

Chronology of Stimulus Funding for the BART Oakland Airport Project

February 6, 2009: MTC staff memorandum proposes to MTC's Programming and Allocations Committee a list of projects to be funded with federal transit stimulus funding under the American Recovery and Reinvestment Act (ARRA). Included is a proposal to direct \$145 million to two capital projects, the BART Oakland Airport Connector (OAC) and Caltrain terminal projects.

February 17, 2009: President Obama signs ARRA into law, providing \$787 billion in economic stimulus funds.

February 18, 2009: MTC announces that approximately \$340 million in federal transit "formula" funds will become available to the Bay Area region under the stimulus bill, and continues to propose allocating \$70 million to the BART OAC project. Stimulus funds must be "obligated" (i.e., under contract) by March 2010.

Feb 23, 2009: In response to MTC's proposal to use stimulus money for the OAC, TransForm asks MTC and BART to look at Bus Rapid Transit (BRT) as an option in order to save money, keep fares low and protect service for Bay Area residents.

February 24, 2009: In response to MTC's proposed decision to give BART \$70 million in stimulus funds for the OAC project, Public Advocates writes on behalf of Urban Habitat and Genesis to urge MTC to maximize the funding necessary to preserve existing transit service from deep cuts. Public Advocates notes that MTC's proposal would violate MTC's own established funding policy of not allowing formula funds to be used for expansion projects, and that MTC has also failed to adhere to the Environmental Justice principles it adopted at the request of its Minority Citizens Advisory Committee.

February 25, 2009: MTC votes to allocate \$70 million in stimulus dollars to the BART OAC project, after hearing several hours of public comment from more than 150 community members, who ask MTC to preserve existing bus service from cuts. Over the dissent of MTC Commissioner and Berkeley Mayor Tom Bates, MTC approves funding for the Oakland Airport Connector, but explicitly adopts a backup plan of giving that funding to transit operators should BART be unable to proceed with the OAC project. During debate, Commissioner Spring assures the public that "[o]perating money is critical", and Commissioner Bates notes that the Commission is seeing "a huge hole open[ing] up in the operations part of our ability to provide transit for people in the Bay region and actually the entire state."

February 26, 2009: Media coverage of the MTC hearing highlights the concerns of the community, including quoting a disabled woman who already "sometimes . . . cannot afford paratransit." Rev. Scott Denman of Genesis is also quoted, describing the project as "unjust and immoral."

March 4, 2009: Public Advocates writes MTC on behalf of Genesis and Urban Habitat, highlighting MTC's anticipated operating budget shortfall, which threatens massive

service cuts and fare hikes for Bay Area transit. The letter asks MTC to ask Congress to restore federal operating assistance.

March 11, 2009: Guillermo Mayer, staff attorney with Public Advocates, meets up with MTC spokesman Randy Rentschler in Washington, DC. Mayer asks Rentschler if MTC is pursuing federal operating funds in the transportation reauthorization bill, Rentschler says no.

April 3, 2009: The Office of Management and Budget issues updated implementation guidance on ARRA, reminding recipients that “[a]ll Federal agencies should take steps to ensure that recipients of Recovery Act funds comply fully with their responsibilities under the full range of civil rights laws . . .” and “ensure that their recipients comply with Title VI of the Civil Rights Act of 1964”

April 4, 2009: AC Transit Board votes to increase bus fare by 25 cents in an effort to close operating shortfall.

April 23, 2009: BART Board meeting held on OAC, public demands more study of BRT options, multiple Board members request that staff return with an analysis of BRT as well as accurate information for the project.

May 7, 2009: TransForm proposes a Bus Rapid Transit (BRT) alternative to the OAC project, designed to cut hundreds of millions of dollars off the project’s half billion dollar price tag, reduce fares dramatically, and provide greater access to low-wage jobs along the Hegenberger corridor.

May 8, 2009: BART staff seek to discredit and “put holes” in the TransForm proposal, according to internal email obtained via a request under the Public Records Act.

May 14, 2009: At a BART Board Meeting, community members provide written and oral testimony urging the Board to study TransForm’s BRT proposal. They express explicit concern over the changed and delayed benefits of the OAC for minority and low-income communities due to eliminated intermediate stops and a prohibitively expensive \$12 round-trip fare. Despite this testimony, BART adopts a “Full Funding Plan” for the OAC project. BART does not study the BRT alternative.

June, 2009: Congress amends ARRA to allow urbanized areas with populations of 200,000 or greater to use up to 10% of their FTA formula funds for transit operations.

June 12, 2009: Public Advocates sends a Public Records Act request to BART asking for any service equity analysis it has prepared of the OAC project, as required by FTA under civil rights law. BART provides unrelated documentation, but no service equity analysis.

June 16, 2009: Port of Oakland Commission votes to direct staff to “follow-up with BART on other alternatives [to the OAC project] as directed by the Board”

June 24, 2009: ACTIA Board directs staff to bring a presentation of both the OAC and BRT alternatives to their July Program Committee

July, 2009: U.S. Department of Justice sends memorandum to every federal agency "urging more aggressive enforcement of regulations that forbid recipients of taxpayer money from policies that have a disparate impact on minorities."
(<http://www.nytimes.com/2009/09/01/us/politics/01rights.html?scp=2&sq=%22loretta+king%22&st=nyt>)

July 8, 2009: MTC votes to allow BART to divert funds from its seismic retrofit project to the OAC. At the MTC hearing, Urban Habitat staff notifies BART and MTC staff of BART's failure to perform the required service equity analysis. In a letter dated the same day, Urban Habitat requests that MTC require BART to perform the required analysis.

July 10, 2009: ACTIA staff announces that they will only be providing a project update, but not the overview and analysis that their Board requested.

July 14, 2009: BART responds to Urban Habitat's letter, stating that in 2007 BART prepared a Triennial Report. No mention is made of the required service equity analysis.

July 14, 2009: Oakland City Council Public Works Committee asks for information on the equity issues and insists on information on BRT Alternative

July 22, 2009: MTC approves BART's "Full Funding Plan" for the OAC, despite Commissioners Kinsey and Cortese voicing concerns about low-income and minority communities' equitable access to transit services.

August 25, 2009: MTC director Heminger certifies to FTA that the BART OAC project "has received the full review and vetting required by law."

September 1, 2009: *New York Times* editorial notes that "The Justice Department has enormous power under Title VI of the Civil Rights Act of 1964 to combat discrimination in any institution or program that receives federal funds. This authority is more important than ever with federal stimulus money flowing."
(<http://www.nytimes.com/2009/09/02/opinion/02wed1.html?scp=1&sq=%22Title+VI%22&st=nyt>)

September 3, 2009: Public Advocates files an administrative civil rights complaint under Title VI with FTA on behalf of Genesis, Urban Habitat, and TransForm charging BART with a failure to comply with Title VI civil rights duties.

September 15, 2009: Oakland City Council Public Works Committee admonishes BART staff for lack of information on OAC alternatives, recommends against OAC.

October 6, 2009: Oakland City Council resolves to support the OAC provided that the project complies with three conditions: that 50% of the projects working hours go to local

residents, and 25% to Oakland residents; that the project include one intermediate stop on the Hegenberger corridor; and that BART conduct a meaningful timely analysis of the fare's impact on working people. Mayor Ron Dellums of Oakland sends a letter to BART, requesting the agency address these same three equity issues.

October 12, 2009: FTA assigns an investigator to Public Advocates' complaint concerning the Oakland Airport Connector. The investigation is scheduled for completion within 180 days of October 1.

October 28, 2009: FTA sends a letter to Public Advocates announcing that, in part as a result of Public Advocates' complaint, FTA is launching a comprehensive on-site review of BART's compliance with civil rights requirements for recipients of federal funding.

December 5, 2009: San Francisco Municipal Transportation Agency announces that it will discontinue a number of bus lines, and eliminate segments of others in order to deal with the financial downturn caused by the recession.

December 9, 2009: Oakland Councilmember Ignacio de la Fuente writes to the BART Board reiterating the City Council's three conditions of support for the OAC project, and indicating that they have not been met.

December 10, 2009: BART Board authorizes BART's General Manager to award a contract for the design and construction of the OAC project to Flatiron/Parsons, "[u]pon certification by the Controller/Treasurer that sufficient ARRA and Small Starts funds have been committed by the Federal Transit Administration for the Project and are available for this contract."

December 12, 2009: AC Transit Board votes to cut its bus service by 8.4%, effective March 2010. The cuts are estimated to offset budget deficit by \$9.6 million per year.

December, 16, 2009: FTA investigators meet with BART and the public to gather evidence. Public Advocates, Genesis, Transform, and Urban Habitat meet with FTA's investigators to present evidence concerning BART's practices with respect to civil rights requirements generally and the history of the OAC specifically.

December 20, 2009: In an effort to try and close a \$28.4 million budget shortfall, SamTrans implements service cuts reducing its operations by 7.5%, including the elimination of six express routes from San Mateo County to San Francisco. 45 employees are laid off as a result of the service cuts.

January 8, 2010: Valley Transit Authority announces service cuts to early morning and late night lines, and eliminates to service routes altogether. Cuts are effective January 10, 2010.