



**METROPOLITAN
TRANSPORTATION
COMMISSION**

Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700
TEL 510.817.5700
TDD/TTY 510.817.5769
FAX 510.817.5848
E-MAIL info@mtc.ca.gov
WEB www.mtc.ca.gov

Memorandum

TO: Partnership Technical Advisory Committee

DATE: May 21, 2007

FR: Melanie Choy

W. I.

RE: Regional Measure 2 Program: Project Amendments

Regional Measure 2 Statute Provisions

Regional Measure 2 (RM2), as passed by the voters in 2004, allows the redirection of RM 2 funds to another project if a project is canceled or allows project modifications if a project can't continue as statutorily scoped. Last year, an amendment (AB 1407, enacted September 29, 2006) to the RM2 Statute expanded this provision to include funding reassignment under special circumstances. Specifically, if a project can be implemented with new funding from non-toll funds, the Commission has the authority to hold a public hearing to reassign the RM 2 funds to another project. Pursuant to Section 30914(f) of the California Streets and Highways Code, MTC must consult with the sponsors and hold a public hearing prior to taking action.

While this provision provides more flexibility in implementing projects, staff intends to use caution and scrutiny when exercising this authority and holding public hearings. Generally, staff will only consider amending the Regional Measure 2 Program under special circumstances and for projects facing major obstacles.

Proposed Project Amendments

This month, staff plans to issue a public notice regarding the first proposed reassignment of RM2 funding for two projects. The proposal will be released for public review and comment period beginning on May 11, 2007 and ending on June 13, 2007. A public hearing on the documents will be held at the Programming and Allocations Committee meeting on June 13, 2007. The final proposal will be presented for approval at the June 27, 2007 Commission meeting. The two projects proposed for reassignment of RM2 funds are 1) BART Tube Seismic to BART Oakland Airport Connector, and 2) BART Tube Seismic Retrofit project to Transit Capital Match. Attachment 1 summarizes the funding changes.

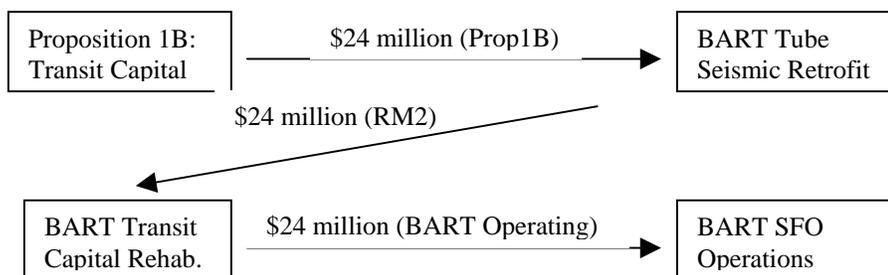
1. BART Tube Seismic Retrofit– BART Oakland Airport Connector

The Oakland Airport Connector (OAC) project has been environmentally cleared and is beginning to enter the final design-build process as a public -private partnership. The project is funded through a variety of local, RM 2, and state STIP funds. However, the STIP funds cannot be used on public-private partnership projects, thereby causing a revenue stream and

funding gap for the project. To mend the situation, swaps within BART’s RM2 projects are being proposed. BART, ACCMA and MTC staff are proposing to shift \$38 million in RM 2 funds from the BART Tube Seismic Retrofit project to the OAC project. In exchange, \$38 million in STIP funds on the OAC project would be reprogrammed to the BART Tube Seismic Retrofit project. The OAC project is currently funded at \$30 million in RM 2 funds and this exchange would increase its RM2 funds to \$68 million. This proposed swap allows BART to proceed with a public-private partnership project and to keep the STIP funds on a BART project. This does not impact the monitoring effort of RM2 projects. Once the FY 2007-08 budget is finalized, we will have a better indication of the availability of PTA funds in FY 2007-08 of the STIP.

2. BART Tube Seismic/ SFO Reserve account – BART Transit Capital Match

In February, the Commission approved a three party agreement between BART, SamTrans and MTC that resolves cost sharing conflicts on the operation of the BART-SFO service. As part of this agreement, MTC agreed to set aside \$24 million in regional capacity from Proposition 1B funds towards the operation of the BART SFO service. However, Proposition 1B funds can only be used for capital expenditures. To make transit-operating funds available for use, a funding exchange between three BART projects is being proposed, keeping the total funding amount for all of these projects the same. Specifically, \$24 million in RM2 funds from the BART Tube Seismic Retrofit project are proposed for programming as local match to BART’s fixed guideway rehabilitation and replacement project (federally funded). This frees up \$24 million in operating funds, which were to be used by BART as match to the federal funds, to be used for operating the BART SFO service. To backfill the RM2 funds on the BART Tube Seismic Retrofit project created by this swap, MTC will program Proposition 1B funds as soon as these funds are available. If the Proposition 1B funds cannot be programmed in this manner, the agreement has an opt-out clause that may be exercised that annuls the agreement. In turn, per the three-party agreement, over time BART will place \$24 million in a reserve account for the BART Warm Springs Extension project.



Summary of Proposed Changes

A total of \$62 million is proposed for reassignment from the BART Tube Seismic project. These RM2 funds will then be redirected to a new proposed RM2 project, Transit Capital Match (\$24 million), and an existing RM2 project, BART Oakland Airport Connector (\$38 million). The total RM2 funding contribution for the BART Tube Seismic retrofit project will be reduced from \$150 million to \$88 million and the Oakland Airport Connector will be increased from its current \$30 million to \$68 million upon approval of the proposed changes.

Next Steps: Public Hearing Process and Schedule

In accordance with the three-party BART-SFO agreement, action to execute the Proposition 1B-RM2 swap must be taken prior to the end of FY 06-07. At the May PAC meeting, staff is requesting authorization to hold a public hearing in June. Also in May, staff plans to present the proposed RM2 project changes to the Partnership Committees for input. At the June Programming and Allocations Committee (PAC), a public hearing will be held on the proposed RM2 project changes and, if recommended, will be forwarded to the Commission for approval. The proposed schedule is shown below.

Presentation to Transit Finance Working Group	May 2, 2007
Request authorization from the Programming and Allocations Committee to hold a public hearing	May 9, 2007
Public Notices Released and Public Comment Period Begins	May 11, 2007
Presentation to Project Delivery Working Group and Partnership Technical Advisory Committee	May 21, 2007
Public Hearing at Programming and Allocations Committee Meeting	June 13, 2007
Close of 30-day Comment Period	10 a.m., June 13, 2007
Commission Approval of Regional Measure 2 Program Amendments	June 27, 2007

Attachment 1

Proposed Funding Swaps for Regional Measure 2 Program

May 2, 2007

Project Title	Original Funding (in millions)						Proposed Funding (in millions)					
	BART Operating	RM 2	I-Bond Transit	STP/ CMAQ	PTA (STIP)	Total	BART Operating	RM 2	I-Bond Transit	STP/ CMAQ	PTA (STIP)	Total
Swap # 1 Oakland Airport Connector (OAC)					38	38		38				38
BART Tube Seismic		38				38		0			38	38
Swap # 2 BART Tube Seismic		24				24			24			24
Transit Capital Match	24					24		24				24
SFO Operations / Warm Springs			24			24	24					24

Swap # 1 Notes

The OAC public-private partnership funding is not eligible for STIP funds. A clause will be added that the swap is assuming continuation of the OAC project as a public- private partnership. \$38 million in STIP funds are being programmed to the BART seismic project.

Swap # 2 Notes

This is part of the SFO/BART-SamTrans agreement. In this arrangement, \$15 million in RM 2 is needed in FY 06-07 and \$9 million in FY 07-08 as match to the FTA 5307/5309 program. The Seismic Tube project will be completed with \$24 million from the regional share of the Transit component of the I-Bond funding.