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**THIRD REVISION (AS APPROVED BY P & P COMMITTEE)
PLANNING AND PROGRAMMING COMMITTEE
NOVEMBER 18, 2009**

**SUBJECT: LAPSING OF AMERICAN RECOVERY AND REINVESTMENT
ACT FUNDS DISTRIBUTED TO CITIES AND THE
COUNTY OF LOS ANGELES BY FORMULA**

ACTION: APPROVE LAPSING OF RECOVERY ACT FORMULA FUNDS

RECOMMENDATION

- A. Approve the lapsing of American Recovery and Reinvestment Act - Regional Surface Transportation (ARRA-RSTP) funds listed in Attachment A and re-program the lapsed funds to a previously funded Los Angeles County Metropolitan Transportation Authority (MTA) regional project that releases other regular RSTP funds for redistribution back to Cities and the County of Los Angeles that have met the MTA deadline to obligate the ARRA-RSTP funds; and,
- B. Direct any redistributed (as distinguished from lapsing) ARRA-RSTP funds to a previously funded MTA regional project that releases funds and stipulate that any released funds controlled by the MTA would be redirected, directly or indirectly, to those same Cities and the County of Los Angeles, if possible.

ISSUE

By letter dated July 31, 2009, we informed local agencies that the end of the federal fiscal year, September 30, 2009, would be the final deadline for processing obligation requests through Caltrans to the Federal Highway Administration (FHWA). On October 9, 2009, Caltrans District 7 sent data to us that indicates that the Cities in Attachment A failed to meet the May 18, 2009 MTA deadline for obligation and also failed to meet the September 30, 2009 deadline for final processing through Caltrans to the FHWA.

POLICY IMPLICATIONS

The American Recovery and Reinvestment Act of 2009 (the "Recovery Act" or "ARRA") is a jobs preservation and creation legislation meant to address the nation's economic crisis, in part, by accelerating the construction of needed transportation infrastructure repairs and improvements. Consistent with the President's intent to spur the national economy as soon as possible, this federal economic stimulus legislation included "use-it-or-lose-it" provisions with extremely tight deadlines for project delivery. To succeed in

securing the maximum amount of federal funding possible for Los Angeles County, all Recovery Act project sponsors were required to meet tight delivery deadlines that Caltrans and the United States Department of Transportation would be enforcing.

The Recovery Act use-it-or-lose-it provisions require the MTA to act swiftly to secure the Los Angeles County share of the funds. Specifically, Caltrans announced on August 19, 2009 that it would require all Regional Transportation Planning Agencies, such as the MTA, to submit a report by November 1, 2009 that would show the amount of Recovery Act funds that they plan to obligate by January 1, 2010. The list also must specify any previously Recovery Act-funded project that will not be obligated by January 1, 2010. Finally, the report must include a list of back-up Recovery Act projects that could be obligated if planned projects are not ready or if any redistributed Recovery Act funds become available. The back-up projects will need to be submitted to Caltrans District 7 by December 15, 2009 and obligated through Caltrans Headquarters and the FHWA by January 1, 2010. Our recommendation is to provide Caltrans with an MTA regional project that can absorb the lapsed Recovery Act funds and any redistributed funds, while concurrently releasing **other** regular RSTP funds that can be re-distributed to the Cities and County that met their original ARRA-RSTP deadline. The regional project will be **determined jointly by Caltrans and the MTA's CEO. Currently, we are considering** the Interstate 405 Project High Occupancy Vehicle (HOV) lane from Interstate 10 to U.S 101 **and the Interstate 5 HOV lanes from State Route 170 to State Route 134.** The **other** regular RSTP funds provided to Cities and County are as yet to be determined ~~the can be used for most transportation-capital projects.~~

OPTIONS

Without this action, Los Angeles County ARRA-RSTP funds could be returned to Caltrans for use on other projects anywhere within California. The Board of Directors could choose to permit the agencies in Attachment A more time to obligate their funds, or permit us to provide the funds released from a regional project to be re-awarded to the jurisdictions that did not meet the deadline. More time is not recommended because if the deadline is extended for these agencies and they do not obligate by January 1, 2010, then these funds may be lost and the region will be ineligible to participate in a regional or state redistribution. It is important that the MTA enforce its original Recovery Act deadlines because credible deadlines might again be required if Congress imposes similar stringent lapsing policies in the future.

FINANCIAL IMPACT

The funds required for the MTA staff to monitor and reprogram the ARRA funds outlined in this report are included in the FY10 budget under project number 405510 Other Planning, task 05.04.01 TIP Administration. The source of funds for the MTA administrative expenses is 2101 General Fund – Prop A, C, TDA Administration.

Impact on Bus and Rail Operating and Capital Budget

There is no impact on the MTA transit operating or transit capital programs from this action, as funds released would be redirected to Cities and the County of Los Angeles that met the original ARRA-RSTP deadlines. We believe that our recommendation will

best position Los Angeles County to secure all of the ARRA-RSTP funds that the State allocated previously and any ARRA-RSTP that other regions might release.

BACKGROUND

The Recovery Act and implementing state legislation (AB 3x20) defined an important role for transportation agencies such as the MTA in the preservation and creation of jobs through transportation infrastructure repair and improvements. The MTA had to ensure that projects using Recovery Act funds were included promptly in the Federal Transportation Improvement Program (TIP). Federal (Title 23 U.S.C. 134 (g) & (h)) and state (P.U.C. 130303) statutes require the MTA to prepare and submit to the Southern California Association of Governments (SCAG) a TIP for Los Angeles County. The TIP allocates revenues across all transportation modes based on the planning requirements of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU).

The MTA informed Cities and the County of Los Angeles that were to receive ARRA-RSTP funds that they must obligate the ARRA-RSTP funds through Caltrans by May 18, 2009. Caltrans District 7 processed requests to obligate the ARRA-RSTP funds and provided those requests to the central processing staff at Caltrans Headquarters in Sacramento. The Caltrans Headquarters central processing staff in turn sent the requests to the FHWA for final approval. In early August, we informed all recipients of ARRA-RSTP funds that Metro staff had established a September 30, 2009 deadline for final processing through Caltrans to the FHWA. This deadline was necessary to meet the policy that Caltrans announced on August 19, 2009 requiring Regional Transportation Planning Agencies, such as the MTA, to report on final ARRA-RSTP funding obligation plans by November 1, 2009, and to execute those plans by January 1, 2010.

After preparing this report, we informed the agencies listed in Attachment A of an opportunity to appeal our recommendation to the MTA Technical Advisory Committee (TAC) on November 4, 2009. We will consider the TAC response to any appeals heard and report our response to TAC to the MTA Planning and Programming Committee. Attachment A agencies also may appeal to the MTA Planning Programming Committee directly on November 18, 2009, if they still disagree with the lapsing recommendations. We expect that the Board of Directors will render a final decision at its regular meeting on December 10, 2009. **Attachment A has been revised to reflect the TAC recommendations.**

NEXT STEPS

The Recovery Act has several local, regional, state and federal deadlines that must be met over the next twelve months. We will work with SCAG to program the remaining Recovery Act funds on an MTA regional project that can release regular RSTP funds and work together with TAC members to meet the December 30, 2009 regional obligation deadline. We also will re-program the released funds onto projects for the Cities and the County.

ATTACHMENT

Attachment A – Lapsing ARRA-RSTP Funding by Agency

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American Recovery and Reinvestment Act of 2009
Lapsing ARRA-RSTP Funds

Attachment A

Local Jurisdiction	Previously Obligated	Lapsing Amount
Bellflower	\$ 1,834,000	\$ 424,727
Burbank***	\$ 2,561,000	\$ 599,888
Cerritos*	\$ 1,609,000	\$ 529,000
Compton	\$ -	\$ 2,904,499
Hermosa Beach	\$ -	\$ 578,559
Hidden Hills**		\$ 500,000
Inglewood	\$ 3,200,000	\$ 277,442
Lomita	\$ -	\$ 623,172
Rolling Hills**	\$ -	\$ 500,000
South Pasadena	\$ -	\$ 761,360
Torrance***	\$ 2,000,000	\$ 2,355,326
		\$ 10,053,973
		\$ 5,532,113
Total		\$ 4,908,941

* ARRA-TEA funds

** Never submitted projects eligible for ARRA-RSTP Funding

***** The TAC accepted that these cities will be able to obtain a federal approval for their funds by December 9, 2009. At the Planning and Programming Committee meeting, the Committee agreed to an MTA staff recommendation to revise the deadline to January 30, 2010 for Burbank and Torrance. MTA staff will inform the MTA Board of Directors at the meeting on December 10, 2009 should these agencies fail to successfully obligate their funds.**