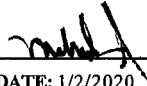
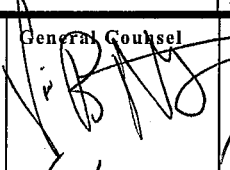

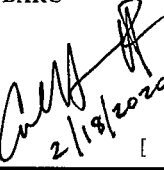

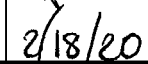

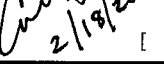




## EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  2-19-2020		GENERAL MANAGER ACTION REQ'D:		
DATE: 1/2/2020		BOARD INITIATED ITEM: No		
Originator/Prepared by: Donna Lee Dept: Grant Development	General Counsel 	Controller/Treasurer 	District Secretary	BARC 
Signature/Date:  2/17/20	 2/18/20 [ ]	 2/19/2020 [ ]	[ ]	 2/19/2020 [ ]

### Resolution of Project Compliance and Initial Project Report for Regional Measure 2 Funds for the Warm Springs Extension/Irvington Station Project

#### PURPOSE:

To obtain approval of a Resolution of Project Compliance ("Resolution") and Initial Project Report ("IPR") based on the attached IPR Summary for Regional Measure 2 ("RM2") funds for the Irvington Station ("Project") portion of the Warm Springs Extension ("WSX"). The IPR includes an allocation request for a total of \$2.0 million in WSX RM2 funding to support the design phase of the Irvington Station Project.

#### DISCUSSION:

As adopted by the BART Board in 2003, the WSX Project included an "optional" station mid-way between the Fremont and Warm Springs stations in the Irvington district of Fremont. The City of Fremont ("City") assumed responsibility for identifying funding for the optional Irvington Station and initially set aside City Redevelopment funds. When redevelopment agencies were dissolved, this funding source was eliminated and the City was not readily able to identify an alternate source. Sufficient funding was not identified in time to include the Irvington Station design and construction in conjunction with the WSX Project; therefore, when BART service to southern Fremont began in March of 2017, the Irvington Station was not included.

In 2014, the voters of Alameda County passed Measure BB, which committed \$120 million toward construction of the Irvington Station. In 2017, pursuant to a Letter of Intent between BART and the City, the Alameda County Transportation Commission ("Alameda CTC") allocated \$2.85 million of Measure BB funding to the City of Fremont to update the

station concept plan and environmental review, as well as produce and adopt a station area plan to guide future development around the Irvington Station. This work, which was driven by the need to better meet current BART and City policy objectives particularly with respect to access and sustainability and to make the station more neighborhood-friendly and cost-effective, resulted in significant modifications to the 2003 Station Concept Plan. On July 16, 2019, the Fremont City Council approved the Irvington Station Area Plan and on August 22, 2019, the BART Board of Directors adopted the modifications to the Irvington Station Concept Plan and certified the associated California Environmental Quality Act (“CEQA”) Addendum to the WSX Project’s Environmental Impact Report/Supplemental Environmental Impact Report (EIR/SEIR).

The Irvington Station Project was rated by the Metropolitan Transportation Commission (“MTC” or “Commission”) in a project performance assessment, which was conducted by MTC to support the development of Plan Bay Area. In this assessment, MTC found the Irvington Station to be one of the highest-rated transit projects.

In the spring of 2019, the Alameda CTC allocated \$16.45 million for BART to begin the engineering design phase for the Project and to produce plans, specifications, and estimates for the Station’s construction phase. With the concurrence of MTC staff, the City and BART have jointly requested that \$2.0 million in WSX RM2 funding be reallocated to the Irvington Station Project, so as to fully fund the Project’s design phase.

MTC Resolution No. 2626, the Policies and Procedures for Implementation of the Regional Traffic Plan of Regional Measure 2, requires that the BART Board approve a Resolution and IPR each time the project sponsor requests an allocation of RM2 funds.

The proposed Board action, coupled with a subsequent Commission action, would result in the rescission of \$2.0 million in WSX RM2 funding and its re-allocation to the Irvington Station Project.

#### **FISCAL IMPACT:**

Approval of the Resolution and IPR is a requirement for BART to receive this reallocation of WSX RM2 funds from MTC. The action will have no fiscal impact on unprogrammed District Reserves.

#### **ALTERNATIVES:**

Do not approve the Resolution and IPR. This will result in an under-funding of the design phase for the Irvington Station Project and the potential loss of access to the WSX RM2 funding to complete the Irvington Station Project. This RM2 funding for the WSX Project is not available to the District for purposes outside the scope of the Warm Springs

Extension, which includes the Irvington Station Project.

**RECOMMENDATION:**

Adopt the following motion.

**MOTION:**

The BART Board of Directors approve the attached Resolution of Project Compliance and Initial Project Report Summary in connection with BART's application for Regional Measure 2 Funds for the Irvington Station Project. This action will approve acceptance of Regional Measure 2 funds, in the amount of \$2.0 million, to fully fund the Irvington Station Project's design phase.

## Warm Springs Extension Irvington Station Project

### Initial Project Report Summary

The Irvington Station project, which will complete the Warm Springs Extension (WSX), includes the design and construction of a new BART station in the Irvington district of Fremont, approximately halfway between the existing Fremont and Warm Springs/South Fremont BART stations. The City of Fremont is responsible for identifying funding for the Irvington Station. The project will also include improvements and stabilization of the Historic Gallegos Winery site across Osgood Road from the station, a mitigation requirement of the Irvington Station component of the WSX project.

The project may be constructed in phases depending upon funding availability.

### Project Delivery Milestones

Phase-Milestone	Planned (Update as needed)	
	Start Date	Completion Date
Environmental Document	1/2017	8/2019
Environmental Studies, Preliminary Eng. (ENV / PE / PA&ED)	1/2017	7/2020
Final Design - Plans, Specs. & Estimates (PS&E)	7/2020	7/2022
Right-of-Way Activities /Acquisition (R/W)	7/2020	7/2022
Construction (Begin – Open for Use) / Acquisition / Operating Service (CON)	8/2022	8/2026

### Total Project Budget Information

Phase	Total Amount - Escalated - (Thousands)
Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)	2,747
Design – Plans, Specifications and Estimates (PS&E)	18,450
Right-of-Way Activities /Acquisition (R/W)	14,000
Construction / Rolling Stock Acquisition (CON)	170,103
Total Project Budget (in thousands)	205,300

**BEFORE THE BOARD OF DIRECTORS OF THE SAN FRANCISCO  
BAY AREA RAPID TRANSIT DISTRICT**

In the Matter of the Approval  
of a Resolution of Project Compliance  
and Initial Project Report for Regional  
Measure 2 Funds for the  
Warm Springs Extension  
Irvington Station Project

Resolution No. \_\_\_\_\_

Implementing Agency: San Francisco Bay Area Rapid Transit District (BART)  
Project Title: BART Warm Springs Extension Irvington Station Project

WHEREAS, SB 916 (Chapter 715, Statutes 2004), commonly referred as Regional Measure 2, identified projects eligible to receive funding under the Regional Traffic Relief Plan; and

WHEREAS, the Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for Regional Measure 2 funds, pursuant to Streets and Highways Code Section 30914(c) and (d); and

WHEREAS, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 2 funding; and

WHEREAS, allocations to MTC must be submitted consistent with procedures and conditions as outlined in Regional Measure 2 Policy and Procedures; and

WHEREAS, BART is an eligible sponsor of transportation project(s) in Regional Measure 2, Regional Traffic Relief Plan funds; and

WHEREAS, the BART Warm Springs Extension Irvington Station Project is eligible for consideration in the Regional Traffic Relief Plan of Regional Measure 2, as identified in California Streets and Highways Code Section 30914(c) or (d); and

WHEREAS, the Regional Measure 2 allocation request, attached hereto in the Initial Project Report and incorporated herein as though set forth at length, lists the project, purpose, schedule, budget, expenditure and cash flow plan for which BART is requesting that MTC allocate Regional Measure 2 funds; now, therefore, be it

RESOLVED, that BART, and its agents shall comply with the provisions of the Metropolitan Transportation Commission's Regional Measure 2 Policy Guidance (MTC Resolution No. 3636); and be it further

RESOLVED, that BART certifies that the project is consistent with the Regional Transportation Plan (RTP); and be it further

RESOLVED, that the year of funding for any design, right-of-way and/or construction phases has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project; and be it further

RESOLVED, that the Regional Measure 2 phase or segment is fully funded, and results in an operable and useable segment; and be it further

RESOLVED, that BART approves the updated Initial Project Report, attached to this resolution; and be it further

RESOLVED, that BART approves the cash flow plan, as included in the Initial Project Report; and be it further

RESOLVED, that BART has reviewed the project needs and has adequate staffing resources to deliver and complete the project within the schedule set forth in the updated Initial Project Report, attached to this resolution; and, be it further

RESOLVED, that BART is an eligible sponsor of projects in the Regional Measure 2 Regional Traffic Relief Plan, Capital Program, in accordance with California Streets and Highways Code 30914(c); and be it further

RESOLVED, that BART is authorized to submit an application for Regional Measure 2 funds for BART Warm Springs Extension Irvington Station Project in accordance with California Streets and Highways Code 30914(c); and be it further

RESOLVED, that BART certifies that the projects and purposes for which RM2 funds are being requested is 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.) and if relevant the National Environmental Policy Act (NEPA), 42 USC Section 4-1 et. Seq. and the applicable regulations thereunder; and be it further

RESOLVED, that there is no legal impediment to BART making allocation requests for Regional Measure 2 funds; and be it further

RESOLVED, that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of BART to deliver such project; and be it further

RESOLVED, that BART agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866; and be it further

RESOLVED, that BART indemnifies and holds harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of BART, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM2 funds. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM2 funds as shall reasonably be considered necessary by MTC may be retained until disposition has been made of any claim for damages, and be it further

RESOLVED, that BART shall, if any revenues or profits from any non-governmental use of property (or project) that those revenues or profits shall be used exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs, otherwise the Metropolitan Transportation Commission is entitled to a proportionate share equal to MTC's percentage participation in the projects(s); and be it further

RESOLVED, that assets purchased with RM2 funds including facilities and equipment shall be used for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for its useful life, that the Metropolitan Transportation Commission (MTC) shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to MTC in the same proportion that Regional Measure 2 funds were originally used; and be it further

RESOLVED, that BART shall post on both ends of the construction site(s) at least two signs visible to the public stating that the Project is funded with Regional Measure 2 Toll Revenues; and be it further

RESOLVED, that BART authorizes its General Manager, or his/her designee to execute and submit an allocation request for the design phase with MTC for Regional Measure 2 funds in the amount of \$2.0 million, for the project, purposes and amounts included in the project application attached to this resolution; and be it further

RESOLVED, that the General Manager, or his/her designee is hereby delegated the authority to make non-substantive changes or minor amendments to the IPR as he/she deems appropriate.

RESOLVED, that a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the BART application referenced herein.

# # #