Metropolitan Transportation Commission
Programming and Allocations Committee

November 12, 2014 **MTC Resolution Nos. 3833, Revised, and 4137, Revised**

Subject: Programming of $7.8 million in Regional Measure 1 (RM1) funds and allocation of $5.1 million of those funds to BART for the eBART project.

Background: The eBART Project is a 10 mile rail extension connecting Pittsburg and Antioch to the BART system via the Pittsburg/Bay Point station. The total cost of the eBART Project is $525 million, including project reserves/contingency and the Pittsburg Civic Center Station. The project is funded through a combination of bridge tolls, Contra Costa Measure J sales tax, State funds, and developer fees.

Construction on the project is progressing. The transfer platform/guideway and maintenance facility/parking lot contracts are nearing substantial completion. The rail procurement contract is ongoing. Additionally, the contracts for eBART vehicles and for Trackwork, System, and Facility Finishes were awarded earlier this year, and notices to proceed have been issued.

Pittsburg Civic Center Station: This station was included in the project's original scope, but was included only as an option on the Track, System, and Facilities contract due to funding concerns. Since that time, BART received a favorable bid on the station construction. Furthermore, funding commitments are being recommended by Contra Costa Transportation Authority (CCTA) staff, and were made earlier this fall by BART and the City of Pittsburg and nearby property owners, to provide funding for the station construction. In today's action, MTC staff is proposing to allocate funds to complete the funding picture for the station.

Other Funding Issues: Due primarily to higher than expected bids for construction and equipment costs, BART is also requesting that MTC and CCTA contribute to replenishing the project's reserve fund in order to maintain an appropriate level of project contingency. All three agencies are proposing to add reserve funds that would be programmed now, but would only be allocated if needed at a later time. Additionally, in 2007 as part of the program for the Proposition 1B transit funds, MTC made a $3 million commitment to the project from state Spillover funds. Shortly thereafter, the Spillover program was eliminated at the state level, after only approximately $328,000 was made available in Spillover funding for the project. Staff therefore recommends programming approximately $2.7 million in RM1 funds to make up the balance of the $3 million commitment, which is needed for project construction.

Summary of Funding Recommendation: Staff recommends programming $7.8 million in RM1 bridge toll funds and allocating $5.1 million in RM1 bridge toll funds as follows:

- $2.4 million (programming and allocation): MTC contribution for construction of the new Pittsburg Civic Center station.

- $2.7 million (programming only): MTC commitment to project reserve, to be allocated at a later time if needed.
- $2.7 million (programming and allocation): backfill for the $3 million Proposition 1B Spillover funds commitment to the eBART project made in MTC Resolution No. 3814; to be used for construction management and design services during construction.

The funding is derived from the RM1 90% Rail Reserve - East account, bringing the total RM1 commitment for the eBART project to $63.8 million as shown in the attached Resolution 4137, Revised.

Issues: This allocation is conditioned upon the approval of local support resolutions by the Boards of BART and the Contra Costa Transportation Authority (CCTA), expected to occur in November.

Recommendation: Refer MTC Resolution Nos. 3833, Revised and 4137, Revised to the Commission for approval.

Attachments: MTC Resolution Nos. 3833, Revised and 4137, Revised.

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Date:	November 28, 2007	
W.I.:	1514	
Referred by:	PAC	
Revised:	02/25/09-C	07/22/09-C
	07/28/10-C	03/23/11-C
	07/27/11-C	12/18/13-C
	11/19/14-C	

ABSTRACT

Resolution No. 3833, Revised

This resolution allocates Regional Measure 1 (RM1) 90% Rail Reserve East bridge toll revenues to eligible projects. Allocations made prior to this resolution are under MTC Resolution Nos. 3670, 3724, and 3786.

This resolution includes the following attachments:

Attachment A – Allocation of Bridge Toll Revenues

This resolution was revised on February 25, 2009 to allocate $20 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 $20 million 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 July 28, 2010 to allocate $113 million towards the Line, Trackwork, Systems & Station (LTSS) construction and related activities for the BART Warm Springs Extension project.

This resolution was revised on March 23, 2011 to allocate $52 million towards the purchase of 8 Diesel Multiple Unit (DMU) vehicles for the eBART project.

This resolution was revised on July 27, 2011 to update the allocation conditions for the BART Warm Springs project to add principles for addressing potential cost increases.

This resolution was revised on December 18, 2013 to allocate $4 million for construction activities on the eBART project.

This resolution was revised on November 19, 2014 to allocate $5,072,274 to BART for construction of the eBART project, including $2,400,000 for the Pittsburg Civic Center station and $2,672,274 for construction management and design services during construction.

Further discussion of this allocation is contained in the MTC Summary Sheets dated November 14, 2007, February 11, 2009, July 8, 2009, July 14, 2010, March 9, 2011, July 13, 2011, December 11, 2013, and November 12, 2014.

Date: November 28, 2007
W.I.: 1514
Referred by: PAC

RE: Allocation of Regional Measure 1 (RM1) 90% Rail Reserve East Bridge Toll Revenues

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 3833

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

WHEREAS, MTC is responsible for the allocation of certain bridge toll revenues, to wit:

(1) Pursuant to Streets and Highways Code §30892, after deduction for MTC's administrative costs, MTC shall allocate toll bridge net revenues to public entities operating public transportation systems and to the California Department of Transportation (Caltrans) to achieve MTC's capital planning objectives in the vicinity of toll bridges as set forth in its adopted Regional Transportation Plan (RTP) ("Net Revenues"); and

(2008) Streets and Highways Code §30914(a)(4), provides that 90 percent of the revenues derived from the toll increase for Class 1 vehicles on the San Francisco-Oakland Bay Bridge, authorized by Sections 30916 and 30917, shall be used exclusively for rail transit capital improvements ("90% Rail Reserve East") consistent with Section 30919(b); and

WHEREAS, eligible claimants have submitted an application to MTC for an allocation of certain bridge toll revenues for the projects and purposes set forth in Attachment A to this resolution, attached hereto and incorporated herein as though set forth at length; and

WHEREAS, claimants have certified that the projects and purposes set forth in Attachment A are in compliance with the requirements of the California Environmental Quality Act (Public Resources Code §21000 et seq.) and the State EIR Guidelines (14 Cal. Code Regs. §15000 et seq.).; now, therefore, be it

RESOLVED, that MTC finds that claimants' projects and purposes are in conformance with MTC's Regional Transportation Plan, MTC's bridge toll revenue allocation policies, and MTC's capital planning and ferry system objectives; and, be it further

RESOLVED, that MTC approves the allocation of Regional Measure 1 (RM1) 90% Rail Reserve East Bridge Toll Revenues to claimants, in the amounts, for the purposes, and subject to the conditions listed on Attachment A to this resolution; and be it further

RESOLVED, that should the allocation of RM1 Rail Extension Reserve Bridge Toll Revenues be conditioned on the execution of a funding agreement, that the Executive Director or his designee is authorized to negotiate and enter into a funding agreement with claimant that includes the provisions contained in Attachment A.

METROPOLITAN TRANSPORTATION COMMISSION

Bill Dodd, Chair

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

Date: November 28, 2007
W.I.: 1514
Referred by: PAC
Revised: 02/25/09-C 07/22/09-C
07/28/10-C 03/23/11-C
07/2711-C 12/18/13-C
11/19/14-C

ALLOCATION OF REGIONAL MEASURE 1 (RM1) 90% RAIL RESERVE EAST REVENUES BEGINNING IN FY 2007-08
(For allocations prior to FY 2007-08, please refer to MTC Resolution Nos. 3670, 3724, and 3786.)

Allocation Authorization: S&H § 30919(b)

Alloc. #	Fund Reserve	Fiscal Year	Claimant	Project Description	Allocation Amount	Date of MTC Approval	Allocation Conditions
01	Regional Measure 1 (RM1) 90% Rail Reserve East	2007-08	BART	Oakland Airport Connector	$31,000,000	11/28/2007	1. Allocation and disbursement is contingent upon the execution of a funding agreement between MTC and BART for the 90% Rail Reserve East and Regional Measure 2 (RM2) funds. Such funding agreement shall include the following provisions: BART shall agree: (1) to complete the project described in its updated Initial Project Report, through its contractor; (2) that it shall not request any reimbursements until it executes a concession agreement with its contractor; and (3) to comply with all provisions of MTC Resolution No. 3636, Revised and that any RM1 funds received under the funding agreement be subject to MTC Resolution No. 3636, Revised. MTC shall agree: to provide BART an amount not to exceed $99,000,000 comprised of $68,000,000 in RM2 funds and $31,000,000 in RM1 90% Rail Reserve East Funds.

Alloc. #	Fund Reserve	Fiscal Year	Claimant	Project Description	Allocation Amount	Date of MTC Approval	Allocation Conditions
02	Regional Measure 1 (RM1) 90% Rail Reserve East	2008-09	BART	BART Extension to Warm Springs	$20,000,000	02/25/2009	2. Allocation and disbursement is contingent upon the execution of a funding agreement between MTC and BART for the 90% Rail Reserve East and Regional Measure 2 (RM2) funds. Such funding agreement shall include the following provisions: BART shall agree: (1) to complete the project described in its updated Initial Project Report, through its contractor; (2) to comply with all provisions of MTC Resolution No. 3636, Revised and that any RM1 funds received under the funding agreement be subject to MTC Resolution No. 3636, Revised. MTC shall agree: to provide BART an amount not to exceed $187,000,000 comprised of $167,000,000 in RM2 funds and $20,000,000 in RM1 90% Rail Reserve East Funds.
03	Regional Measure 1 (RM1) 90% Rail Reserve East	2008-09	BART	BART Extension to Warm Springs	($20,000,000)	07/22/2009	N/A
04	Regional Measure 1 (RM1) 90% Rail Reserve East	2010-11	BART	BART Extension to Warm Springs	$113,000,000	07/28/2010 Conditions Revised 07/27/11	Scope of Work: This allocation is towards the following costs associated for the Line, Trackwork, Station and Systems (LTSS) contract on the Warm Springs Extension project: a) Award of the LTSS contract, b) Construction Management, c) Design support during construction, d) BART staff support, e) Coordination with other jurisdictional agencies and development of agreements, f) Owner Controlled Insurance Program (OCIP), and g) Community Relations. The allocation of funds is conditioned on the following: (cont. on next page)

Alloc. #	Fund Reserve	Fiscal Year	Claimant	Project Description	Allocation Amount	Date of MTC Approval	Allocation Conditions
							a) Approval of the Initial Project Report (IPR) package by the BART board. b) Execution of a funding agreement between MTC and BART prior to the Notice-to-Proceed (NTP) of the LTSS construction contract for the RM1, RM2, and AB 1171 Bridge Toll funds. Such agreement shall include: BART shall agree to comply with the provisions of MTC Resolution No. 3636, Revised and that any Bridge Toll funds received be subject to MTC Resolution No. 3636, Revised. The agreement shall include the following: • 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: (cont. on next page)

Alloc. #	Fund Reserve	Fiscal Year	Claimant	Project Description	Allocation Amount	Date of MTC Approval	Allocation Conditions
							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. c) All the funding partners maintaining their funding commitment for the estimated $890 million project as outlined in the 2008 revision to MTC Resolution No. 3434, unless agreed otherwise as part of condition d) below. d) Funding partners reaching an agreement prior to BART's NTP of the LTSS contract that outlines the distribution of potential total project cost savings or overruns, given disproportionate contributions by partners to date.

Alloc. #	Fund Reserve	Fiscal Year	Claimant	Project Description	Allocation Amount	Date of MTC Approval	Allocation Conditions
05	Regional Measure 1 (RM1) 90% Rail Reserve East	2010-11	BART	e-BART	$52,000,000	03/23/2011	Scope of Work: This allocation is towards the purchase of 8 Diesel Multiple Unit (DMU) vehicles for the e-BART project. Allocation and disbursement is contingent upon the following: a) The BART Board adopting a resolution of local support for application and use of these funds. b) The execution of a funding agreement between MTC and BART for the RM1 funds. Such agreement shall include the following conditions: BART shall agree: (1) to complete the project described in its updated Initial Project Report, through its contractor; (2) to comply with all provisions of MTC Resolution No. 3636, Revised and that any RM1 funds received under the funding agreement be subject to MTC Resolution No. 3636, Revised. MTC shall agree: to provide BART $52,000,000 in RM1 90% Rail Reserve East Funds.

Alloc. #	Fund Reserve	Fiscal Year	Claimant	Project Description	Allocation Amount	Date of MTC Approval	Allocation Conditions
06	Regional Measure 1 (RM1) 90% Rail Reserve East	2013-14	BART	e-BART	$4,000,000	12/18/2013	Scope of Work: This allocation is for the construction of eBART Trackwork, System, and Facility Finishes, and Construction Management and Design Services During Construction. Allocation and disbursement is contingent upon the execution of a funding agreement between MTC and BART for the RM1 funds. Such agreement shall include the following conditions: BART shall agree: (1) to complete the project described in its updated Initial Project Report, through its contractor; (2) to comply with all provisions of MTC Resolution No. 3636, Revised and that any RM1 funds received under the funding agreement be subject to MTC Resolution No. 3636, Revised. MTC shall agree: to provide BART $4,000,000 in RM1 90% Rail Reserve East Funds.

Alloc. #	Fund Reserve	Fiscal Year	Claimant	Project Description	Allocation Amount	Date of MTC Approval	Allocation Conditions
07	Regional Measure 1 (RM1) 90% Rail Reserve East	2014-15	BART	e-BART	$5,072,274	11/19/2014	Scope of Work: This allocation is for the construction of the Pittsburg Civic Center eBART station ($2,400,000) and construction management/design services during construction ($2,672,274) *Conditions:* Allocation and disbursement is contingent upon the following: a) Approval of local support resolution by CCTA and BART Boards. b) Execution of a funding agreement between MTC and BART for the RM1 funds. Such agreement shall include the following provisions: BART shall agree: (1) to complete the project described in its updated Initial Project Report, through its contractor; (2) to comply with all provisions of MTC Resolution No. 3636, Revised and that any RM1 funds received under the funding agreement be subject to MTC Resolution No. 3636, Revised. MTC shall agree: to provide BART $5,072,274 in RM1 90% Rail Reserve East Funds.
TOTAL					$205,072,274		

Date: March 26, 2014
W.I.: 1511
Referred by: PAC
Revised: 11/19/14-C

ABSTRACT

Resolution No. 4137, Revised

This resolution establishes the program of projects for Regional Measure 1 90% Rail Reserve funds and for Two Percent Capital Program funds.

The following attachment is provided with this resolution:

Attachment A. Program of Projects

This resolution was revised on November 19, 2014 to program an additional $7,772,274 in Regional Measure 1 90% Rail Reserve East funds to the eBART project.

Further discussion of this action is contained in the MTC Programming and Allocations Committee summary sheets dated March 5, 2014 and November 12, 2014.

Date: March 26, 2014
W.I.: 1511
Referred by: PAC

RE: Programming of Regional Measure 1 90% Rail Reserve funds and Two Percent Capital Program funds

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4137

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 responsible for the allocation of certain bridge toll revenues, to wit:

(1) Pursuant to Streets and Highways Code §30892, after deduction for MTC's administrative costs, MTC shall allocate toll bridge net revenues to public entities operating public transportation systems and to the California Department of Transportation (Caltrans) to achieve MTC's capital planning objectives in the vicinity of toll bridges as set forth in its adopted Regional Transportation Plan (RTP) ("Net Revenues"); and

(2) Streets and Highways Code §30914(a)(4), provides that 90 percent of the revenues derived from the toll increase for Class 1 vehicles on the San Francisco-Oakland Bay Bridge, authorized by Sections 30916 and 30917, shall be used exclusively for rail transit capital improvements ("90% Rail Reserve") consistent with Section 30919(b); and

WHEREAS, pursuant to Streets and Highways Code Section 30913 (b), MTC has allocated two-thirds of the 2 percent of the 1988 Regional Measure 1 toll increase ("Two Percent Bridge Toll Revenues") to projects which are designed to reduce vehicular traffic congestion on these bridges; and,

WHEREAS, MTC adopted Resolution 3434, Revised, which established the Regional Transit Expansion Plan designating projects as regional priorities; and

WHEREAS, MTC adopted Resolution 3948 and BATA adopted Resolution 93 and executed a Funding Agreement relieving BATA of responsibility for making AB 664 Net Bridge Toll Revenues Reserve Transfers, Two Percent Transit Reserves Transfers, and 90% Rail Reserves Transfers for 50 years; and

WHEREAS, MTC adopted Resolution 4015 adopting programming and allocation policies for AB664 Net Bridge Toll Revenues, RM1 90% Rail Reserve, Two Percent Bridge Toll Revenues, and Five Percent State General Fund Revenues transit funding programs; now therefore be it

RESOLVED, that MTC approves the programs of projects for the 90% Rail Reserve funds and the Two Percent Capital funds in the amounts, for the purposes, and subject to the conditions listed on Attachment A to this resolution, attached hereto and incorporated herein as though set forth at length.

METROPOLITAN TRANSPORTATION COMMISSION

Amy Rein Worth

Amy Rein Worth, Chair

The above resolution was entered into by the
Metropolitan Transportation Commission
at a regular meeting of the Commission held
in Oakland, California, on March 26, 2014.

Date: March 26, 2014
W.I.: 1511
Referred by: PAC
Revised: 11/19/14-C

Attachment A
Resolution No. 4137

PROGRAM OF PROJECTS

Regional Measure 1 90% Rail Reserve Funds
Project Commitments

Project	**Rail Reserve East**	**Rail Reserve West**	**Total**
Transbay Terminal		$ 53,000,000	$ 53,000,000
BART Oakland Airport Connector	$ 31,000,000		$ 31,000,000
BART Warm Springs Extension	$ 113,000,000		$ 113,000,000
eBART	$ 63,772,274		$ 63,772,274
Tri Valley Access Improvements to BART	$ 16,000,000		$ 16,000,000
Caltrain Electrification		$ 11,000,000	$ 11,000,000
Total	*$ 223,772,274*	*$ 64,000,000*	*287,772,274*

Two Percent Capital Funds
Project Commitments

Project	**Amount**
SMART - IOS and SLPP backfill	$ 7,677,000
SMART - Airport segment	$ 7,300,000
Total	$ 14,977,000