

**Metropolitan Transportation Commission
Programming and Allocations Committee**

January 10, 2018

Agenda Item 2e

MTC Resolution No. 3712, Revised

Subject: Revision to Regional Measure 2 allocation condition for Sonoma-Marín Area Rail Transit (SMART) for the SMART Downtown San Rafael to Larkspur Extension.

Background: **SMART Downtown San Rafael to Larkspur Extension**

SMART was allocated \$13.3 million in Regional Measure 2 funds for construction work for the Downtown San Rafael to Larkspur Rail Extension Project in April 2017. This project will construct the Larkspur station, track, crossings, and systems for the 2.1 mile extension connecting SMART's initial operating segment with ferry services at Larkspur. It will use existing rail right-of-way and run through the Cal Park Hill Tunnel, completed in 2010 using RM2 funds. Early construction is underway with a limited notice-to-proceed.

Small Starts Funding and Design/Build Contract

The project funding plan relies on \$20 million in Federal Transit Administration (FTA) Small Starts funds in addition to other Federal sources and RM2. SMART has secured a Letter of No Prejudice (LONP) from FTA for preliminary construction work. While Small Starts funds were included in the FY2016 federal budget, SMART has not yet received a Small Starts Grant Agreement (SSGA) securing the funds. To keep the project on schedule and avoid cost increases, SMART has requested a second LONP while awaiting its SSGA.

The April 2017 RM2 allocation included the following condition: "SMART shall only issue a Notice to Proceed for the design-build contract up to the amount of funding presently available (including this allocation of RM2), while waiting for the project's Small Starts Grant Agreement to be executed." Because SMART's requested LONP amount and subsequent Notice to Proceed would exceed presently available funding, the agency has requested to amend this condition.

Staff recommends revising this condition to read "SMART shall only issue a Notice to Proceed for the design-build contract up to the amount of funding presently available (including this allocation of RM2) *or allowed by federal Letter of No Prejudice*, while waiting for the project's Small Starts Grant Agreement to be executed."

Issues: If SMART succeeds in securing a second federal LONP, but does not later receive an SSGA, the project will still have a \$20 million funding gap and potential timing issues with any backfill funds that are secured.

Recommendation: Refer MTC Resolution No. 3712, Revised to the Commission for approval.

Attachments: MTC Resolution No. 3712, Revised

Date: July 27, 2005
W.I.: 1255
Referred by: PAC
Revised: 04/25/07-C 03/26/08-C
04/28/10-C 09/28/11-C
10/26/11-DA 03/28/12-C
09/23/15-C 12/21/16-C
04/26/17-C 01/24/18-C

ABSTRACT

MTC Resolution No. 3712, Revised

This resolution approves the allocation of Regional Measure 2 funds for the Sonoma Marin Area Rail Transit District (SMART) Corridor Ferry Extension project sponsored and implemented by the SMART.

This resolution includes the following attachments:

- Attachment A - Allocation Summary Sheet
- Attachment B - Project Specific Conditions for Allocation Approval
- Attachment C - MTC staff's review of Sonoma Marin Area Rail Transit District's Initial Project Report (IPR) for this project
- Attachment D - RM2 Deliverable/Useable Segment Cash Flow Plan

This resolution was amended on April 25, 2007 to approve \$600,000 in supplemental final design funds and \$400,000 for right-of-way funds for subproject 1, Cal Park Hill Tunnel Rehabilitation and Multi-Use Pathway Improvement project.

This resolution was amended on March 26, 2008 to allocate \$7.8 million in construction funds for subproject 1: Cal Park Hill Tunnel Rehabilitation and Multi-Use Pathway Improvement project, Phase A.

This resolution was amended on April 28, 2010 by Commission action to rescind \$2.5 million from Phase A of the Cal Park Hill Tunnel Rehabilitation and Multi-Use Pathway Improvement project, and to allocate \$6.1 million in construction funds for Phase B of the same project.

This resolution was revised on September 28, 2011 to allocate \$23.1 million towards the design/construction of the SMART Initial Operating Segment.

ABSTRACT

MTC Resolution No. 3712, Revised

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This resolution was revised via Delegated Authority on October 26, 2011 to rescind a total of \$155,025 in savings from prior allocations to the Cal Park Hill Tunnel Rehabilitation and Multi-Use Pathway Improvement project and reallocate the same amount towards the design/construction of the SMART Initial Operating Segment.

This resolution was revised on March 28, 2012, to modify the scope of the SMART project allocation to add an intermediate station and extend the line to Santa Rosa North, as were included in the Initial Operating Segment construction contract awarded by SMART.

This resolution was revised on September 23, 2015 to allocate \$6.1 million toward the acquisition of a two-car train set for the SMART Initial Operating Segment and Larkspur Extension.

This resolution was revised on December 21, 2016 to allocate \$625,000 toward the completion of engineering and project development work for the SMART Downtown San Rafael to Larkspur Rail Extension Project.

This resolution was revised on April 26, 2017 to allocate \$13,275,000 for the design/build phase of the SMART Downtown San Rafael to Larkspur Rail Extension Project.

This resolution was revised on January 24, 2018 to revise a condition on the previous allocation for the SMART Downtown San Rafael to Larkspur Rail Extension Project.

Additional discussion of this allocation is contained in the Executive Director's memorandum to the MTC Programming and Allocations Committee dated July 13, 2005, and the Programming and Allocation Committee Summary Sheets dated March 5, 2008, April 14, 2010, September 14, 2011, March 7, 2012, September 9, 2015, December 14, 2016, April 12, 2017, and January 10, 2018.

Date: July 27, 2005
W.I.: 1255
Referred by: PAC

Re: Approval of Allocation of Regional Measure 2 funds for the Sonoma Marin Area Rail Transit District Corridor Ferry Extension

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION No. 3712

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

WHEREAS, Streets and Highways Code Sections 30950 *et seq.* created the Bay Area Toll Authority (“BATA”) which is a public instrumentality governed by the same board as that governing MTC; and

WHEREAS, on March 2, 2004, voters approved Regional Measure 2, increasing the toll for all vehicles on the seven state-owned toll bridges in the San Francisco Bay Area by \$1.00, with this extra dollar funding various transportation projects within the region that have been determined to reduce congestion or to make improvements to travel in the toll bridge corridors, as identified in SB 916 (Chapter 715, Statutes of 2004), commonly referred as Regional Measure 2 (“RM2”); and

WHEREAS, RM2 establishes the Regional Traffic Relief Plan and lists specific capital projects and programs and transit operating assistance eligible to receive RM2 funding as identified in Streets and Highways Code Sections 30914(c) & (d); and

WHEREAS, RM2 assigns administrative duties and responsibilities for the implementation of the Regional Traffic Relief Plan to MTC; and

WHEREAS, BATA shall fund the projects of the Regional Traffic Relief Plan by transferring RM2 authorized funds to MTC; and

WHEREAS, MTC adopted policies and procedures for the implementation of the Regional Measure 2 Regional Traffic Relief Plan, which specifies the allocation criteria and project compliance requirements for RM 2 funding (MTC Resolution No. 3636); and

WHEREAS, Sonoma Marin Area Rail Transit District (SMART) has submitted a request for the allocation of RM 2 funds for the SMART Corridor Ferry Extension project; and

WHEREAS, SMART's Corridor Ferry Extension is identified as capital project number 10 under RM 2 and is eligible to receive RM 2 funding as identified in Streets and Highways Code Sections 30914(c); and

WHEREAS, SMART has submitted an Initial Project Report ("IPR"), as required pursuant to Streets and Highway Code Section 30914(e), to MTC for review and approval; and

WHEREAS, Attachment A to this resolution, attached hereto and incorporated herein as though set forth at length, lists the project and phase for which the SMART is requesting RM2 funding and the reimbursement schedule and amount recommended for allocation by MTC staff; and

WHEREAS, Attachment B to this resolution, attached hereto and incorporated herein as though set forth at length, lists the required project specific conditions which must be met prior to execution of the allocation and any reimbursement of RM2 funds; and

WHEREAS, Attachment C to this resolution, attached hereto and incorporated herein as though set forth at length, includes MTC staff's review of SMART's Initial Project Report (IPR) for this project; and

WHEREAS, Attachment D attached hereto and incorporated herein as though set forth at length, lists the cash flow of RM2 funds and complementary funding for the deliverable/useable RM2 project segment; and

WHEREAS, the claimants to which funds are allocated under this resolution have certified that the projects and purposes listed and recorded in Attachment A are in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 et seq.); now, therefore, be it

RESOLVED, that MTC approves MTC staff's review of SMART's IPR for this project as set forth in Attachment C; and be it further

RESOLVED, that MTC approves the allocation and reimbursement of RM2 funds in accordance with the amount and reimbursement schedule for the phase, and activities as set forth in Attachment A; and, be it further

RESOLVED, that the allocation and reimbursement of RM2 funds as set forth in Attachment A are conditioned upon SMART complying with the provisions of the Regional Measure 2 Regional Traffic Relief Plan Policy and Procedures as set forth in length in MTC Resolution 3636; and be it further

RESOLVED, that the allocation and reimbursement of RM2 funds are further conditioned upon the project specific conditions as set forth in Attachment B; and, be it further

RESOLVED, that the allocation and reimbursement of RM2 funds as set forth in Attachment A are conditioned upon the availability and expenditure of the complementary funding as set forth in Attachment D; and be it further

RESOLVED, that reimbursement of RM2 funds as set forth in Attachment A is subject to the availability of RM2 funding; and be it further

RESOLVED, that a certified copy of this resolution, shall be forwarded to the project sponsor.

METROPOLITAN TRANSPORTATION COMMISSION



Jon Rubin, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at the regular meeting of the Commission held in Oakland, California, on July 27, 2005.

**REGIONAL MEASURE 2 PROGRAM
Project Specific Conditions**

Project Title: SMART Downtown San Rafael to Larkspur Rail Extension Project
Sponsor: Sonoma - Marin Area Rail Transit District
Project Number: 10.4

The allocation of RM2 funds for the above project are conditioned upon the following :

1. For Allocation #1, SMART may be reimbursed for expenses fitting the allocation scope incurred beginning July 1, 2016.
2. Pending completion of the environmental review for the North South Greenway project, SMART agrees to authorize the use of a portion of their right of way for the purpose of constructing a multi-use pathway generally following the existing footprint of the railroad track within the southern segment (Corte Madera Creek to Wornum Drive).
3. Pending completion of the environmental review for the North South Greenway project, TAM and SMART agree to enter into a Memorandum of Understanding regarding payment to compensate for future lost lease revenues, future removal of the pathway in the event SMART extends rail south of Larkspur, and absolving SMART of responsibility for maintaining the multi-use pathway until such time as SMART is operating rail service in this segment. The MOU must be substantially complete before entering into final design for the pathway. In the event the pathway is removed for a rail extension in the future, SMART is to pay for removal using funds from this right-of-way payment. SMART shall not seek additional funds as compensation for the future path removal.

The April 26, 2017 allocation of RM2 funds for the above project is conditioned upon the following :

1. SMART Board approval of Updated Initial Project Report.
2. In the event that the Federal Earmark in the amount of \$3.2 million is not secured to pay for interim modifications to the San Rafael Transit Center or if the costs exceed \$3.2 million, then MTC, SMART, GGBHTD, Marin Transit, and TAM will identify funding in a timely manner, allowing for project work to continue expeditiously.
3. SMART shall only issue a Notice to Proceed for the design-build contract up to the amount of funding presently available (including this allocation of RM2), while waiting for the project's Small Starts Grant Agreement to be executed.

On January 24, 2018, the third condition from the April 26, 2017 allocation was revised to read:

3. SMART shall only issue a Notice to Proceed for the design-build contract up to the amount of funding presently available (including this allocation of RM2) or allowed by federal Letter of No Prejudice, while waiting for the project's Small Starts Grant Agreement to be executed.