



Chair Haggerty and Commissioners  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, California 94607

January 23, 2010

**Re: Allocation of Stimulus Funds and OAC Project**

As you know, since February of 2009 Urban Habitat has raised serious concerns about BART's failure to address fundamental Civil Rights issues related to the proposed Oakland Airport Connector Project. In June and July we spoke before MTC and clearly stated that BART did not complete the mandated Title VI analysis as outlined in the FTA Circular (see attached correspondence). In a July letter addressed to MTC Counsel BART legal staff stated that, "BART has prepared the documentation required to satisfy FTA requirements."

The January 15th 2010 Federal Transit Administration letter not only outlines BART's failure to conduct the required service, fare and equity analyses (as previously documented by Urban Habitat and Public Advocates) but details the corrective actions BART must take to satisfy FTA and qualify for the ARRA funding. We believe that given BART's consistent failure to adequately address these requirements to date, it seems extremely unlikely that they will be able meet the deadline for submitting the corrective actions outlined by the FTA.

Given BART's history of failing to comply with FTA Title VI guidelines on the OAC project Urban Habitat will be working closely with our allies to ensure that any corrective actions by BART meet the following conditions:

- An independent consultant must be hired to develop and prepare the equity analysis, public participation plan and evaluation of alternatives such as the Rapid BART proposal.
- Given BART's last minute attempt (only after receiving notice from FTA on their failure to comply with Title VI guidelines) to attempt to submit an equity analysis without any public participation we expect an open, meaningful and vigorous public participation process that allow the community to review, raise questions and receive answers to their questions. This process must include a sufficient number of meetings, scheduled at times which allow all community members to attend and that are language accessible.
- Any analyses completed by BART must clearly address the specific discriminatory impacts outlined in our Title VI FTA complaint.

In addition to the corrective actions noted in the FTA's January 15th letter, Urban Habitat plans to closely monitor BART's compliance with any findings that result from the FTA's Office of Civil Rights compliance review on BART's broader Title VI program.

If BART fails to fully comply with FTA regulations on the above corrective actions we plan to document these activities and their deficiencies and work through the FTA process to ensure that they are resolved in accordance with FTA guidelines. We also plan to continue, as we have in the past regarding the OAC, to notify MTC staff and the Commission of any failure on BART's part to comply with the corrective actions outlined in the FTA's January 15th letter. As the public agency responsible for ensuring that agencies that receive federal transportation funds comply with Title VI regulations we expect the Commission to fulfill this role and responsibility.

In addition to our concerns over the Civil Rights implications of the OAC Urban Habitat strongly expressed our support for a more cost-effective alternative, such as TransForm's proposed RapidBART bus alternative, that would generate and preserve transit related jobs by providing cost-effective affordable transportation access to airport patrons, airport workers and residents of Oakland attempting to access jobs along the Hegenberger corridor.

We supported the Commission's adoption of Resolution 3885 last February and its proposal to allocate the \$70 million in ARRA funding in the event that BART could not meet FTA deadlines for the OAC project. Bay Area transit operators are currently experiencing painful service cuts and fare increases. We at Urban Habitat know that the impacts of these actions fall most harshly on those who can least afford it: transit dependent populations, low income riders, people of color, students, the elderly and the disabled.

Therefore we believe the Commission must act immediately to reallocate the \$70 million ARRA funds as outlined in MTC Resolution 3885. Failure to act promptly will result in the Commission needlessly putting at risk much needed stimulus funds that can provide transit service, create jobs as well as provide access to employment and essential services for all Bay Area residents.

Sincerely,



Bob Allen  
Director of Transportation & Housing Programs

Enclosures:

Urban Habitat letter to MTC June 2009

BART letter in response to Urban Habitat June 2009

Cc: Steve Heminger, MTC Executive Director  
James Fang, Chair, BART Board, and Board Members  
President Jane Brunner and Members, Oakland City Council  
President Victor Uno and Commissioners, Port of Oakland  
Chair Alice Lai-Bitker, Alameda County Transportation Improvement Authority  
Mark Green, Alameda County Congestion Management Agency  
Peter Rogoff, FTA Administrator  
Cheryl Hershey, FTA Director of Civil Rights  
Amber Ontiveros, FTA Title VI Specialist