



Memorandum

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1111 Broadway, Suite 800, Oakland, CA 94607

• PH: (510) 208-7400

• www.AlamedaCTC.org

DATE: May 9, 2014

SUBJECT: AC Transit East Bay Bus Rapid Transit (EBBRT) Project Funding

RECOMMENDATION: Approve the Resolution 14-007 regarding a revised funding plan for the project

Summary

AC Transit is the sponsor of the East Bay Bus Rapid Transit (EBBRT) Project, which will construct and provide an enhanced bus transit service between Oakland and San Leandro. The EBBRT project has long been included in the MTC Regional Transit Expansion Program approved in Resolution 3434. The current estimated project cost of the EBBRT Project is \$178 million. There is currently \$151 million in secured funding from various sources to complete the project.

The Alameda CTC, and its predecessor agencies, has committed over \$48 million of Measure B, federal and state funds for improvements associated with bus rapid transit projects. In 2008, the Alameda County Congestion Management Agency (ACCMA) approved Resolution 08-018, which addressed programming and funding requirements for multiple projects included in the MTC Resolution 3434, including a programming commitment of up to \$40 million of future STIP funds for the EBBRT Project. Even though the ACCMA made commitment of future STIP funds to the project, it does not control the timing nor the amount of STIP funds to be made available to Alameda County in any given STIP cycle. In fact, the determination of when and how much STIP funds are made to the County is the sole responsibility of the California Transportation Commission, subject to the annual State budget process. The Alameda CTC has also allocated over \$25 million of Measure B funding to the various components of bus rapid transit projects.

Over the last four STIP cycles, due to various state budget constraints, only \$12.7 million of the \$40 million in STIP funds have been programmed to the EBBRT Project. The recommended action in this memorandum will provide full funding and allow AC Transit to maintain the delivery schedule of the EBBRT project, scheduled to be advertised for construction in mid-2015.

Background

AC Transit is the sponsor of the East Bay Bus Rapid Transit (EBBRT) Project, which will construct and provide an enhanced bus transit service between Oakland and San Leandro. The EBBRT project has long been included in the MTC Regional Transit Expansion Program approved in Resolution 3434. The EBBRT Project cost estimate of \$178 million (including contingencies) has secured the programming of over \$151 million of funding from multiple sources including Measure B, Federal Transit Administration (FTA), Regional Measure 2 (RM2), State Transportation Improvement Program (STIP), Proposition 1B, Federal Surface Transportation Program (STP), and AC Transit local funds.

The Alameda CTC, and its predecessor agencies, have committed over \$48 million of Measure B, federal and state funds for improvements associated with bus rapid transit projects. In 2008, the Alameda County Congestion Management Agency (ACCMA) approved Resolution 08-018, which addressed programming and funding requirements for multiple projects included in the MTC Resolution 3434, including a programming commitment of up to \$40 million of future STIP funds for the EBBRT Project. Even though the ACCMA made commitment of future STIP funds to the project, it does not control the timing nor the amount of STIP funds to be made available to Alameda County in any given STIP cycle. In fact, the determination of when and how much STIP funds are made to the County is the sole responsibility of the California Transportation Commission, subject to the annual State budget process. The Alameda CTC has also allocated over \$25 million of Measure B funding to the various components of bus rapid transit projects.

Due to the state of the economy and transportation funding, the available STIP funding has been limited and the programming to the EBBRT project to complete the funding plan has not yet been approved. The 2012 STIP included \$3 million and the 2014 STIP an additional \$8 million for the EBBRT project commitment detailed in ACCMA Resolution 08-018. Overall, \$12.7 million of the \$40 million of funds identified in Resolution 08-018 have been programmed. The programming commitment of \$40 million was intended for the construction phase of the EBBRT project. The EBBRT Project construction phase budget (including contingency) is \$98 million. The Alameda CTC has also committed \$11.5 million of Measure B to support the EBBRT project and providing over \$25 million total to bus rapid transit projects date.

AC Transit has identified the need for an additional \$26.65 million, of the \$40 million of funds identified in ACCMA Resolution 08-018, to complete the EBBRT project funding plan so the project can be advertised for the construction phase contract. The next STIP Program will not be finalized until 2016, therefore, working with AC Transit and MTC, the attached Resolution 14-007 details additional fund sources being advanced to complete and fully fund the EBBRT Project and the future programming commitments of the Alameda CTC to account for the projects the new sources would have funded.

Funding proposed to advance the EBBRT Project includes:

	<u>Source</u>
\$12.15 million	RM2 funds (from Line72R/Richmond Parkway Project)
\$ 0.6 million	RM2 funds (from Express Bus South Project)
\$ 6.0 million	Transit Performance Initiative (TPI) funds
<u>\$ 7.9 million</u>	AB664 Net Bridge Toll Revenue (AB664) funds
\$26.65 million	

The RM2 funding is anticipated to be approved by MTC in May. The TPI and AB664 funds are approved by MTC on an annual basis. This funding plan will allow AC Transit to maintain the delivery schedule of the EBBRT project, scheduled to be advertised for construction in mid-2015. Based on the sources used to advance the funding for the EBBRT Project, Resolution 14-007 details the programming required by the Alameda CTC to account for the projects the new sources would have funded. No additional programming commitments are proposed from the Alameda CTC for the EBBRT Project and no repayment is required for the \$0.6 million of RM2 funds that were previously identified for the Express Bus South Project and a portion of the \$6.0 million of TPI funds. Overall, Resolution 14-007 addresses \$24.05 million of remaining programming. This resolution will replace the ACCMA Resolution 08-018.

Alameda County has received about \$30-\$35 million per cycle of the STIP program over the last two cycles. Resolution 14-007 specifies that the Alameda CTC will commit to program 33% of future RTIP funding cycles, up to \$12 million, to fully repay the projects, that provided the additional fund sources to fully fund and advance the EBBRT Project, by the 2018 STIP. In the event an augmentation of the Measure B sales tax is approved in 2014, additional local sales tax funds are identified in the 2014 TEP that would provide funding for the EBBRT project that would offset the need for a portion of the additional STIP funds. In this scenario, the programming of STIP funds could be completed in a shorter time frame. The attached resolution also allows for exchange proposals to deliver the identified projects that require funding. The resolution specifies that the Alameda CTC receive reports on the EBBRT project and specifically for an evaluation of the funding package at the time of the construction contract award.

Fiscal Impact: There is no significant fiscal impact to the Alameda CTC budget expected to result from the recommended action.

Attachments:

- A. Draft Alameda CTC Resolution 14-007
- B. ACCMA Resolution 08-0018

Staff Contact

[Matt Todd](#), Principal Transportation Engineer

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ALAMEDA COUNTY TRANSPORTATION COMMISSION

RESOLUTION 14-007

AC Transit Sponsored East Bay Bus Rapid Transit (EBBRT) Project Funding Plan

Commission Chair

Supervisor Scott Haggerty, District 1

Commission Vice Chair

Councilmember Rebecca Kaplan,
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AC Transit

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Alameda County

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Supervisor Wilma Chan, District 3
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Councilmember Michael Gregory

City of Union City

Mayor Carol Dutra-Vernaci

Executive Director

Arthur L. Dao

WHEREAS, the Alameda CTC agreed to prioritize programming for the AC Transit sponsored East Bay Bus Rapid Transit (EBBRT) Project in Oakland and San Leandro, previously identified through the MTC adopted Resolution 3434 on September 23, 2008, and through the Alameda County Congestion Management Agency (ACCMA) Resolution 08-018; and

WHEREAS, the Alameda CTC has been a project sponsor, partner and funding agency for over \$48 million of Measure B, federal and state funds for rapid transit corridor improvements and over \$25 million of Measure B to the overall funding to bus rapid transit projects; and

WHEREAS, AC Transit has identified an overall EBBRT project cost of \$178 million (including contingencies) and funding from \$75 million of FTA Small Starts, \$3.1 million of FTA 5309, \$44.9 of RM2, \$9.4 of Measure B, \$14.595 million of STIP, \$3.9 million of PTMISEA, \$0.2 million of federal OBAG funds, and \$.3 million of AC Transit District funds; and

WHEREAS, AC Transit has identified an overall EBBRT project construction cost of \$97.9 million (within the overall EBBRT project cost); and

WHEREAS, AC Transit identified a need of up to \$40 million of funds for the construction phase of the EBBRT project from the Alameda CTC, and its predecessor agencies, and requested Regional Transportation Improvement Program (RTIP) funds, as well as other fund sources, to be considered to support the EBBRT project; and

WHEREAS, the Alameda CTC has approved programming of \$12.695 million, of the \$40 million of funds identified in ACCMA Resolution 08-018, to support the EBBRT project; and

WHEREAS, AC Transit has identified the need for an additional \$26.65 million, of the \$40 million of funds identified in ACCMA Resolution 08-018, to complete the EBBRT project funding plan so the project can be advertised for the construction phase contract; and

WHEREAS, a project funding plan has been identified that includes \$12.15 million of Regional Measure 2 (RM2) funds to the EBBRT

project, that were previously identified for the Line 72R Improvements/Richmond Parkway Project; and

WHEREAS, a project funding plan has been identified that includes \$0.6 million of RM2 funds to the EBBRT project, that were previously identified for the Express Bus South Project; and

WHEREAS, a project funding plan has been identified that includes \$6.0 million of Transit Performance Initiative (TPI)- Incentive Program funds, that are identified for enhancing transit productivity and ridership; and

WHEREAS, a project funding plan has been identified that includes \$7.9 million of AB664 Net Bridge Toll Revenue (AB664) funds, that were previously identified for state of good repair programs; and

WHEREAS, AC Transit and the funding partners have agreed to proceed with the EBBRT project using the funding plan detailed above.

NOW, THEREFORE BE IT RESOLVED, the Alameda CTC will prioritize programming RTIP funds, to the Line 72R Improvements project, up to \$12.15 million, to account for RM2 funds programmed to the EBBRT project; and

BE IT FURTHER RESOLVED, the Alameda CTC will prioritize programming RTIP funds to AC Transit projects supporting TPI - transit productivity and ridership projects, up to \$4.0 million, to account for TPI funds programmed to the EBBRT project; and

BE IT FURTHER RESOLVED, the Alameda CTC will prioritize programming RTIP funds to AC Transit projects supporting state of good repair programs, up to \$7.9 million, to account for AB664 funds programmed to the EBBRT project; and

BE IT FURTHER RESOLVED, the Alameda CTC will commit to program 33% of future RTIP funding cycles, up to \$12 million in a cycle, starting with the 2016 STIP for the Line 72R, TPI and state of good repair projects in order to fully repay the project funding, which will be no more than total of \$24.05 million; and

BE IT FURTHER RESOLVED, that in the event the local transportation sales tax administered by the Alameda CTC is augmented, additional funds identified for the EBBRT will offset payments required for the Line 72R, TPI and state of good repair projects, and the funding partners (Alameda CTC, AC Transit and MTC) may reconsider the funding plan detailed in this resolution; and

BE IT FURTHER RESOLVED, the Alameda CTC and/or AC Transit may propose exchanges or substitute projects or fund sources that will advance funding to support the EBBRT project and/or the Line 72R, TPI and state of good repair projects; and

BE IT FURTHER RESOLVED, no repayment is required for the \$0.6 million of RM2 funds previously identified for the Express Bus South Project or \$2.0 million of TPI funds identified for the EBBRT project, and

BE IT FURTHER RESOLVED, that if the construction contract is awarded below the current project cost estimate, the funding required for the Line 72R, TPI and state of good repair projects will be reduced by a like amount; and

BE IT FURTHER RESOLVED, that AC Transit will provide regular reporting, in an approved Alameda CTC format, on the status of the project, including, schedule, cost estimate (including all contingency) and funding plan, and will provide updates at the 65%, 95% and Ready to List (RTL) milestones of the design; and

BE IT FURTHER RESOLVED, that AC Transit will include a reasonable level of contingency in the funding plan that is consistent with construction contract industry standards; and

BE IT FURTHER RESOLVED, any project that is proposed to receive programming from the Alameda CTC will be required to submit information required to establish project eligibility and that the project is able to use the funds as required by the funding agency; and

BE IT FURTHER RESOLVED, that this resolution will replace the programming commitment for the EBBRT project detailed in ACCMA Resolution 08-018 ; and

BE IT FURTHER RESOLVED, that no additional programming commitments are required from the Alameda CTC for the EBBRT project or any other activity related to the project.

Duly passed and adopted by the Alameda County Transportation Commission at the regular meeting of the Board held on Thursday, May 22, 2014 in Oakland, California by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED:

ATTEST:

Scott Haggerty, Chairperson

Vanessa Lee, Clerk of the Commission



**ALAMEDA COUNTY CONGESTION MANAGEMENT AGENCY
RESOLUTION 08-018**

State Transportation Improvement Program (STIP) Commitments

AC Transit
Director
Greg Harper

Alameda County
Supervisors
Nate Miley
Scott Haggerty

City of Alameda
Mayor
Beverly Johnson
Vice Chair

City of Albany
Councilmember
Farid Javandel

BART
Director
Thomas Blalock

City of Berkeley
Councilmember
Kris Worthington

City of Dublin
Mayor
Janet Lockhart

City of Emeryville
Vice-Mayor
Ruth Atkin

City of Fremont
Councilmember
Robert Wiecekowski

City of Hayward
Councilmember
Olden Henson

City of Livermore
Mayor
Marshall Kamena

City of Newark
Councilmember
Luis Freitas

City of Oakland
Councilmember
Larry Reid

City of Piedmont
Councilmember
John Chiang

City of Pleasanton
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Jennifer Hosterman

City of San Leandro
Councilmember
Joyce R. Starosciak

City of Union City
Mayor
Mark Green
Chair

Executive Director
Dennis R. Fay

WHEREAS, SB 45 (Chapter 622, Statutes 1997) substantially revised the process for estimating the amount of state and federal funds available for transportation projects in the state and for appropriating and allocating the available funds to these projects; and

WHEREAS, as part of this process, the Alameda County Congestion Management Agency (ACCMA) is responsible for programming projects eligible for Regional Improvement Program funds, pursuant to Government Code Section 14527 (a), for inclusion in the Regional Transportation Improvement Program (RTIP), and submission to the Metropolitan Transportation Commission (MTC) and then to the California Transportation Commission (CTC), for inclusion in the State Transportation Improvement Program (STIP); and

WHEREAS, the MTC adopted Revised Resolution 3434 on September 23, 2008, that requests that the ACCMA commit funding to certain transit projects that are included in the 25-year Countywide Transportation Plan (CWTP); and

WHEREAS, the ACCMA has included the following three projects in the Draft 2008 CWTP: 1) \$160 million for BART Warm Springs Extension (WSX) Project; 2) \$85 million for the AC Transit Bus Rapid Transit (BRT) Project; 3) \$14.8 million for the Dumbarton Rail Project (three projects collectively referred to as the RESOLUTION 3434 Projects); and

WHEREAS, MTC Revised Resolution 3434 specifies that the transfer of \$91 million of RM2 funds, previously identified for the Dumbarton Rail Project, to the WSX Project is conditioned on the ACCMA adopting a board resolution committing the like amount of RTIP funding to the Dumbarton Rail Project detailed above; and

WHEREAS, to accomplish the MTC request, the Final 2008 CWTP will need to be amended to reflect a reduction to the BART WSX Project from \$160 million to \$69 million of funding, with the balance of the funding assigned to the Dumbarton Rail Corridor Project and increasing the funding from \$14.8 million to \$105.8 million; and

WHEREAS, MTC has committed \$35 million in CMAQ funds to the BRT Project contingent upon the ACCMA adopting a funding commitment plan (and exploring a strategy to advance the funding) for \$40 M of RTIP funds; and

WHEREAS, the Backfill of Lifeline Program Funds Project (\$2 million), Mission/880 Project (Landscaping Component) (\$3.5 million), Broadway/Jackson Interchange Project (\$3 million), and the 880 Corridor Project (\$1.9 million), which are collectively referred to as PREVIOUS STIP COMMITMENT Projects, were proposed in the 2008 STIP but not included in the final 2008 STIP approved by the CTC; and

WHEREAS, Proposition 1B was approved by the voters of California in November of 2006 and included approximately \$20 billion for infrastructure improvements, including multiple transportation programs; and

WHEREAS, projects in Alameda County that have been programmed with Corridor Mobility Improvement Account (CMIA), Trade Corridor Improvement Fund (TCIF) Account, Traffic Light Synchronization Program (TLSP), and Infrastructure Bond Funding Programmed by the CTC through the STIP, are all components of the Proposition 1B Program, with this set of projects collectively referred to as the INFRASTRUCTURE BOND Projects; and

WHEREAS, the ACCMA was awarded/programmed approximately \$500 million of Infrastructure Bond funding for multiple projects on I-80, San Pablo Avenue, I-880, I-580, and I-680; and

WHEREAS, the CTC has indicated that project sponsors are responsible to fund any cost increases on the Infrastructure Bond Program projects.

NOW, THEREFORE BE IT RESOLVED, the ACCMA amends the CWTP to move \$91 million of funding commitment from the WSX Project to the Dumbarton Corridor Project; and

BE IT FURTHER RESOLVED, the ACCMA will prioritize programming for RESOLUTION 3434, PREVIOUS STIP COMMITMENT and INFRASTRUCTURE BOND Projects in future STIPs; and

BE IT FURTHER RESOLVED, the ACCMA will first commit up to fifty percent (50%) of new programming capacity in a STIP cycle to the RESOLUTION 3434 Projects collectively; and

BE IT FURTHER RESOLVED, the ACCMA will commit at least twenty five percent (25%) of new programming capacity in a STIP cycle to the WSX project if programming and financing criteria have been met; and

BE IT FURTHER RESOLVED, the Timing of Funding Requests and Financing Issues Associated with Limited Programming Capacity are further discussed in Attachment A; and


BE IT FURTHER RESOLVED, the ACCMA will work with project sponsors, funding agency partners, and elected officials and consider financing options such as bonding, advance construction authority, and exchanges to identify methods to advance funding; and

BE IT FURTHER RESOLVED, the ACCMA will not commit to a year of programming for RESOLUTION 3434, PREVIOUS STIP COMMITMENT and INFRASTRUCTURE BOND Projects prior to a STIP programming cycle; and

BE IT FURTHER RESOLVED, the ACCMA will require project sponsors to submit a request for funding that includes information that demonstrates that certain milestones are met, as detailed in Attachment B, to determine if a programming action is appropriate.

DULY PASSED AND ADOPTED by the Alameda County Congestion Management Agency at the regular meeting of the Board on Thursday, December 11, 2008 in Oakland, California, by the following vote:

AYES: 33 **NOES:** 0 **ABSTAIN:** 1 **ABSENT:** 1

SIGNED: 

Mark Green, Chairperson

ATTEST:


Gladys V. Parmelee, Board Secretary

ATTACHMENT A

Timing of Funding Requests and Financing Issues Associated with Limited Programming Capacity

The RESOLUTION 3434 Projects are likely to include requests larger than the funding available in an individual STIP cycle, and are expected to require non-standard programming arrangements. MTC Revised Resolution 3434 states that the financing costs of the RESOLUTION 3434 Projects are the responsibility of the project sponsor. The ACCMA Board may consider alternative financing proposals, including:

- Considering financing costs within the funding proposed
- Considering financing costs in addition to the funding proposed
- Accepting only a portion of the overall financing

The financing for the three RESOLUTION 3434 Projects will be considered on a case by case basis at the time of programming. The RESOLUTION 3434 Projects, with respect to financing, will be treated equally.

A request for funding for the PREVIOUS STIP COMMITMENT Projects could be accommodated within a single STIP cycle and financing issues are not expected to be an issue.

The INFRASTRUCTURE BOND Projects funding needs may occur between the traditional STIP Cycle call for projects and may need to be addressed between STIP programming cycles.

ATTACHMENT B

Programming Requirements

The ACCMA will require project sponsors to submit a request for funding that includes information that demonstrates that certain milestones are met to determine if a programming action is appropriate.

All projects will be required to:

- Have a detailed project schedule that demonstrates that all timely use of funds provisions can be met,
- Have a full funding plan to complete the project, and
- Have a detailed cost estimate (including supporting assumptions).

RESOLUTION 3434 Projects will also be required to:

- Submit an application for the proposed funding at the time of the call for projects of the funding cycle, and
- Have a legally certified environmental document for CEQA and NEPA (if required) prior to the programming of funds, and
- Have a clearly defined locally preferred alternative that has received formal approval from the governing bodies of the responsible local jurisdiction(s) where the improvements will be constructed.

PREVIOUS STIP COMMITMENT Projects will also be required to:

- Submit an application for the proposed funding at the time of the call for projects of the funding cycle, and
- Have a legally certified environmental document for CEQA and NEPA (if required) prior to the programming of funds.

INFRASTRUCTURE BOND Projects will also be required to:

- Provide documentation on the project funding and reason for the cost increase for review and discussion prior to consideration.