006, and the Programming and Allocations Summary Sheets dated September 12, 2007, November 10, 2010 and November 14, 2012.

Date: May 24, 2006  
W.I.: 1512  
Referred By: PAC

RE: BART Car Replacement Funding Exchange and Reserve Account

METROPOLITAN TRANSPORTATION COMMISSION  
RESOLUTION NO. 3738

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 has adopted a 25-year regional transportation plan (RTP), entitled the Transportation 2030 Plan, (MTC Resolution No. 3681, approved February 23, 2005); and

WHEREAS, the Transportation 2030 Plan identifies a funding shortfall of \$1.3 billion over the next twenty-five years for high priority transit capital projects; and

WHEREAS, the Bay Area Rapid Transit District's (BART) fleet replacement program, which is scheduled to begin in 2013, comprises a significant portion of the region's high priority transit capital shortfall; and

WHEREAS, MTC and BART staff have been in discussions over the development of a program to fund the BART A, B, C1, and C2 car replacement program, hereinafter called "Project", set to begin in 2013, by exchanging federal, state, and local funds for BART local funds and establishing a reserve for such funds, and propose that MTC and BART enter into an agreement articulating the principles for accomplishing such fund exchanges and establishing a reserve capital funding account for the Project; and

WHEREAS, MTC as the regional planning agency has facilitated discussions about financing the Project, including exchanging regional funds and reserving funds for this purpose in coordination with members of the Bay Area Partnership and have afforded opportunity for comment; and

WHEREAS, MTC and BART have specified the terms and conditions of the Project in an agreement which is set forth in Attachment A to this Resolution, attached hereto and incorporated herein as though set forth at length; now, therefore be it

RESOLVED, that MTC approves Attachment A; and, be it further

RESOLVED, that Attachment B, Programmed Amounts, attached hereto and incorporated herein as though set forth at length, sets forth the agreed-upon funding amounts for the fund exchange, which may be amended from time to time by amendment to this Resolution; and, be it further

RESOLVED, that the Executive Director is authorized to execute Attachment A on behalf of MTC, and to make non-substantive changes or minor amendments as deemed appropriate subject to review by MTC's Office of General Counsel for form; and, be it further

RESOLVED, that upon execution of Attachment A by the signatory agencies, MTC staff shall commence implementing the fund exchange and establishing the BART Car Replacement Restricted Account.

METROPOLITAN TRANSPORTATION COMMISSION

A handwritten signature in black ink, appearing to read 'Jon Rubin', is written over a horizontal line. The signature is stylized and somewhat cursive.

Jon Rubin, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California on May 24, 2006.

Date: May 24, 2006  
W.I.: 1512  
Referred By: PAC  
Revised: 11/15/06-ED  
09/26/07-C  
12/15/10-C  
11/28/12-C

Attachment B  
Resolution No. 3738, Revised  
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ATTACHMENT B  
TABLE 1. PROGRAMMED FEDERAL FUNDING AMOUNTS SUBJECT TO  
BART CAR REPLACEMENT FUNDING EXCHANGE AGREEMENT

Ready-to-go Project Title	Transportation Improvement Program	Fund Source	Amount	Fiscal Year Programming
Preventive Maintenance	REG050020	Surface Transportation Program	\$22,680,000	FY 2005-06
Preventive Maintenance	REG050020	Surface Transportation Program	\$22,681,000	FY 2006-07
Preventive Maintenance	REG050020	Surface Transportation Program	\$22,682,000	FY 2007-08
Preventive Maintenance	REG050020	Surface Transportation Program	\$22,683,000	FY 2008-09
Preventive Maintenance	REG050020	FTA Section 5307	\$25,940,067	FY 2010-11
Preventive Maintenance	REG050020	FTA Sections 5307 & 5309 FG	\$23,979,594	FY 2011-12

ATTACHMENT B  
TABLE 2. AUTHORIZED WITHDRAWALS FROM BART CAR  
REPLACEMENT FUNDING EXCHANGE ACCOUNT

Withdrawal No.	Fiscal Year	MTC Approval Date	Authorized Amount	Conditions
01	2012-13	November 28, 2012	\$15,500,000	Funds to be withdrawn from the ACCOUNT are to be expended for PROJECT costs only.