

Date: June 28, 2006
W.I.: 1512
Referred By: PAC
Revised: 02/28/07

ABSTRACT

Resolution No. 3767, Revised

This resolution approves the loan extension and repayment agreement between the San Francisco Bay Area Rapid Transit District and the Metropolitan Transportation Commission for the \$60 million bridge toll funded loan for the BART-SFO extension project.

Further discussion of the agreement is contained in the "Executive Director" memorandum and the Programming and Allocations Summary Sheet dated June 14, 2006.

This resolution was amended with the adoption of MTC Resolution No. 3795 on February 28, 2007, to delete Section III.2 of Attachment A. Except as modified, all other provisions of Attachment A remain in full effect. See Resolution No. 3795.

Date: June 28, 2006
W.I.: 1512
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RE: Loan Extension and Repayment Agreement Between San Francisco Bay Area Rapid Transit District and the Metropolitan Transportation Commission

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 3767

WHEREAS, the San Francisco Bay Area Rapid Transit District (hereinafter BART), the Metropolitan Transportation Commission (hereinafter MTC), and the San Mateo County Transit District (hereinafter SamTrans), entered into a Memorandum of Understanding, dated March 1999, (hereinafter the "MOU"), to provide additional funds to assist in delivering the BART San Francisco International Airport Extension Project (hereinafter "project"); and

WHEREAS, pursuant to that portion of the MOU that is the Agreement between BART and MTC, a \$60 million bridge toll funded loan for project cash flow requirements was made by MTC to BART, with BART agreeing to repay MTC contemporaneously upon BART's receipt of the final \$60 million dollars from the Federal Transit Administration under the project's federal Full Funding Grant Agreement (hereinafter FFGA).; and

WHEREAS, BART has acknowledged that the \$60 million loan made by MTC to BART pursuant to the MOU will be due when BART receives the federal funds approved pursuant to MTC Resolution 2451, as revised on May 24, 2006, but has advised MTC that it will be unable to make timely repayment to MTC; and

WHEREAS, BART has requested that the schedule for retirement of the \$60 million MTC loan to BART made pursuant to the MOU (hereinafter "the \$60 million loan") be revised; and

WHEREAS, BART and MTC have agreed to a loan extension and repayment agreement as 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 the loan and repayment agreement as set forth in Attachment A; and, be it further

RESOLVED, that the Executive Director is authorized to execute Attachment A on behalf of MTC.

METROPOLITAN TRANSPORTATION COMMISSION

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 June 28, 2006.

**LOAN EXTENSION AND REPAYMENT AGREEMENT
BETWEEN THE SAN FRANCISCO BAY AREA RAPID TRANSIT
DISTRICT AND THE METROPOLITAN TRANSPORTATION COMMISSION**

RECITALS

1. The San Francisco Bay Area Rapid Transit District (hereinafter BART), the Metropolitan Transportation Commission (hereinafter MTC), and the San Mateo County Transit District (hereinafter SamTrans), entered into a Memorandum of Understanding, dated March 1999, (hereinafter the "MOU"), to provide additional funds to assist in delivering the BART San Francisco International Airport Extension Project (hereinafter "project").
2. The MOU consists of an Agreement of All Parties, an Agreement of BART and SamTrans, and an Agreement between BART and MTC.
3. Pursuant to that portion of the MOU that is the Agreement between BART and MTC, a \$60 million loan for project cash flow requirements was made by MTC to BART, with BART agreeing to repay MTC contemporaneously upon BART's receipt of the final \$60 million dollars from the Federal Transit Administration under the project's federal Full Funding Grant Agreement (hereinafter FFGA). Funding for the MTC loan to BART consisted of bridge toll funds from the East Bay Rail Extension Reserve Account.
4. On May 24, 2006, MTC revised MTC Resolution No. 2451, to approve BART's Fiscal Year 2005-2006 request for \$80,230,986 in Federal New Starts funding, which includes substantially the final \$60 million dollars under the project's FFGA.
5. BART has acknowledged that the \$60 million loan made by MTC to BART pursuant to the MOU will be due when BART receives the federal funds approved pursuant to MTC Resolution 2451, as revised on May 24, 2006, but has advised MTC that it will be unable to make timely repayment to MTC.
6. BART has requested that the schedule for retirement of the \$60 million MTC loan to BART made pursuant to the MOU (hereinafter "the \$60 million loan") be revised.
7. BART and MTC have worked cooperatively to complete the project, and wish to continue to maintain a cooperative working relationship. Both BART and MTC recognize that the repayment of the \$60 million loan is essential because the proceeds from the repayment will be returned to the East Bay Rail Extension Reserve Account to fulfill MTC's commitment, consistent with California Streets and Highway Code Section 30919(b), and MTC Resolution No. 3434, Revised, to allocate bridge toll revenues to assist in funding the BART to Warm Springs Extension project, the BART to Oakland Airport Extension project, the e-BART project, and for Tri-Valley Transit Access Improvements to and from BART.

(2)

BART and MTC herein agree to the following:

SECTION I

BART AGREES:

1. To repay the \$60 million loan by making an initial payment of \$3 million on June 30, 2006, and thereafter according to the schedule of payments as fully set forth in Attachment A to this Agreement, attached hereto, and incorporated herein as though set forth at length (hereinafter Attachment A).
2. To pay, beginning on June 30, 2007, interest on the outstanding remaining principal balance of \$57 million, and thereafter annually each June 30 on the outstanding principal balance, at the rate of three percent per annum simple interest on the prior year balance, in accordance to the schedule of payments as fully set forth in Attachment A.
3. That if it makes principal payments in advance of the schedule set forth in Attachment A prior to June 30, 2007, no interest shall accrue on such payment.
4. That it shall make an advance principal payment pursuant to paragraph 3 if there are revenue-based State Transit Assistance (hereinafter STA) funds available to BART above the specific amounts identified in MTC Resolution No. 3727 and the Governor's FY 2006-2007 May Budget Revision. In that event, MTC shall allocate the first \$10 million of such STA funds to make an advance principal payment pursuant to paragraph 3 of this Section.
5. That if it makes principal payments in advance of the schedule set forth in Attachment A on or after June 30, 2007, interest will be computed to the payment date.
6. That except as to advanced principal payment or payments made pursuant to paragraph 4 of this Section, of up to \$10 million, it has the option to apply any advance payment as prepayment of the next due payment or payments of principal consistent with the schedule set forth in Attachment A. Interest would continue to accrue and be due consistent with the provisions of this Section I.

(3)

SECTION II

MTC AGREES:

1. That in the event a natural disaster or catastrophic event results in the extended cessation of BART revenue service, upon BART's request, MTC will extend the loan repayment schedule of the then remaining outstanding balance subject to terms and conditions to be mutually agreed to by both parties, in a manner that will recognize the time needed by BART to resume the affected revenue service, so long as the further extension of the loan repayment accounts for the full payment of the outstanding balance in time as not to affect the delivery of any project dependent on the receipt of East Bay Rail Extension Reserve Account funds.
2. That the interest payment rate of three percent per annum on the outstanding balance due beginning June 30, 2007, and annually thereafter, as set forth in paragraph 2 of Section I of this Agreement, is intended to mitigate the effects of inflation on the outstanding principal balance, and shall remain fixed for the term of this Agreement.
3. That it will waive interest upon receipt of any advance principal payment made by BART pursuant to paragraph 3 or 4 of Section I of this Agreement and will re-compute interest due, upon receipt of any advance principal payments made by BART pursuant to paragraphs 3, 4 or 5 of Section I of this Agreement, or as necessary for a payment made by BART pursuant to paragraph 6 of Section I of this Agreement, and adjust Attachment A accordingly by administrative MTC staff action.

SECTION III

BART & MTC MUTUALLY AGREE:

1. That except as provided for in paragraph 1 of Section II of this Agreement, if BART fails to make any payments on schedule as required pursuant to Attachment A, or if BART fails to make any required interest payment when due as required pursuant to paragraph 2 of Section I of this Agreement, MTC shall allocate and direct either (1) bridge toll funds available for allocation to BART pursuant to Streets and Highway Code Section 30912 (b) (referred to as AB 664 funds), or (2) STA revenue based funds available for allocation to BART pursuant to Public Utilities Code Section 99314, or both, if BART qualifies for such funds, in amounts as necessary, to make the specific scheduled principal payments and interest payments owed by BART.
2. That the Agreement between BART and MTC in the MOU is hereby amended consistent with this Agreement. No other portion of the MOU is revised.

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Attachment A
Resolution No. 3767
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(4)

This Agreement shall be effective June 28, 2006.

San Francisco Bay Area Rapid Transit District Metropolitan Transportation Commission

Thomas E. Margro
General Manager

Steve Heminger
Executive Director

**ATTACHMENT A – PRINCIPAL AND INTEREST PAYMENTS
AT 3.0% PER ANNUM ON \$60 MILLION MTC LOAN**

Principal			Interest at 3.0% per Annum		
6/30/2006	FY 06	\$3,000,000	6/30/2006	FY 06	\$0
6/30/2007	FY 07	\$0	6/30/2007	FY 07	(\$57 M) \$1,710,000
6/30/2008	FY 08	\$5,000,000	6/30/2008	FY 08	(\$57 M) \$1,710,000
6/30/2009	FY 09	\$5,000,000	6/30/2009	FY 09	(\$52 M) \$1,560,000
6/30/2010	FY 10	\$8,000,000	6/30/2010	FY 10	(\$47 M) \$1,410,000
6/30/2011	FY 11	\$8,000,000	6/30/2011	FY 11	(\$39 M) \$1,170,000
6/30/2012	FY 12	\$8,000,000	6/30/2012	FY 12	(\$31 M) \$930,000
6/30/2013	FY 13	\$8,000,000	6/30/2013	FY 13	(\$23 M) \$690,000
6/30/2014	FY 14	\$8,000,000	6/30/2014	FY 14	(\$15 M) \$450,000
<u>6/30/2015</u>	FY 15	\$7,000,000	6/30/2015	FY 15	(\$7 M) \$210,000
	Total	\$60,000,000		Total	\$9,840,000