

# THE BAY AREA PARTNERSHIP

## Partnership Technical Advisory Committee

April 21, 2008, 1:30 p.m. – 3:30 p.m.

**(NOTE: LOCATION CHANGE)**

Alameda County Transportation Improvement Authority  
1333 Broadway, Ste 300, Oakland 94607

### AGENDA

Estimated Time  
for Agenda Item

1. Introductions **1:30 p.m.**
2. Minutes of March 17, 2008 PTAC Meeting\*
3. Partnership Reports\*
  - Partnership Board  
*The Partnership Board is tentatively scheduled to meet in May 2008.*
  - Transit Finance Working Group  
Chair: Todd Morgan, BART  
*The Transit Finance Working Group met on April 2, 2008.*
  - Local Streets and Roads Working Group  
Chair: Julie Bueren, County of Contra Costa  
*The Local Streets and Roads Working Group met on April 4, 2008.*
  - Programming and Delivery Working Group  
Chair: Matt Todd, ACCMA  
*The Programming and Delivery Working Group met on April 21, 2008.*

### Discussion Items

**2:00 p.m.**

4. Change in CMAQ Minimum Share Amount\* (*Ross McKeown*)  
(*MTC staff will present the latest information on the required 80% minimum CMAQ share issue.*)
5. Transportation 2035 Plan:  
(*Staff seeks comments from this Committee on key elements of the Transportation 2035 Plan.*)
  - a. May 2008 Public Participation & Outreach Workshops\* (*Catalina Alvarado*)
  - b. Equity Analysis Methodology\* (*Jennifer Yeaman*)
  - c. Investment Trade-Offs Framework\* (*Lisa Klein*)
6. Release of Draft 2009 TIP for Public Review and Comment\* (*Sri Srinivasan*)  
(*MTC staff will present the highlights of the draft 2009 TIP that was released for a 30-day public review and comment period on March 28, 2008. Final comments are due by 5:00 pm, May 1, 2008.*)
  - a. TIP Update
  - b. 2009 TIP Public Notice
  - c. Expedited Project Selection Process
7. Amendment to Regional Measure 2 Policies and Procedures\* (*Shruti Hari*)  
(*MTC staff will present the latest amendment to the RM2 Policies and Procedures based on the findings in the audit report for fiscal year 06-07.*)
8. Proposed Programming Guidelines for New Freedom FY 2007-2009\* (*Christina Atienza*)  
(*MTC staff will present the proposed guidelines including multi-year programming, timeline, priority areas, and evaluation criteria.*)

Estimated Time  
for Agenda Item

**Information Items / Other Business**

**3:00 p.m.**

9. Solicitation for Nominations for MTC's 2008 Transportation Awards (*Pam Grove*)  
(MTC is soliciting nominations for its 2008 Transportation Awards, with nominations due by  
Friday, May 9, 2008. Additional information and the nomination form is available online at:  
[http://www.mtc.ca.gov/about\\_mtc/awards/index.htm](http://www.mtc.ca.gov/about_mtc/awards/index.htm))

10. Recommended Future Agenda Items (*All*)

11. Public Comment

**Next meeting on:**

Monday, May 19, 2008

1:30 p.m. to 3:30 p.m.

MetroCenter, 1<sup>st</sup> Floor, Auditorium

101-8th Street, Oakland 94607

\* Agenda Items attached

\*\* Agenda Items with attachments to be distributed at the meeting.

Contact Craig Goldblatt at 510.817.5837 or [cgoldblatt@mtc.ca.gov](mailto:cgoldblatt@mtc.ca.gov) if you have questions regarding this agenda.

**Public Comment:** The public is encouraged to comment on agenda items at committee meetings by completing a request-to-speak card (available from staff) and passing it to the committee secretary or chairperson. Public comment may be limited by any of the procedures set forth in Section 3.09 of MTC's Procedures Manual (Resolution No. 1058, Revised) if, in the Chair's judgment, it is necessary to maintain the orderly flow of business. **Record of Meeting:** MTC meetings are taped recorded. Copies of recordings are available at nominal charge, or recordings may be listened to at MTC offices by appointment. **Sign Language Interpreter or Reader:** If requested three (3) working days in advance, sign language interpreter or reader will be provided; for information on getting written materials in alternate formats call (510) 817-5757. **Transit Access to the MetroCenter:** BART to Lake Merritt Station. AC Transit buses: #11 from Piedmont or Montclair; #59 or #59A from Montclair; #62 from East or West Oakland; #88 from Berkeley. For transit information from other Bay Area destinations, call 511 or use the TakeTransit<sup>SM</sup> Trip Planner at [www.511.org](http://www.511.org) to plan your trip. **Parking at the MetroCenter:** Metered parking is available on the street. No public parking is provided at the MetroCenter. Spaces reserved for Commissioners are for the use of their stickered vehicles only; all other vehicles will be towed away.

**PARTNERSHIP TECHNICAL ADVISORY COMMITTEE (PTAC) MINUTES**

March 17, 2008

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1. Introductions

*Marcella Rensi (Chair)* requested introductions.

2. Minutes of February 4, 2008 PTAC Meeting

The minutes for the February 4, 2008 PTAC meeting were accepted.

3. Partnership Reports

Partnership Board - *Ben Tripousis, City of San Jose* - The Partnership Board met on February 29, 2008. Highlights of the meeting included the summary report of the National Surface Transportation Policy and Revenue Study Commission.

Transit Finance Working Group (TFWG) – *Todd Morgan, Chair* – The TFWG met on March 5, 2008. Todd reported that the group finalized the FY 2008-09 Sect. 5307/5309 Program of Projects (POP) and AB 664 Bridge Toll match.

Local Streets & Roads Working Group (LS&RWG)– *Ben Tripousis, City of San Jose* – The LS&RWG meets on April 4, 2008. Ben reported that the local streets and roads group had a joint meeting with the transit planners group to strategize about needs relating to the T2035 plan.

Programming and Delivery Working Group (PDWG) – *Kenneth Kao, MTC* - PDWG met on March 17, 2008. Key topics included: 1) I-Bond update, 2) Trade Corridor Improvement Fund (TCIF) program, 3) an update on CMAQ baseline agreements, 4) a report on the new CMAQ minimum match guidelines, and 5) FY 2007-08 Regional Transportation Improvement Program (RTIP) update, which is scheduled to be adopted in May.

4. Legislative Update

*Kenneth Folan (MTC)* provided an update on SB 1731 (Yee), which doubles the current vehicle-licensing fee (VLF) for registrants in the Bay Area from \$1.00 - \$2.00 to support the Freeway Service Patrol operations. The last time the fee was increased was 1986.

5. Change in CMAQ Minimum Share Amount

*Ross McKeown (MTC)* reported that on February 13, 2008, FHWA issued guidance in response to language in the Energy Independence and Security Act that revised the federal CMAQ share requirement from CMAQ-funded projects. FHWA guidance stated that as a result of the Act, CMAQ funds obligated in FY 2007-08 or FY 2008-09 after the enactment date of December 20, 2007 could be as much as 100%, but not less than 80% of the total project cost, effectively bring obligations for projects funded with less than 80% CMAQ funds to a halt. The negative impact of this new guidance in the Bay Area totals ~\$2.5B. MTC is working with the State and is seeking reissuance of the guidance from Congressional staff. In the meantime, staff is encouraging project sponsors to process CMAQ projects, except FTA transfers. Caltrans has agreed to supply weekly listings of projects with delivery impacts as a result. The Committee requested that this item be reagendaized for follow-up in April.

**Discussion Items**6. a. Vision Policy Strategies

*Ashley Nguyen (MTC)* summarized the Vision Policy Strategies for five policy areas: 1) Investments, 2) Pricing, 3) Focused Growth, 4) Technology, and 5) Individual Actions. MTC staff is seeking comments regarding the vision strategies and/or vision statement. The Vision Policy Strategies will be presented to the Commission for its approval. Comments regarding the proposed strategies should be submitted to Ashley Nguyen by March 18, 2008. Initial comments included not “striking out” the bike/ped network completely under “Where We Are Today” and combining bullets 2 & 3 under “Challenges to Overcome”.

6. b. Transit Capital and Operating Needs and Shortfall Assessments

*Christina Atienza (MTC)* distributed the updated draft Transit Operating and Maintenance Costs and Revenues Needs Projections for the Transportation 2035 (T2035) Plan, which incorporates comments received from various groups.

*Glen Tepke (MTC)* distributed and summarized the draft Transit Capital Needs Projections for the Transportation 2035 (T2035) Plan and explained the methodology behind the projections. Committee members

**PARTNERSHIP TECHNICAL ADVISORY COMMITTEE (PTAC) MINUTES**

March 17, 2008

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recommended that the 10% Flexible Set-Aside assumptions be presented to the Transit Finance Working Group for further discussion.

6. c. Local Streets and Roads Needs and Shortfall Assessment

*Theresa Romell (MTC)* summarized the draft Local Streets and Roads Needs Projections for the Transportation 2035 (T2035) Plan. An outside consultant is evaluating local bridge needs. The numbers do not include deferred maintenance and operating & maintenance shortfall. Staff is seeking input from the Partners on additional investment options. Committee members expressed concern that the operating & maintenance assumption doesn't reflect the shortfall accurately and that the shortfall is significantly greater. Committee members requested that the investment to date in the Metropolitan Transportation System (MTS) be clearly identified.

6. d. MTC's Proposed Regional Projects/Programs for Transportation 2035 (T2035)

*Raymond Kan (MTC)* provided an update on the Call for Projects for T2035; the deadline to submit projects for consideration was March 5, 2008. Raymond reported on the proposed Regional Projects/ Programs for T2035. Projects and programs approved under the "prior commitments criteria" include ongoing regional operations programs – TransLink®, 511, FSP/Call Box, Freeway Operations, Arterial Signal Timing, Performance Monitoring, and Transit Connectivity along with funding committed to date to the regional transit expansion program under Resolution 3434. The proposed uncommitted regional projects/programs for consideration in the T2035 include: 1) Regional Bicycle Program (\$1.3B), 2) Lifeline Transportation Program (\$1.6B), 3) Transportation for Livable Communities (TLC) (\$1.5B), 4) Freeway Performance Initiative (FPI) (\$1.3B), 5) Transportation Climate Action Campaign (\$184M for 5 years), 6) Regional Rail Right-of-Way Preservation (\$435M), and 7) Means-Based Transit Fare Assistance (\$1.2B). Project costs are shown in 2007 dollars; these costs will be escalated to year-of-expenditure dollars during the evaluation process. The proposed uncommitted regional projects/programs are subject to project evaluation and tradeoff discussions for determining the RTP financially constrained element. Lisa Klein (MTC) explained how the projects/programs would be evaluated, particularly against the T2035 targets. Comments should be submitted to Ashley Nguyen by March 21, 2008.

6. e. Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for Transportation 2035 (T2035)

*Ashley Nguyen (MTC)* announced that MTC, as the lead agency, would prepare a Draft Environmental Impact Report (EIR) for the Transportation 2035 Plan in accordance with the California Environmental Quality Act (CEQA). The Notice of Preparation is intended to seek comments with specific detail about the scope and content of the environmental information that will be evaluated in the EIR. Two regional scoping meetings (March 10, 2008 and March 13, 2008) were held to solicit input on the scope and content of the Draft EIR. Comments must be received by MTC, Attn: Ashley Nguyen, no later than March 21, 2008.

6. f. Transportation 2035 Financial Constraint Policy

*Theresa Romell (MTC)* presented an update on the proposed framework for the financially constrained Transportation 2035 (T2035) and outlined the process and timeline for cost review and risk assessment for major capital projects in T2035. The revised preliminary T2035 revenue (financial constraint) is ~\$222.2B. Comments regarding the T2035 Financial Constraint Policy should be emailed to Theresa Romell at [tromell@mtc.ca.gov](mailto:tromell@mtc.ca.gov) as soon as possible.

6. g. Project Performance Evaluation Update

*Lisa Klein (MTC)* reported that the Transportation 2035 project performance assessment is underway. To help ensure consistency and transparency, the Partnership Ad Hoc Committee is expected to meet on March 25 upon reviewing a set of approximately 40 representative projects. Projects sponsors and CMAs will have an opportunity to conduct a technical review of the preliminary analysis results – both qualitative and quantitative – for their projects toward the end of April. Committee members requested that the transit ridership data be published upon conclusion of the performance evaluation assessment.

7. TLC Program Evaluation and Recommendations

*Doug Johnson (MTC)* summarized the findings and explained the methodology of the Transportation for Livable Communities (TLC)/Housing Incentive Program (HIP) program evaluation and presented MTC's proposed recommendations. Staff recommendations are as follows: 1) eliminate TLC Planning program and concentrate on

**PARTNERSHIP TECHNICAL ADVISORY COMMITTEE (PTAC) MINUTES**

March 17, 2008

Page 3 of 3

Station Area Planning grant program, 2) eliminate HIP, but use housing as key evaluation factor in TLC criteria, 3) grow TLC program funding, 4) add new funding tools, and 5) use some funds to directly support FOCUS Priority Development Areas. The final draft of the evaluation is expected to be released by the end of March 2008.

**8. Draft Lifeline Evaluation**

*Jennifer Yeamans (MTC)* summarized the 3-year Lifeline Program Evaluation key findings and proposed recommendations. Based on the evaluation findings, staff are initially recommending that the future Lifeline program continue to be administered locally by the county congestion management agencies (CMAs), or other designated countywide agency, under policy direction from MTC, with the following changes that will be implemented over the next year: 1) streamline fund allocation and delivery, 2) revise program guidelines to make the project development process and fund eligibility clearer, 3) measure progress toward Lifeline goals, 4) pursue local mobility management strategies throughout the region, and 5) seek out new, more flexible funding sources. Staff anticipates the draft evaluation report will be available for review in April 2008, with final draft to be presented to the Commission in May 2008 and the next Call for Lifeline projects to occur in summer 2008. Committee members recommended for funding for bike/ped projects.

**Information Items / Other Business****9. TIP Amendment Update**

Detailed information regarding the TIP and its amendments is available online at <http://www.mtc.ca.gov/funding/tip/amendments.htm>.

**10. Recommended Future Agenda Items**

- Update on the CMAQ Minimum Share Amount

**Proposed Next Meeting:**

Monday, April 21, 2008

1:30 p.m. – 3:30 p.m.

**(NOTE: LOCATION CHANGE)**

Alameda County Transportation Improvement Authority

1333 Broadway, Ste 300, Oakland 94607



**TRANSIT FINANCE WORKING GROUP (TFWG)  
MEETING AGENDA**

WEDNESDAY, APRIL 2, 2008, 10:00 A.M. – 12:00 P.M.  
METROCENTER, 3<sup>RD</sup> FLOOR, FISHBOWL CONFERENCE ROOM  
101 EIGHTH STREET, OAKLAND, CA 94607

**Estimated Time**

**Discussion Items**

- |  |        |
|--|--------|
| 1. Introductions   | 3 min  |
| 2. Approval of the March 5, 2008 Minutes*  | 2 min  |
| 3. Transit Planning Working Group Update ( <i>Cory LaVigne, AC Transit</i> )                       | 5 min  |
| 4. RTP Transit Capital Needs and Shortfall Projections** ( <i>Glen Tepke, MTC</i> )                | 15 min |
| 5. RTP Transit Operating Needs and Shortfall Projections** ( <i>Christina Atienza, MTC</i> )       | 15 min |
| 6. RM2 Audit Results and Proposed Revisions to Policies & Procedures** ( <i>Shruti Hari, MTC</i> ) | 5 min  |
| 7. BART Request to Reallocate AB 664 Funds* ( <i>Glen Tepke, MTC</i> )                             | 5 min  |
| 8. SRTP Revenue Estimates* ( <i>Theresa Romell, MTC</i> )  | 10 min |
| 9. Changes to Federal CMAQ Guidelines* ( <i>Ross McKeown, MTC</i> )                                | 10 min |
| 10. MTC's Proposed FY07-09 New Freedom Application Guidelines** ( <i>Christina Atienza</i> )       | 10 min |
| 11. Release of Draft 2009 TIP for Public Review and Comment * ( <i>Sri Srinivasan, MTC</i> )       | 10 min |
- (MTC staff will present the highlights of the draft 2009 TIP that was released for a 30-day public review and comment period on March 28, 2008. The current TIP and subsequent TIP Amendments are available online at:  
<http://www.mtc.ca.gov/funding/tip>)*
- 2009 TIP Public Notice
  - Expedited Project Selection Process

**Information Items / Other Items of Business:**

- |   |        |
|---|--------|
| 12. Lifeline Evaluation Draft Report* ( <i>Jennifer Yeamans, MTC</i> )  | 5 min  |
| 13. Update on Proposition 1B – FY 2007-08 Transit Allocation Requests and Transit Security Grant Program Guidelines*( <i>Kenneth Folan, MTC</i> ) | 10 min |
| 14. Update on TDA Revenues** ( <i>Theresa Romell, MTC</i> )   | 5 min  |
| 15. Recommended Future Agenda Items ( <i>All</i> )  | 5 min  |

**Next Transit Finance Working Group Meeting:**

Wednesday, May 7, 2008  
10:00 a.m. –12:00 p.m.  
Fishbowl Conference Room, MTC MetroCenter

\* = Attachment in Packet \*\* = Handouts Available at Meeting  
Contact Glen Tepke of MTC at 510-817-5781 or [gtepke@mtc.ca.gov](mailto:gtepke@mtc.ca.gov) if you have questions about this session.



METROPOLITAN  
TRANSPORTATION  
COMMISSION

LOCAL STREETS AND ROADS WORKING GROUP  
101 - 8<sup>th</sup> St., Room 171 (1<sup>st</sup> Floor)  
Friday, April 4, 2008  
**(Note Time Change) 10:00 a.m. – 12:30 p.m.**

### AGENDA

<u>Topic</u>	<u>Estimated Time</u>
<b>1. Introductions</b> ( <i>J. Bueren, Chair</i> )	5 min
<b>2. Approval of February 1, 2008 Minutes*</b> ( <i>J. Bueren, Chair</i> )	5 min
<b>3. Programming Updates:</b>	
A. Report of Federal Inactive Obligations** ( <i>S. Tan, MTC</i> )	5 min
B. STP/CMAQ Program Monitoring Update** ( <i>S. Tan, MTC</i> )	5 min
<b>4. Standing Updates:</b>	
A. T2035 Next Steps – LS&R/Transit Needs Update ( <i>J. Bueren, Chair</i> )	10 min
B. PMP Certification Status* ( <i>Memo Only</i> )	
<b>5. Discussion Items:</b>	
A. Change in CMAQ Minimum Share Amount* ( <i>Ross McKeown, MTC</i> )	10 min
B. T2035 Streets and Roads Needs and Shortfall Assessment* ( <i>Theresa Romell, MTC</i> )	10 min
C. Pavement Maintenance Sub-Committee Update ( <i>F. Cisneros, Vice-Chair</i> )	15 min
D. Discussion on T2035 Regional Projects/Program Submittals* ( <i>All</i> )	15 min
E. P-TAP: Rounds 9 and 10 Program Update* ( <i>S. Srinivasan, MTC</i> )	10 min
F. Draft Local Bridge Needs Assessment Report* ( <i>S. Tan, MTC</i> )	25 min
G. Follow-Up to Proposed S.F. Bay Regional Water Quality Control Board Municipal Regional Permit (MRP) ( <i>J. Bueren, Chair</i> )	
H. Release of Draft 2009 TIP for Public Review and Comment* ( <i>Sri Srinivasan, MTC</i> )	5 min
• TIP Update	
• 2009 TIP Public Notice	
• Expedited Project Selection Process	
<b>6. Informational Items:</b>	
A. Solicitation for Nominations for MTC's 2008 Transportation Awards ( <i>U. Vogler, MTC</i> )	5 min
B. Project Solicitation for the High Risk Rural Roads (HR3) Program * ( <i>Memo Only</i> )	
C. SFGate.com Article: "Local Tax Measures Approved", published 2/07/08* ( <i>Memo Only</i> )	
D. Examiner.com Article: "Local Potholes Digging Into Cars, Wallets", published 3/13/08* ( <i>Memo Only</i> )	
E. Examiner.com Article: "Region's Potholes Jolt Wallets", published 3/18/08* ( <i>Memo Only</i> )	
<b>7. Recommended Agenda Items for Next Meeting:</b> ( <i>All</i> )	5 min

#### Proposed Next Meeting:

Friday, April 4, 2008

9:00 a.m. to 12:00 p.m.

MTC MetroCenter, 1<sup>st</sup> Floor, Room 171

\* = Attachment in Packet

\*\* = Handouts Available at Meeting

Contact MTC staff liaison, Sri Srinivasan, at 510.817.5793 if you have questions regarding this agenda.

Chair: Julie Bueren, County of Contra Costa

MTC Staff Liaison: Sri Srinivasan

Vice-Chair: Fernando Cisneros, City and County of San Francisco

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(23) 03.31.08



METROPOLITAN  
TRANSPORTATION  
COMMISSION

PROGRAMMING AND DELIVERY WORKING GROUP MEETING  
Monday, April 21, 2008  
10:30 a.m. – 12:30 p.m.  
MTC Metrocenter, **Claremont Room, 2<sup>nd</sup> Floor**

### AGENDA

<u>Item</u>	<u>Estimated Time</u>
<b>1. Introductions and Announcements</b>	3 min
<b>2. Review of Minutes from the March 17, 2008 Working Group Meeting*</b>	2 min
<b>3. Working Group Standing Items</b>	
A. STP/CMAQ Program Monitoring Update* ( <i>Kenneth Kao</i> ) (MTC staff will report on the STP/CMAQ Program Monitoring status for FFY 2007-08 as well as additional program monitoring issues. The FFY 2007-08 deadline for submitting obligation requests was <u>March 1, 2008</u> .)	5 min
B. STIP Project Delivery Monitoring Update* ( <i>Kenneth Kao</i> ) (MTC staff will report on allocation status of projects programmed in FY 2007-08 of the STIP.)	5 min
C. CTC and State Budget Update ( <i>Kenneth Kao</i> ) (MTC staff will report on the latest from the California Transportation Commission (CTC) with regards to new or revised policies, procedures, guidance and direction and updates on the State Budget.)	5 min
D. CMIA and Infrastructure Bond Update* ( <i>Kenneth Kao / Judy Li</i> ) (MTC and Caltrans staff will discuss the CMIA project next steps, any new developments, and CMIA Amendment process with other I-Bond Programs, including the Trade Corridors and Public Transit Programs.)	15 min
E. Federal Inactive Obligations* ( <i>Kenneth Kao</i> ) (MTC staff will discuss the projects on the federal inactive obligations look ahead lists for the periods ending December and March.)	5 min
<b>4. Discussion Items</b>	
A. CMAQ Minimum Share Resolution* ( <i>Ross McKeown</i> ) (MTC staff will present the latest information on the required 80% minimum CMAQ share issue.)	5 min
B. Release of Draft 2009 TIP for Public Review and Comment* ( <i>Sri Srinivasan</i> ) (MTC staff will present the highlights of the draft 2009 TIP that was released for a 30-day public review and comment period on March 28, 2008. Final comments are due by 5:00 pm, May 1, 2008.)	15 min
a. TIP Update	
b. 2009 TIP Public Notice	
c. Expedited Project Selection Process	
C. Proposed Change in Regional Project Delivery Policy (MTC Resolution 3606)* ( <i>Ross McKeown</i> ) (MTC staff will present a proposal to advance the Request for Obligation and Obligation deadlines by one month to February 1 and April 30 of each year respectively, in response to a change in the Caltrans OA Management policy)	15 min
D. Soundwalls and Noise Abatement Issues ( <i>Matt Todd, ACCMA</i> ) (The Alameda County Congestion Management Agency will lead a discussion on how CMAs address soundwalls and alternative noise abatement issues in their counties)	5 min

**5. Informational Items**

- A. Solicitation for Nominations for MTC's 2008 Transportation Awards (*Pam Grove*) 5 min  
(MTC is soliciting nominations for its 2008 Transportation Awards, with nominations due by Friday, May 9, 2008. Additional information and the nomination form is available online at: [http://www.mtc.ca.gov/about\\_mtc/awards/index.htm](http://www.mtc.ca.gov/about_mtc/awards/index.htm))

**6. Caltrans Items**

- A. Review of Draft Public Participation Plan\* (*Kenneth Kao*) 2 min  
(Caltrans is soliciting comments on their draft Public Participation Plan. Please review and comment by May 1, 2008)

**7. Workshop Items**

There is no Workshop Item this month.

**8. Recommended Agenda Items for Future Meetings**

**2 min**

- A. SACOG Project Tracker Presentation (*TBD, SACOG*)

**The next PDWG meeting:**

Monday, May 19, 2008

10:30 a.m. – 12:30 p.m.

MTC MetroCenter, 2<sup>nd</sup> Floor, Claremont Conference Room

101 Eighth Street, Oakland 94607

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\* = Attachment in Packet    \*\* = Handouts Available at Meeting

Contact MTC staff liaison, Kenneth Kao at (510) 817-5768 or [kkao@mtc.ca.gov](mailto:kkao@mtc.ca.gov) if you have questions about this session.



METROPOLITAN  
TRANSPORTATION  
COMMISSION

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## *Memorandum*

TO: Partnership Technical Advisory Committee

DATE: April 21, 2008

FR: Ross McKeown

RE: CMAQ - 80 Percent Minimum Federal Share Issue - Resolved

On February 13, 2008, FHWA issued guidance in response to language in the Energy Independence and Security Act that revised the federal CMAQ share requirement for CMAQ-funded projects. FHWA guidance stated that as a result of the Act, CMAQ funds obligated in FY 2007-08 or FY 2008-09 after the enactment date of December 20, 2007 could be as much as 100 percent, but not less than 80 percent of the total project cost. The result of this guidance was to bring obligations for projects funded with less than 80 percent CMAQ funds to a halt. In the San Francisco Bay Area alone, the amount of projects negatively impacted by this guidance totaled \$2.5 billion.

Subsequent to the initial guidance, and in response to various States and MPOs noting other provisions in law that allow the States to fund projects with more than the required minimum match (commonly known as over-match), FHWA reconsidered its initial guidance. On April 7, 2008 FHWA issued revised guidance, and in affect withdrew the earlier requirement that CMAQ funds could be no less than 80 percent of the total cost. With this revised guidance, CMAQ projects that are programmed for less than the standard 80 percent Federal share can move forward. Furthermore the 100 percent CMAQ share is retained, allowing sponsors to fund a project with 100 percent CMAQ funds, when those funds are obligated in FY 2007-08 or FY 2008-09 and after the enactment date of December 20, 2007.

Attached are the FHWA transmittal letter and Revised CMAQ Federal Share Guidance Questions & Answers. With this revised guidance, Caltrans is once again processing CMAQ obligations. Sponsors are reminded that the deadline for obligation /transfer of CMAQ funds programmed in FY 2007-08 of the TIP is May 31, 2008. CMAQ (and STP) funds not obligated/transferred by that date are subject to de-programming from the project.

Attachments: FHWA Letter re: CMAQ Share Revised Guidance  
FHWA Revised CMAQ Federal Share Guidance Questions & Answers



**U.S. DEPARTMENT OF TRANSPORTATION**  
 FEDERAL HIGHWAY ADMINISTRATION  
 CALIFORNIA DIVISION  
 650 Capitol Mall, Suite 4-100  
 Sacramento, CA. 95814  
 April 7, 2008

IN REPLY REFER TO  
 HDA-CA  
 Document # S51634

Mr. Will Kempton, Director  
 California Department of Transportation  
 1120 N Street  
 Sacramento, CA 95814

Attention: Federal Resources Office, Room 3500  
 For Mr. Muhaned Aljabiry, Chief

Dear Mr. Kempton:

SUBJECT: FHWA Revised Guidance Regarding Changes to the CMAQ

This letter transmits Federal Highways Administration (FHWA) revised guidance regarding changes to the Congestion Management and Air Quality Improvement Program (CMAQ) brought about by the Energy Independence and Security Act signed in December 2007 (Energy Act). This guidance replaces some of the FHWA Questions and Answers distributed on February 28, 2008, while the remaining Questions and Answers remain unchanged.

As you may recall, the Energy Act made adjustments to the Federal share for CMAQ projects obligated in fiscal years 2008 and 2009. The FHWA guidance on the minimum Federal CMAQ share has changed substantially. The FHWA has conducted an assessment of the provisions in 23 U.S.C. 120 that govern the States' flexibility in choosing Federal share for CMAQ projects. The FHWA has concluded that the provisions of 23 U.S.C. 120(i), which allows States to increase the non-Federal share, are not in conflict with 23 U.S.C. 120(c)(2), the new provision added by the Energy Act. Because Congress did not include specific language to override existing Section 120(i), States retain the flexibility provided by that section to contribute an amount in excess of the non-Federal share of a project under Title 23 so as to decrease the Federal share payable. Consequently, CMAQ projects in the planning or implementation stages that are programmed for less than the standard 80 percent Federal share can move forward.

If you have questions regarding this revised guidance, please contact Aimee Kratovil, FHWA Air Quality Specialist at (916) 498-5866 or email [aimee.kratovil@fhwa.dot.gov](mailto:aimee.kratovil@fhwa.dot.gov).

Sincerely,

*/s/ Steve Luxenberg*

For  
 Gene K. Fong  
 Division Administrator

Enclosures:  
 FHWA Revised CMAQ Federal Share Guidance – Questions & Answers (Document #51633)

**MOVING THE  
 AMERICAN  
 ECONOMY**



cc (e-mail):

All MPOs

Caltrans:

Fardad Falakfarsa

Rachel Falsetti

Terry Abbott

AK/ac

Energy Act Provisions: CMAQ Federal Share  
*Questions & Answers*

1. *Does the Energy Act require specific Federal shares for CMAQ projects?* No. The Act provides that, in FY 2008 (as of December 20, 2007) and FY 2009, the Federal share payable for CMAQ obligations may be up to 100 percent at the discretion of the State. However, States retain the flexibility to increase the non-Federal share, as provided in 23 U.S.C. § 120(i).
2. *Does the Energy Act provision create a minimum Federal share or “true floor” of 80 percent for CMAQ projects?* No. The Office of Chief Counsel analyzed the provisions in 23 U.S.C. § 120 and determined that 23 U.S.C. § 120(i), which gives States the flexibility to increase the State share in a Federal aid project, applies to the CMAQ provision in 23 U.S.C. § 120(c)(2). Consequently, there is no absolute minimum of 80 percent Federal share. For example, public-private partnerships that had been planned for a 50-50 split can move forward for programming in plans and TIPs.
3. *Does the increased Federal share provision apply to funds apportioned in years prior to FY 2008?* Yes. The provision applies to CMAQ funds obligated in FY 08 and FY 09, regardless of the year of apportionment.
4. *Do States need to apply a uniform share statewide?* No. The provision can be applied differently for each project under obligation.
5. *For States that make use of Advance Construction (AC), does the increased Federal share provision apply to AC?* An AC authorization is not an obligation of Federal funds. When adequate obligation authority is available and the State seeks reimbursement for AC projects, any obligation of CMAQ funds occurring in FY 2008 or FY 2009 can reflect the amended provision for 100 percent CMAQ share.
6. *Will the CMAQ Federal share provision continue after 2009?* The provision is specific to funds obligated in FY 2008 and FY 2009. We are unable to predict whether it will be incorporated into the next reauthorization or any extension acts.





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## Memorandum

TO: Partnership Technical Advisory Committee

DATE: April 21, 2008

FR: Executive Director

RE: Transportation 2035 Plan Public Involvement Activities

As part of the development of the region's long-range transportation plan, known as the *Transportation 2035 Plan*, planners are conducting a quantitative project performance evaluation — along with a parallel policy assessment — to highlight key policy considerations about projects being proposed for inclusion in the plan. These two pieces of work will more fully inform discussions about the trade-off decisions the Commission will ultimately have to make in deciding which projects to include in the financially constrained plan. To involve the public in these discussions, we intend to conduct extensive outreach to hear from the public on our evaluation results and potential investment trade-offs.

Listed below is an overview of public participation activities planned for this spring.

### Telephone Poll and Focus Groups:

In April 2008, we will conduct a statistically valid telephone poll of 3,600 Bay Area registered voters, to complement the poll conducted in September and October 2007. In addition, we will use the poll to recruit residents from all nine Bay Area counties to participate in nine focus groups conducted around the region. The focus groups give us the opportunity to have a more in-depth discussion with participants.

### County-Level Regional Workshops

A series of workshops around the region – one in each county – is planned for May. Proposed dates and locations for these workshops are as follows:

#### Workshops

County	Date	Time	Facility Name
Alameda	5/14/2008	6-8 pm	MetroCenter Auditorium (Oakland)
Contra Costa	5/12/2008	6-8 pm	Civic Park Community Center (Walnut Creek)
Marin	5/19/2008	6-8 pm	San Rafael Community Center (San Rafael)
Napa	5/20/2008	6-8 pm	Napa City-County Library (City of Napa)
San Francisco	5/22/2008	6-8 pm	SF State Downtown Campus (San Francisco)
San Mateo	5/13/2008	6-8 pm	San Mateo County Government Center, Board of Supervisors Chambers (Redwood City)
Santa Clara	5/8/2008	6-8 pm	Dr. Martin Luther King Library (San Jose)
Solano	5/7/2008	6-8 pm	County Government Center (Fairfield)
Sonoma	5/6/2008	6:30-8:30pm.	Finley Community Center (Santa Rosa)

**Community-Based Outreach**

MTC will contract with community-based organizations for assistance in recruiting residents in low-income communities and communities of color to participate in focus group discussions about the investment trade-offs. Community organizations will be selected based on responses to a Request for Proposals. We anticipate working with nine community groups around the region; these meetings will be held in May 2008 as well.

**MTC Web Site Offers Public Involvement Options**

MTC will continue to make its Web site an on-line source of information about the ongoing efforts to update the regional transportation plan, including interactive surveys.

**/Steve Heminger/**

Steve Heminger



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## *Memorandum*

TO: Partnership Technical Advisory Committee

DATE: April 21, 2008

FR: Jennifer Yeamans

W.I.:

RE: Transportation 2035 Equity Analysis: Proposed Methodology

Staff has been working closely with the Minority Citizens Advisory Committee's Transportation 2035 Equity Analysis Subcommittee since January to develop an updated and refined methodology for the RTP Equity Analysis. The Equity Analysis is designed to measure both the benefits and burdens associated with the transportation investment packages proposed for the Transportation 2035 Plan, and to make sure that minority and low-income communities share equitably in the benefits of the transportation investments without bearing a disproportionate share of the burdens. Such analyses, in varying forms and formats, have been undertaken with each RTP since 2001.

Past Equity Analyses have emphasized mobility- and accessibility-related outcomes in low-income and minority communities, derived via MTC's travel forecasting system and compared across select EIR alternatives. In the Transportation 2030 Equity Analysis completed in 2004, modeling results were disaggregated for each of the Bay Area's 44 low-income and minority communities of concern, resulting in a great deal of data that was time-consuming for staff to produce and ultimately difficult for stakeholders to interpret.

In refining the approach to the Transportation 2035 Equity Analysis, staff has taken into account feedback received from past Equity Analyses, surveyed analysis methods employed at other MPOs, and considered the availability of new regional data sources. With these considerations in mind, staff has recommended expanding the scope of the Transportation 2035 Equity Analysis methodology to include funding inputs (that is, how financial investments contained in the Plan are allocated in terms of equity), as well as equity-related policies to address outcomes that are beyond the intended scope of MTC's travel model to forecast. Model-based results would be disaggregated only for select indicators, particularly job accessibility and environmental effects, which consistently arise as key concerns in local communities and which can help inform other planning and policy initiatives.

A table summarizing staff's proposed three-part framework for the RTP Equity Analysis methodology (financial analysis, model-based analysis, policy development) is attached. Staff look forward to receiving your feedback on this approach at your April 21 meeting.

### **Transportation 2035 Equity Analysis Timeframe**

- Through May 2008: Development of Equity Analysis technical methodology
- June 2008: Draft RTP investment packages available
- July – October 2008: Quantitative evaluation and technical analysis of Plan alternatives; supplementary analysis and mapping
- November 2008: Draft Equity Analysis Report available
- Late 2008: Final equity analysis report

## Attachment A: Transportation 2035 Equity Analysis: Proposed Indicators

Type of Analysis	Answers the question(s)	Measures Used	Proposed Indicators
<b>Financial Analysis</b> (Plan investments)	Are the investments being made in T2035 projects being allocated equitably?	Dollars invested	1. Plan expenditures: a. By Income Level b. By Race/Ethnicity
<b>Outcomes Analysis</b> (Benefits and burdens)	Will T2035 projects equitably impact people's accessibility and mobility?  Will environmental impacts of the T2035 projects be distributed equitably?	Accessibility <ul style="list-style-type: none"> <li>• Destinations reachable within a certain time</li> <li>• Destinations reachable within a certain expenditure</li> </ul>	2. Access to jobs within 30 minutes: a. Communities of concern vs. Rest of Bay Area b. "Low-cost" transit vs. all transit vs. auto* 3. Access to essential destinations within 15 minutes: a. Communities of concern vs. Rest of Bay Area b. "Low-cost" transit vs. all transit vs. auto*
		Mobility (average travel time)	4. Average travel time: communities of concern vs. rest of Bay Area
		User benefits (average annual per-capita monetary savings)	5. User benefits a. Travel time savings: Communities of concern vs. rest of Bay Area b. Out-of-pocket savings: Communities of concern vs. rest of Bay Area
		Environmental Impacts	6. Localized pollutants (emissions): Communities of concern vs. rest of Bay Area a. Carbon Monoxide (CO) b. Coarse particulates (PM <sub>10</sub> ) c. Fine particulates (PM <sub>2.5</sub> )
<b>Policy Statements</b> (Social and economic outcomes)	What results should the T2035 projects aim for?  How can the impacts of other T2035 policies such as pricing promote equity?	Affordability objective: Combined household spending on housing and transportation	Upcoming discussions will help identify what base-year indicators could be most informative to developing equity-related policies.

\* Denotes a new indicator not included in MTC's previous RTP Equity Analysis/EJ Reports.



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## *Memorandum*

TO: Partnership Technical Advisory Committee

DATE: April 14, 2008

FR: Lisa Klein

W. I.

RE: Transportation 2035: Investment Trade offs and Project Evaluation Status

At your meeting, MTC staff will provide a brief update on the project evaluation and will share a proposed approach to the framing the investment trade-off discussions to occur over the next few months.

Background materials are attached:

- 1) List of projects undergoing quantitative performance assessment (benefit/cost analysis)
- 2) Memo to the MTC Planning Committee outlining an approach to the trade-off discussions

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**Attachment 1**  
**Projects Identified for Quantitative Evaluation**

The following projects are undergoing evaluation and are listed on the following pages, except as noted:

1. Roadway and transit projects, excluding projects analyzed in the Freeway Performance Initiative (approx 16 transit and 34 highway)
2. Projects (not listed on the following pages) evaluated in the Freeway Performance Initiatives in five corridors:
  - Alameda/Santa Clara I-680
  - Solano/Contra Costa I-680
  - Solano I-80
  - Sonoma/Marin US 101
  - San Mateo/Santa Clara US 101
3. HOT lanes scenarios (3 scenarios of approx 30 HOT project submittals)
4. Regional investment programs (7 programs)

**Attachment 1: Projects Identified for Quantitative Evaluation**  
**April 4, 2008**

Note: Projects were proposed for Financially Constrained funding unless noted with "V" for Vision

RTP ID	Title	County	Capital Cost (M 2007\$)*	Notes
<b>Transit</b>				
230271	I-80 Express Bus Service	Alameda	70.0	
22667	Tri-Valley rail extension from Dublin/Pleasanton BART Station to Greenville Road in the I-580 median	Alameda	1,042.0	HOT revenue identified as potential funding source for
22516	V Enhance Capitol Corridor regional rail service (West Contra Costa and Solano county)	Contra Costa	0.0	
22343	V Express bus service expansion along I-680 corridor, Phase 2	Contra Costa	57.0	
22346	V Express bus service expansion along I-580 corridor	Contra Costa	50.0	
230252	Marin County Local Transit Expansion	Marin	56.0	
22415	Expand historic streetcar service	San Francisco	72.7	
230161	Van Ness Avenue BRT	San Francisco	76.1	
230164	Geary Boulevard BRT	San Francisco	190.5	
230207	Geneva/Harney Bus Rapid Transit	San Francisco	202.0	
<b>Transit Priority Measures - 1 package</b>				
21992	AC Transit Transit Priority Measures (TPM) and Corridor	Alameda	14.8	Evaluate as bundle
230111	V AC Transit--Transit Priority Measures (TPM), Corridor and Bridge Improvements	Alameda	133.5	
230060	Marin County Local Transit Enhancement on 6 Key Corridors	Marin	27.3	
22420	Bus Rapid Transit (BRT)/Transit Preferential Streets (TPS) (sales tax project)	San Francisco	418.2	
<b>Roadway</b>				
22013	Eastbound I-580 Truck Climbing Lane	Alameda	83.5	
22657	V I-580 (Altamont Pass) Westbound Truck Climbing Lane	Alameda	75.6	DB listing "In Review"; not in county list
22671	Construct direct HOV connection between southbound I-880 to westbound Route 84 (Dumbarton Bridge approach)	Alameda	125.0	
22776	Route 84 Expressway Widening	Alameda	124.0	
94506	East-West Connector Project in North Fremont and Union City	Alameda	150.0	
230099	I-580/I-680 Improvements (NB I-680 to WB I-580)	Alameda	392.5	DB listing "In Review" but in County list
230405	I-580 Improvements	Alameda	175.0	
21205	I-680/Route 4 interchange (phase 1, 2 and 3)	Contra Costa	172.2	Evaluate as bundle
22350	V I-680/Route 4 interchange improvements (Phases 4 and 5) and HOV flyover ramps	Contra Costa	148.0	
22352	I-680/Norris Canyon Road HOV direct ramps in San Ramon	Contra Costa	80.0	
22400	V Construct Route 239 from Brentwood to Tracy Expressway	Contra Costa	200.0	
98222	Route 4 Bypass, Segment 1: Route 160 freeway-to-freeway connectors to and from the north	Contra Costa	44.0	Evaluate as bundle
22605	V SR4 Bypass, Segments 1 & 2: widen from 4 to 6 lanes from Sand Creek to Balfour, and widen segment 3 to 4 lane	Contra Costa	143.5	
230208	V State Route 4 Bypass: Widen from 4 to 6 lanes from Laurel Road to Sand Creek Road	Contra Costa	31.5	
22981	V Widen Route 4 as continuous 4-lane arterial from Marsh Creek Road to San Joaquin County line	Contra Costa	100.0	
94050	V Upgrade Route 4 to full freeway from I-80 to Cummings Skyway (Phase 2)	Contra Costa	75.0	
21030	V I-580/US 101 interchange improvements and new freeway-to-freeway connector from northbound US 101 to eastbound I-580	Marin	98.0	
21612	Improvement of Dumbarton Bridge access to US 101	San Mateo	93.7	
21613	Route 92 improvements from San Mateo Bridge to I-280, includes uphill passing lane from US 101 to I-280	San Mateo	186.2	
94644	Route 92 westbound slow vehicle lane between Route 35 and I-280	San Mateo	81.1	
21714	SR 25/Santa Teresa Boulevard/US 101 Interchange (includes US 101 widening between Monterey Road and SR 25 and connection to Santa Teresa Blvd)	Santa Clara	233.0	
22145	Widen westbound Route 237 on-ramp from Route 237 to northbound US 101 to 2 lanes and add auxiliary lane on northbound US 101 from Route 237 on-ramp to	Santa Clara	9.0	Evaluate as bundle
22958	V US 101 southbound to eastbound Route 237 connector improvements	Santa Clara	55.0	DB listing "Not Completed"; verbal confirmation

\* Costs as entered in RTP database as of 3/28/08. Subject to update.

**Attachment 1: Projects Identified for Quantitative Evaluation**  
**April 4, 2008**

Note: Projects were proposed for Financially Constrained funding unless noted with "V" for Vision

RTP ID	Title	County	Capital Cost (M 2007\$)*	Notes
22162	Route 237 westbound to Route 85 southbound connector ramp improvements	Santa Clara	37.0	DB listing "Not Completed"; verbal confirmation
230294	V New SR 152 Alignment: SR 156 to US 101	Santa Clara	300.0	
230403	V US 101 Widening to 6-lane Freeway: SR 25 to SR 129	Santa Clara	170.0	
22624	V Construct continuous 4-lane Jepson Parkway from Suisun City to Vacaville	Solano	177.7	DB listing "Not Completed"; verbal confirmation
94151	Construct 4-lane Jepson Parkway from Route 12 to Leisure Town	Solano	182.0	
22700	Parallel corridor north of I-80 from Red Top Road to Abernathy Road (the western section extends from the railroad crossing on	Solano	68.0	
230326	I-80/I-680/SR12 Interchange - Phase 1	Solano	513.0	
230327	V I-80/I-680/SR12 Interchange (Balance of Project)	Solano	670.0	
230571	V I-80 HOV widening from SR 37 to Red Top Road	Solano	140.0	
230477	SR 12 Improvements: Phase 1	Solano	100.0	
230496	SR 12 Improvements: Phase 2	Solano	150.0	
<b>HOT Lanes Packages</b>				
<b>1 Regional HOT Network</b>				
230369	Regional Express Bus for HOT Network	Bay Area Regic	239.9	
230070	Regional HOT Network	Bay Area Regic	4,800.0	
<b>2 Alameda HOT Corridors</b>				
230277	I-880 Express Bus Service	Alameda	15.0	
230152	Northwest Livermore Bus Rapid Transit	Alameda	4.1	
230163	I-580 Express Bus Service	Alameda	3.1	
230165	I-680 Express Bus Service	Alameda	10.4	
230609	I-880 convert HOV to HOT lanes: SB: Hegenberger to Santa Clara County line; Northbound: Santa Clara county line to Hegenberger	Alameda	80.0	
230088	I-880 Northbound HOV/HOT Extension from north of Hacienda to Hegenberger - Phase 1	Alameda	156.0	
230089	I-880 NB HOV/HOT Extension from north of Hacienda to Hegenberger - Phase 2	Alameda	52.0	
22042	Widen I-680 for NB HOV/HOT lane from Route 237 to Stoneridge Dr	Alameda	303.0	
22668	Add NB and SB I-680 HOV/HOT lanes: Route 84 and Alcosta Blvd	Alameda	320.0	
230405	I-580 Improvements (includes I-580 HOT lanes)	Alameda	175.0	
230241	I-238 HOV/HOT lane	Alameda	540.0	
<b>3 Santa Clara HOT corridors</b>				
230248	SR 85 HOT Lanes: US 101 (S San Jose to Mountain View)	Santa Clara	72.0	
230254	US 101 HOT Lanes: San Mateo Countyline to SR 85 (Mountain View) (Conversion)	Santa Clara	12.0	
230280	US 101 HOV/HOT Lanes: 10th Street to SR 25	Santa Clara	43.0	
230278	US 101 HOV/HOT Lanes: Masten Avenue to 10th Street	Santa Clara	59.0	
230264	US 101 HOV/HOT Lanes: Cochrane Road to Masten Avenue	Santa Clara	93.0	
230258	US 101 HOT Lanes: SR 85 (S San Jose) to Cochrane Rd	Santa Clara	23.0	
230259	US 101 HOT Lanes: SR 85 (Mountain View) to SR 85 (S San Jose) (Conversion)	Santa Clara	90.0	
230404	SR 87 HOT Lanes: SR 85 to US 101 (Conversion)	Santa Clara	30.0	
230260	I-880 HOT Lanes: Alameda Countyline to US 101 (Conversion)	Santa Clara	20.0	
230276	I-880 HOV/HOT Lanes: US 101 to I-280	Santa Clara	160.0	
230275	I-680 HOV/HOT Lanes: Calaveras Boulevard to US 101	Santa Clara	30.0	
230270	I-280 HOT Lanes: Leland to Magdalena (Conversion)	Santa Clara	50.0	
230281	I-280 HOV/HOT Lanes: SB El Monte to Magdalena	Santa Clara	12.0	
230272	I-280 HOT Lanes: US 101 to Leland	Santa Clara	21.0	
230256	SR 237 HOT Lanes: I-880 to Mathilda Avenue (Conversion)	Santa Clara	20.0	
230263	SR 237 HOV/HOT Lanes: Mathilda Avenue to SR 85	Santa Clara	70.0	
230257	SR 237 HOT Connectors (Milpitas) to I-880 (conversion)	Santa Clara	5.0	
			<b>Program Cost (M 2007\$)</b>	
<b>Regional Investment Programs</b>				
230419	Freeway Performance Initiative	Bay Area Regic	1,300.0	
21011	Transportation for Livable Communities (TLC) - regional and county	Bay Area Regic	1,500.0	
22247	Regional Bicycle Network	Bay Area Regic	1,300.0	
230287	Goods Movement Emission Reductions Project	Bay Area Regic	102.5	
230550	Transportation Climate Action Plan	Bay Area Regic	184.0	5-year program

\* Costs as entered in RTP database as of 3/28/08. Subject to update.

**Attachment 1: Projects Identified for Quantitative Evaluation  
April 4, 2008**

Note: Projects were proposed for Financially Constrained funding unless noted with "V" for Vision

<b>RTP ID</b>	<b>Title</b>	<b>County</b>	<b>Capital Cost (M 2007\$)*</b>	<b>Notes</b>
22423	Lifeline Transportation Program	Bay Area Regic	1,600.0	
230414	Means-Based Fare Assistance	Bay Area Regic	1,200.0	

\* Costs as entered in RTP database as of 3/28/08. Subject to update.



As presented to the Planning  
Committee on April 11, 2008

PTAC - Item 5C

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## *Memorandum*

TO: Planning Committee

DATE: April 11, 2008

FR: Deputy Executive Director, Operations

W. I.

RE: Transportation 2035 Plan: Financial Estimates/ Project Tradeoff Framework

Over the past few months staff has sought Commission input and approval on several aspects of the Transportation 2035 Plan that include: goals and objectives; project performance objectives; vision policy strategies; defining committed projects/funding; and road and transit shortfalls.

We are now at a point in the RTP process when we need to begin thinking about how we might frame tradeoff discussions for the plan's financially constrained element using the evaluation structure that has been previously approved by the Commission. The attached slides provide some background on past Commission decisions and financial estimates that can be used to define a framework for how we might approach tradeoff decisions. These decisions will need to occur over the next 4 months and will ultimately lead the Commission to select a preferred financially constrained investment plan in July 2008.

Staff will be available at the meeting to present the attached information and answer Committee questions.

//Ann Flemer//

Ann Flemer

AF:DK

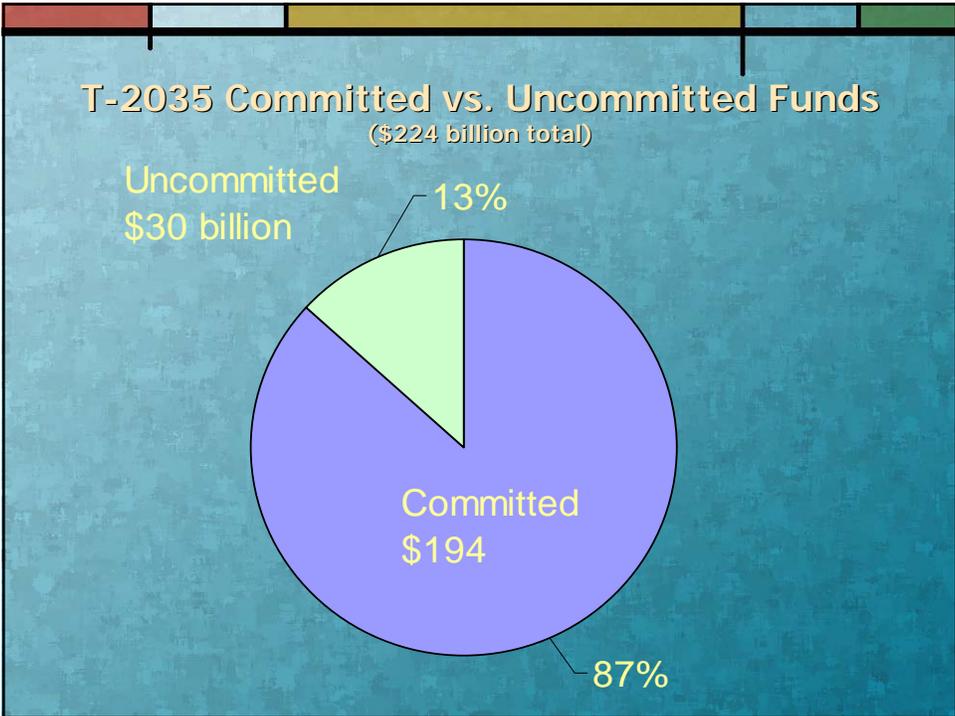
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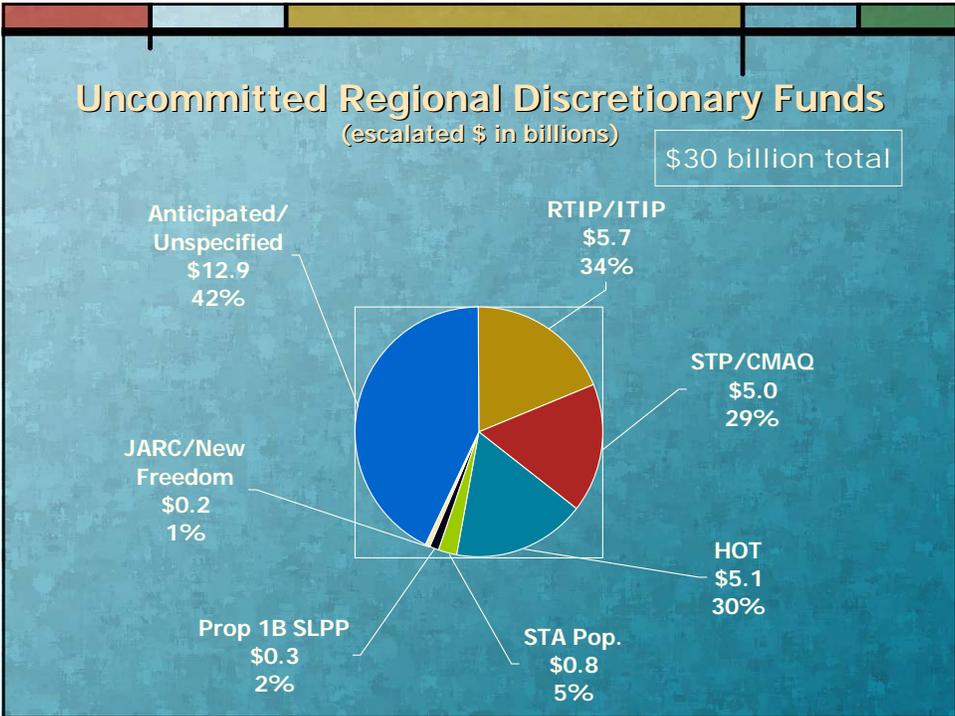
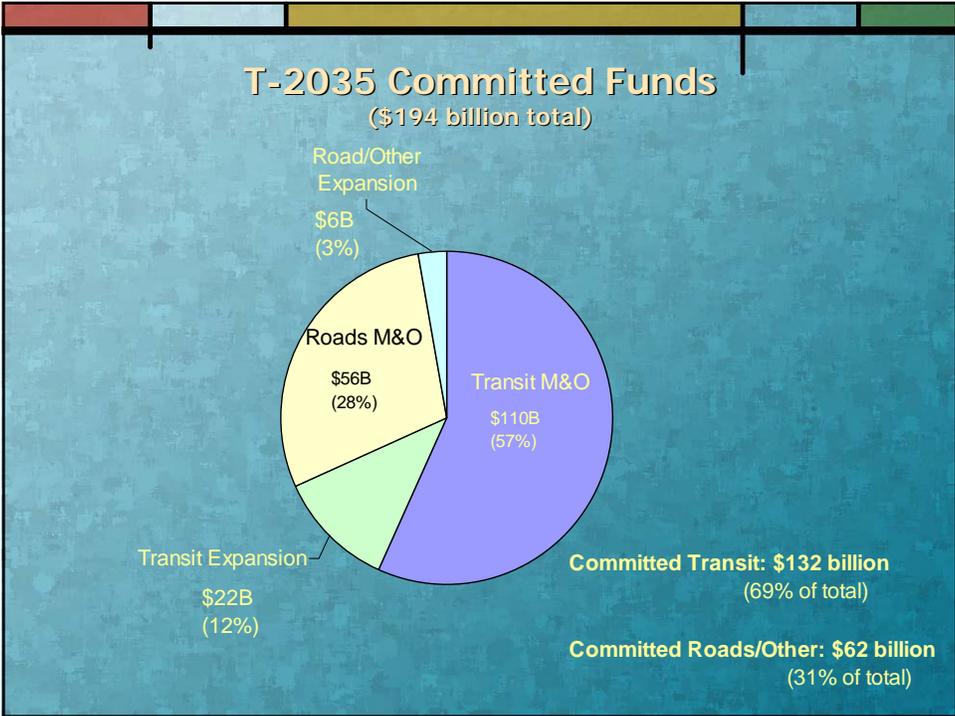


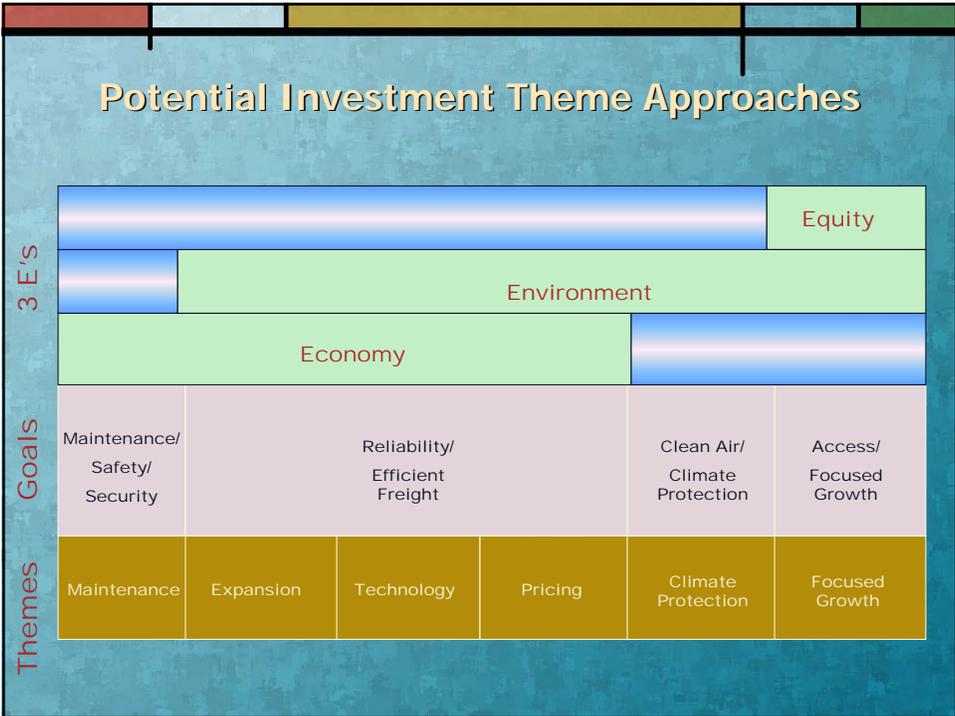
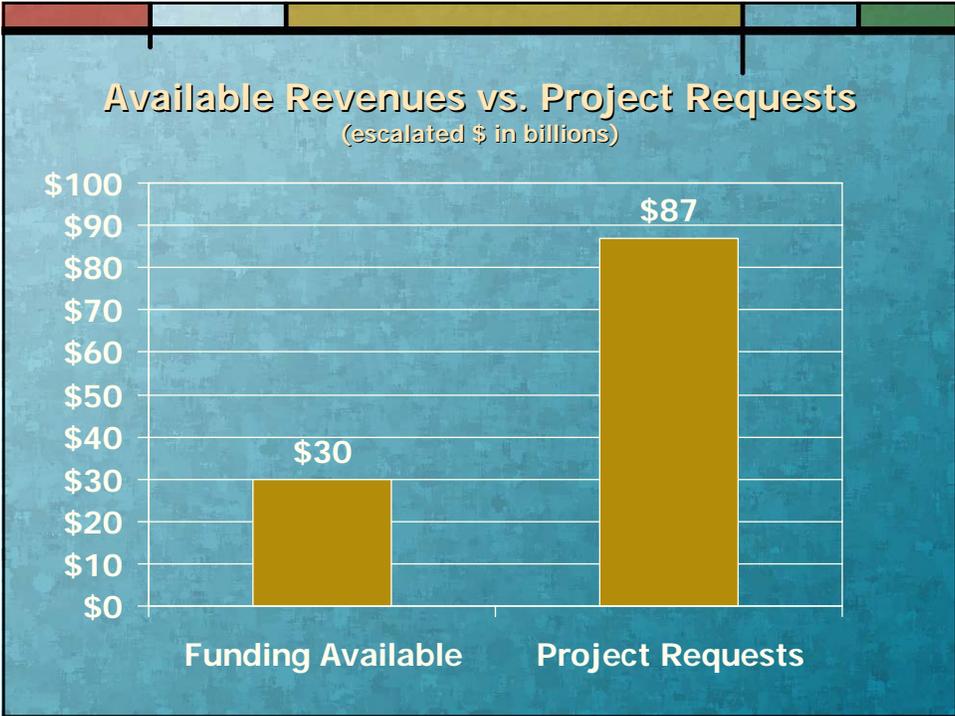
**TRANSPORTATION  
2035  
CHANGE IN MOTION**

## Developing a Project Tradeoff Framework

Planning Committee  
April 11, 2008

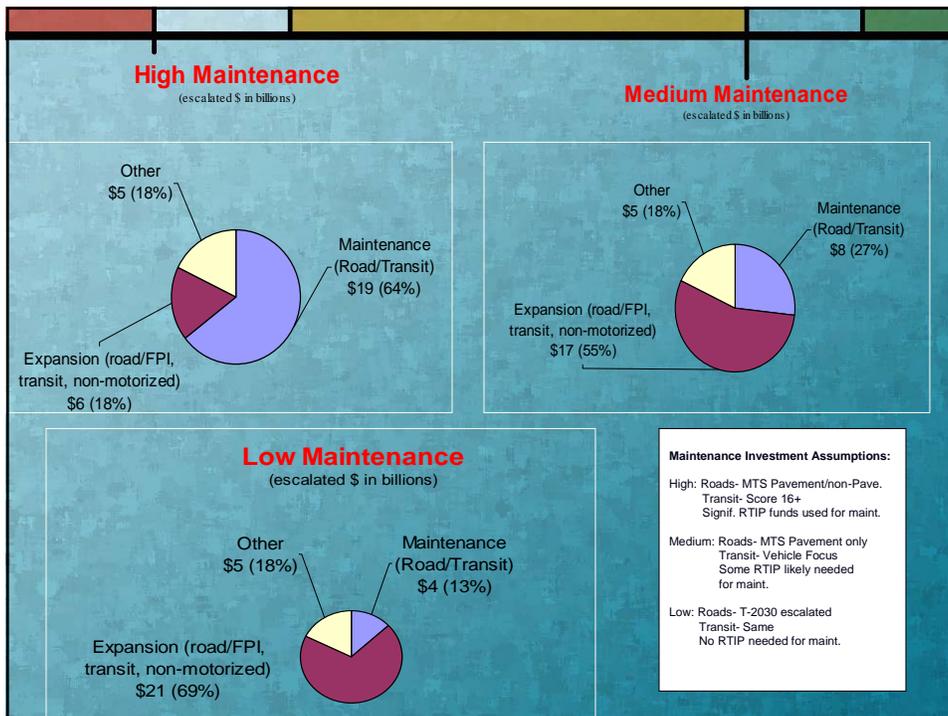


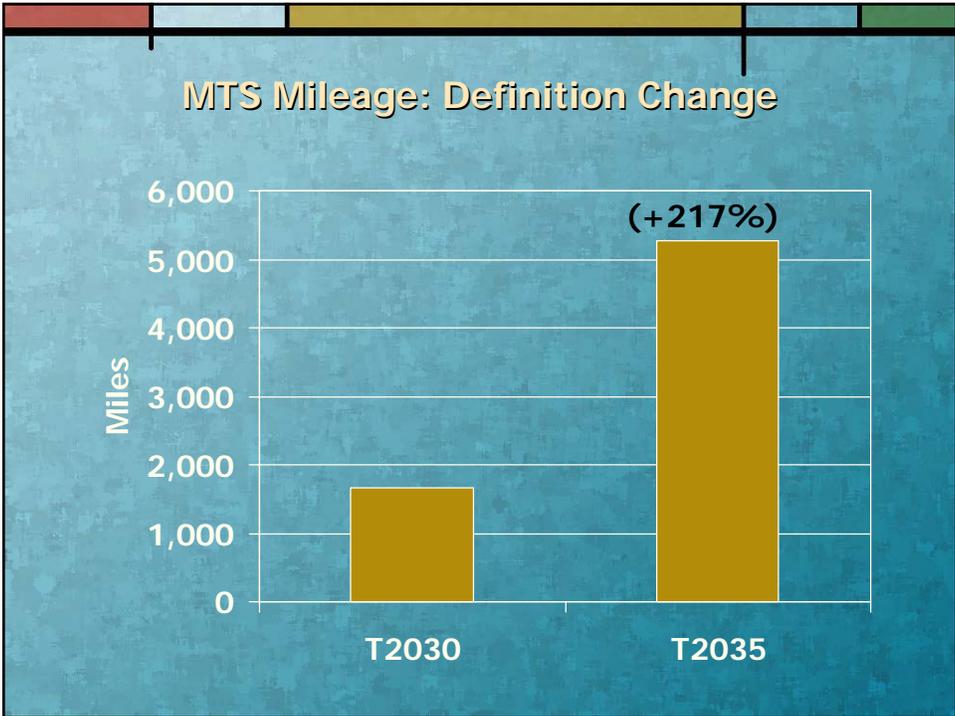
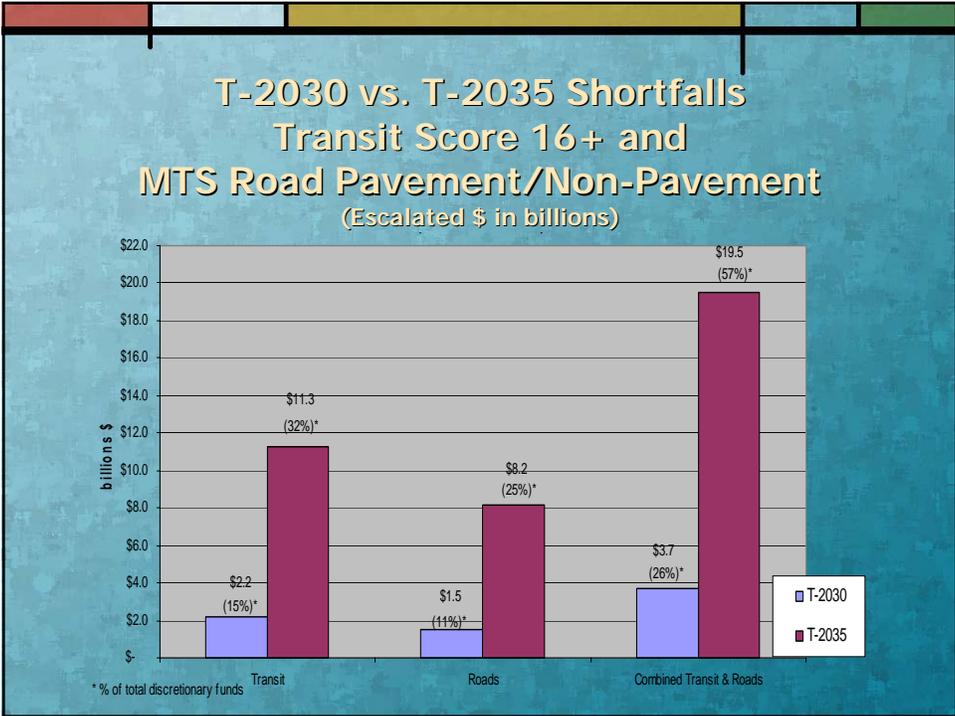




### Potential High Priority Projects by Theme (Illustrative – not an exhaustive listing)

Theme	Maintenance	Expansion	Technology	Pricing	Climate Protection	Focused Growth
Potential Projects	<ul style="list-style-type: none"> <li>Road/ Transit Maintenance</li> <li>Road realignment</li> <li>Complete Streets</li> <li>Grade Separations</li> </ul>	<ul style="list-style-type: none"> <li>HOV/HOT lane</li> <li>FPI Strategic Capacity</li> <li>Interchange Reconstruction</li> <li>Fwy-to-Fwy Interchanges</li> <li>Regional Bike Network</li> <li>Res. 3434</li> <li>Other transit expansion</li> </ul>	<ul style="list-style-type: none"> <li>FPI auxiliary lanes</li> <li>Regional ramp metering &amp; TOS</li> <li>Smart arterials</li> <li>Transit efficiency/BRT</li> </ul>	<ul style="list-style-type: none"> <li>HOT Lanes/ toll-funded express bus</li> </ul>	<ul style="list-style-type: none"> <li>Targeted climate protection programs</li> <li>Transit efficiency</li> <li>Transit expansion</li> <li>Non-motorized</li> <li>Smart arterials</li> </ul>	<ul style="list-style-type: none"> <li>Projects supporting PDAs/Smart Growth areas:                             <ul style="list-style-type: none"> <li>Transit</li> <li>Non-motorized</li> <li>Local roads</li> </ul> </li> <li>Smart arterials</li> <li>Road/transit maintenance</li> <li>TOD/TLC</li> <li>Lifeline</li> </ul>





### Transportation 2035 Schedule

April	Investment Tradeoff Discussions
May	Review Performance Evaluation Results  Discuss Investment Tradeoff Options
June	Preliminary Investment Plan
July	Approve Investment Plan

- ### Investment Tradeoff Questions
- Maintenance
- What should be the focus of the region's maintenance commitment?
  - Should we invest at the same % as T-2030?
- Technology
- Should squeezing more capacity out of our existing system take priority over system expansion?
- Expansion
- Should gap closures (HOV, bike, Lifeline) be highest expansion priority?

## Investment Tradeoff Questions

### Pricing

- What are the priorities for spending net HOT revenues?

### Climate Change

- What priority investments should the region advance to address climate protection?

### Focused Growth

- Should projects that support PDAs or compact growth be given priority?



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## *Memorandum*

TO: Partnership Technical Advisory Committee

DATE: April 21, 2008

FR: Sri Srinivasan

RE: Update on the 2009 Transportation Improvement Program (TIP)

It's that time again, when the region is in the process of updating the federally required Transportation Improvement Program (TIP).

The TIP is a comprehensive listing of all Bay Area surface transportation projects that are to receive federal funding or are subject to a federally required action, or are considered regionally significant for Air Quality Conformity purposes, during the four-year period from FY 2006-07 through FY 2009-10. MTC is required to prepare and adopt an updated TIP every two years. The 2007 TIP was adopted by the Commission on July 26, 2006, and approved by the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) on October 2, 2006. The current 2007 TIP is valid through October 1, 2008; therefore, it is time to develop a new TIP. The 2009 TIP will cover the four-year period beginning FY 2008-09 through FY 2011-12.

Because it takes several months to prepare a new TIP, it was necessary to “lock down” the 2007 Transportation Improvement Program (TIP) on January 11, 2008 to allow the time needed to conduct the required Air Quality Conformity analysis and determination, provide sufficient time for public participation, provide sufficient time for Caltrans, FHWA and FTA review and approval, and to ensure the data is consistent as we move from the current 2007 TIP to the new updated 2009 TIP.

What does lock-down mean? Access to MTC’s Fund Management System (FMS) is temporarily restricted to only the ability to do project searches. Project sponsors cannot make any changes to the 2007 TIP. This lock-down will be removed after FHWA and FTA approve the 2009 TIP in early December 2008.

The draft 2009 TIP is currently available for public comment. Attachment A is an introduction to the TIP. It also details the development schedule and contact information. Attachment B is the notice of public hearing on April 9, 2008.

# The 2009 Transportation Improvement Program

## Information for Interested Agencies and the Public

### Overview

The federally required Transportation Improvement Program (TIP) is a comprehensive listing of Bay Area surface transportation projects that receive federal funds or are subject to a federally required action, or are regionally significant. Transit, highway, local roadway, bicycle and pedestrian investments are included in the TIP with the exception of some improvements to the region's airports, seaports, and privately owned bus and rail facilities. Below are some key facts about the TIP:

- The current TIP includes approximately 1,026 individual transportation projects and includes committed federal, state, and local funding of approximately \$12 billion. The 2009 TIP is anticipated to have slightly more projects and funding. Most of the projects in the 2009 TIP will be carried over from the 2007 TIP.
- Inclusion in the TIP is required in order for a project to access federal funding and be granted federal permits. The TIP project listing indicates in which given year a project receives funding, its schedule and its budget. A project's presence in the TIP does not, however, represent a commitment of funds or an obligation to fund the project. A subsequent approval, involving a project-level NEPA document of the project is required before the project may be implemented. The TIP document itself is not subject to the provisions of NEPA or CEQA.
- All projects included in the MTC-prepared TIP must be consistent with the Regional Transportation Plan (RTP) for the Bay Area. The Commission decision to fund a program or a significant project is made at the RTP stage. Ideas for projects emerge from a variety of planning efforts at the city, county, transit operator, and regional levels. Some of the major sources for projects are the county congestion management programs, countywide transportation plans, transit operator short-range transit plans, and the state highway planning process conducted by Caltrans. These efforts are then merged with the planning efforts of the Regional Transportation Plan. When the project scope, schedule, and budget are fully developed, the project may then be proposed for funding. The TIP implements the transportation priorities and investment decisions of the RTP.
- The 2009 TIP programs transportation funding from a wide variety of sources. Several of the major sources from which funds are programmed are Federal Transit Administration (FTA) Programs, Federal Highway Administration (FHWA) Programs, and State, Regional, and local transportation programs.
- The Metropolitan Transportation Commission (MTC) prepares and adopts the TIP at least once every four years, covering at least a four-year period and containing a priority list of projects grouped by year. The 2009 TIP will cover four years of programming for fiscal years 2008-09 through 2011-2012.
- The TIP must be financially constrained by year, meaning that the amount of dollars committed to the project (also referred as "programmed") must not exceed the amount of dollars estimated to be available. The TIP must include a financial plan that demonstrates that programmed projects can be implemented.

- Adoption of the TIP must be accompanied by an evaluation and finding of air quality conformity, demonstrating that federal air quality standards are met.
- Federal regulations also require an opportunity for public comment and consultation with affected agencies. Per the MTC Public Participation Plan, Interagency consultation for the TIP occurs at the same time as the development of the long-range RTP, the earliest and key decision point regarding project and program priorities. Specifically this occurs starting with the scoping process for the RTP and its CEQA environmental document. In contrast, the TIP is a short-term programming document detailing the funding for only those investments identified and adopted in the RTP. During TIP development, additional opportunities are provided to interested agencies to comment on the Draft TIP Update. Upon the request of any agency, MTC staff will provide additional consultation.
- MTC also develops the TIP in cooperation with the Bay Area Partnership and its constituent members including individual cities and counties, transit operators and other project sponsors. The Partnership consists of the top managers of some three-dozen agencies responsible for moving people and freight in the Bay Area and for protecting the region's environment. Members include other regional agencies, federal and state agencies, county congestion management agencies (CMAs), public transit providers, and city and county public works representatives.
- Once the 2009 Draft TIP has been developed, it is then released for a 30-day public review and comment period. As part of the public review process, the draft document is sent to 27 major libraries throughout the Bay Area as well as the MTC-ABAG library. Notices are also sent to an extensive list including transportation agencies, other state, federal and tribal agencies and other transportation interests with the objective to continue the consultation process for transportation planning and investments in the Bay Area. A public hearing is also conducted to solicit public comment. After the close of the public comment period, MTC's responses to significant comments are compiled into an appendix in the Final 2009 TIP. After the public comment period, the 2009 TIP document is then presented to the Commission's Programming and Allocations Committee. After its review, the Committee forwards the document to the full Commission for adoption. After Commission adoption, it is sent to the Caltrans Office of Federal Programs for inclusion into the California Federal Statewide Transportation Improvement Program (FSTIP) or Statewide TIP. After review and approval by Caltrans, the Statewide TIP is forwarded to the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) for their review and approval. Approval by FHWA/FTA constitutes the final approval of the TIP.

The current status of the 2009 TIP update, summary information, and the Draft 2009 TIP including project listings (available after March 27, 2008), is available on the MTC Website at <http://www.mtc.ca.gov/funding/tip/>

The public may also access specific projects contained in the current TIP through MTC's Fund Management System (FMS) that allows searches of projects using various criteria (such as project sponsor, project type, or project location). The FMS is available on the MTC website: [http://www.mtc.ca.gov/funding/fms\\_intro.htm](http://www.mtc.ca.gov/funding/fms_intro.htm)

## TIP Development Schedule

- March 28, 2008: Draft 2009 TIP and Draft AQ Conformity Analysis released for public review and comment.
- April 9, 2008: Public Hearing (during Programming and Allocations Committee meeting).
- May 1, 2008: Close of 2009 Draft TIP/AQ Conformity Analysis public review and comment period.
- May 14, 2008: MTC Programming and Allocations Committee Review of Draft TIP and AQ Conformity Analysis and referral to Commission
- May 28, 2008: Final 2009 TIP and Final AQ Conformity analysis approved by Commission
- May 30, 2008: 2009 TIP submitted to Caltrans / AQ Conformity Analysis submitted to FHWA/FTA
- December 1, 2008: 2009 TIP Approval (anticipated) by FHWA / FTA

## MTC Contacts for Questions About the TIP

For questions on the TIP, you may contact:

Ross McKeown (Program Manager)

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Email: [rmckeown@mtc.ca.gov](mailto:rmckeown@mtc.ca.gov)

Craig Goldblatt (TIP Planning and Consultation)

Phone: 510-817-5837

Email: [cgoldb@mtc.ca.gov](mailto:cgoldb@mtc.ca.gov)

Sri Srinivasan (TIP Administrator)

Phone: 510-817-5793

Email: [ssrinivasan@mtc.ca.gov](mailto:ssrinivasan@mtc.ca.gov)

**Metropolitan Transportation Commission  
Notice of Public Hearing**

The public is invited by the Metropolitan Transportation Commission (MTC) to comment on the following draft transportation programming documents:

- 1) Draft 2009 Transportation Improvement Program (TIP):** This is the region's transportation programming document that contains surface transportation project including, public mass transit, highway, local road, bicycle and pedestrian projects, proposed for funding based on anticipated available federal, state and local funding over the next four years that will receive federal funds or are subject to a federally required action or are regionally significant. The TIP must be financially constrained by year, and must be updated at least every four years. The Draft 2009 TIP was developed to be consistent with MTC's *Transportation 2030 Plan for the San Francisco Bay Area*, the 25-year spending plan for transportation projects in the nine-county San Francisco Bay Area.
- 2) Draft Air Quality Conformity Analysis for the Draft 2009 TIP:** MTC is also conducting a new air quality conformity analysis for the Draft 2009 TIP. Since the 2009 TIP does not include any new regionally significant projects beyond those currently included in the Transportation 2030 Plan, and these projects have been modeled in the appropriate horizon year using the latest planning assumptions, MTC will rely on the previous regional emissions analysis to make a conformity finding on the 2009 TIP.

Copies of the Draft 2009 TIP, which includes the financial constraint analysis and the Draft Air Quality Conformity Analysis, will be available for public review on March 28, 2008, at the MTC Library, and at major public libraries in each of the nine Bay Area counties. They will be posted on the MTC Web site at <http://www.mtc.ca.gov/> or at <http://www.mtc.ca.gov/funding/tip/index.htm>.

A public hearing to receive public testimony on these documents is scheduled during MTC's Programming & Allocations Committee. The hearing is set for:

**Wednesday, April 9, 2008, at 10:00 a.m.**, or immediately following  
MTC's Administration Committee meeting, whichever occurs later.  
Joseph P. Bort MetroCenter Auditorium, 101 Eighth Street, Oakland  
(Across from the Lake Merritt BART Station)

Written comments may be submitted to MTC's Public Information Office at 101 Eighth St., Oakland, CA 94607 or faxed to MTC at 510-817-5848 or sent via e-mail to <info@mtc.ca.gov>. Written comments are due by 5 p.m. on Thursday May 1, 2008. For more information, call MTC's Public Information Office at 510/817-5757. This notice also serves to satisfy the public involvement requirements of the Federal Transit Administration (FTA) annual Program of Projects.

At its May 14, 2008 regularly scheduled meeting, MTC's Programming and Allocations Committee will consider public comments received by the end of the comment period. MTC is scheduled to approve the air quality conformity analysis and the 2009 TIP on May 28, 2008, during its regularly scheduled Commission meeting.



METROPOLITAN  
TRANSPORTATION  
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## *Memorandum*

TO: Partnership Technical Advisory Committee

DATE: April 21, 2008

FR: Ross McKeown

RE: Expedited Project Selection Procedures

### **Background**

Federal Regulations 23, Code of Federal Regulations (CFR) Part 450.330 allows advancement of projects within the period of the Transportation Improvement Program (TIP) subject to procedures agreed to by partnering agencies.

Although it is common practice for regions throughout the state, including the MTC region, to move projects within the TIP period, the Federal Highways Administration (FHWA) requires that a procedure be in place to guide these transactions. FHWA is requiring that the region's Expedited Project Selection Process (EPSP), as required under CFR 450.332, be updated and adopted with the 2009 TIP so that the region may continue the practice of moving projects within the TIP period without necessitating a TIP amendment.

### **Proposal**

Attached is the Expedited Project Selection Process proposed for your consideration and consultation, which, once approved, would be included as part of the 2009 TIP. The process does not modify any past or present practices, but rather documents that a procedure is in place. The region has had a project funding delivery policy (MTC Resolution 3606) in place for many years, governing the advancement of regional Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement (CMAQ) funding. That policy, revised April 26, 2006, is embedded (by reference) in the Expedited Project Selection Process, and will continue to govern the use of those funds. The proposed language outlines how other funds will be moved within the TIP period, without requiring at TIP amendment.

For FTA administered funds, projects may be moved within the period of the TIP/FSTIP at the request of the agency, as long as funding is available and the change does not negatively impact the delivery or availability of funds for other projects ready for obligation.

We are seeking consensus from the LS&R Working Group on the language for the Expedited Project Selection Process.

### Attachments

Proposed Expedited Project Selection Process Language for 2009 TIP  
Code of Federal Regulations (CFR) Part 450.330

## **Metropolitan Transportation Commission Expedited Project Selection Process**

Federal Regulations 23 Code of Federal Regulations (CFR) Part 450.330 allow for the movement of projects within the period of the TIP and FSTIP subject to procedures agreed to by partnering agencies, including the State and transit operators within the region. MTC, as the Metropolitan Planning Organization (MPO) for the nine-county San Francisco Bay Area Region has a process in place, as outlined below, developed in consultation with the region's transportation partners that permits the movement of projects consistent with the Expedited Project Selection Process outlined in Code of Federal Regulations (CFR) 450.330. The projects listed within the TIP have all been selected based on the regulations in 23 CFR Part 450. Federal Regulation 23 CFR Part 450.330 allows for the movement of projects within the TIP/FSTIP subject to procedures agreed to by the partnering parties. This procedure is outlined as follows.

All movements must be consistent with the Regional Transportation Plan (RTP), must not adversely affect the expeditious implementation of Transportation Control Measures (TCMs), must comply with the provisions of Title VI, must not negatively impact the deliverability of other projects in the regional programs, and must not affect the conformity finding of the TIP.

For regional Surface Transportation Program (STP) or the Proposition 1B programs, Congestion Mitigation and Air Quality Improvement (CMAQ) funds, and other funds administered by the Federal Highways Administration (FHWA), MTC has developed a project funding delivery policy through extensive consultations with its regional transportation partners including the Bay Area transit operators, Congestion Management Agencies (CMA's), counties, FHWA, FTA and Caltrans. The *Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised April 26, 2006)* details how project-funding deadlines and fund management requirements are enforced and how projects may be moved within the time period of the adopted TIP. The policy satisfies the requirement of the expedited project selection procedures as stated in CFR 450.330. The project funding delivery policy is also embedded in the TIP amendment procedures, adopted along with the 2009 TIP. Although a TIP amendment is not required at the time a project is moved, an amendment may be processed following each federal fiscal year to reconcile the TIP for financial constraint purposes.

For projects within the State Transportation Improvement Program (STIP), MTC will move projects subject to amendment or allocation approval by the California Transportation Commission (CTC). Caltrans may move projects in the State Highway Operation Protection Program (SHOPP) document within the TIP/FSTIP period without amending the TIP, with notification to MTC.

Caltrans Division of Local Assistance has implemented a project selection process for the Highway Bridge Program (HBP), Highway Safety Improvement Program (HSIP), Safe Routes to School (SR2S) Program and other State-administered Local Assistance programs to produce the TIP listing of projects. This process was developed in cooperation with the implementing agencies, FHWA, the MPOs, and HBP Advisory Committee. Caltrans, MTC and the transit operators agree that the Caltrans Division of Local Assistance may move projects within the HBP, HSIP, SR2S and other State-administered Local Assistance programs within the TIP/FSTIP period without amending the TIP, with notification to MTC.

For FTA administered funds, projects may be moved within the period of the TIP/FSTIP at the request of the agency, as long as funding is available and the change does not negatively impact the delivery or availability of funds for other projects ready for obligation.

Implementing agencies wishing to advance projects using their own local funds until federal funds are available may request Advance Construction Authorization (ACA) from Caltrans, or pre-award authority from FTA to proceed with the project using local funds until OA and apportionment becomes available. In accordance with the Regional Project Funding Delivery Policy (MTC Resolution No, 3606) projects using ACA or FTA Grant Award Authority for FHWA-administered funds have priority for federal obligations when the availability of Obligation Authority is limited.

accordance with the cycles defined in § 450.322(c), projects may only be advanced from a TIP that was approved and found to conform (in nonattainment and maintenance areas) prior to expiration of the metropolitan transportation plan and meets the TIP update requirements of § 450.324(a). Until the MPO approves (in attainment areas) or the FHWA/FTA issues a conformity determination on (in nonattainment and maintenance areas) the updated metropolitan transportation plan, the TIP may not be amended.

(d) In the case of extenuating circumstances, the FHWA and the FTA will consider and take appropriate action on requests to extend the STIP approval period for all or part of the TIP in accordance with § 450.218(c).

(e) If an illustrative project is included in the TIP, no Federal action may be taken on that project by the FHWA and the FTA until it is formally included in the financially constrained and conforming metropolitan transportation plan and TIP.

(f) Where necessary in order to maintain or establish operations, the FHWA and the FTA may approve highway and transit operating assistance for specific projects or programs, even though the projects or programs may not be included in an approved TIP.

#### **§ 450.330 Project selection from the TIP.**

(a) Once a TIP that meets the requirements of 23 U.S.C. 134(j), 49 U.S.C. 5303(j), and § 450.324 has been developed and approved, the first year of the TIP shall constitute an "agreed to" list of projects for project selection purposes and no further project selection action is required for the implementing agency to proceed with projects, except where the appropriated Federal funds available to the metropolitan planning area are significantly less than the authorized amounts or where there are significant shifting of projects between years. In this case, a revised "agreed to" list of projects shall be jointly developed by the MPO, the State, and the public transportation operator(s) if requested by the MPO, the State, or the public transportation operator(s). If the State or public transportation operator(s) wishes to proceed with a project in the second, third, or fourth year of the TIP, the specific project selection procedures stated in paragraphs (b) and (c) of this section must be used unless the MPO, the State, and the public transportation operator(s) jointly develop expedited project selection procedures to provide for the advancement of projects from the second, third, or fourth years of the TIP.

(b) In metropolitan areas not designated as TMAs, projects to be implemented using title 23 U.S.C. funds (other than Federal Lands Highway program projects) or funds under title 49 U.S.C. Chapter 53, shall be selected by the State and/or the public transportation operator(s), in cooperation with the MPO from the approved metropolitan TIP. Federal Lands Highway program projects shall be selected in accordance with procedures developed pursuant to 23 U.S.C. 204.

(c) In areas designated as TMAs, all 23 U.S.C. and 49 U.S.C. Chapter 53 funded projects (excluding projects on the National Highway System (NHS) and projects funded under the Bridge, Interstate Maintenance, and Federal Lands Highway programs) shall be selected by the MPO in consultation with the State and public transportation operator(s) from the approved TIP and in accordance with the priorities in the approved TIP. Projects on the NHS and projects funded under the Bridge and Interstate Maintenance programs shall be selected by the State in cooperation with the MPO, from the approved TIP. Federal Lands Highway program projects shall be selected in accordance with procedures developed pursuant to 23 U.S.C. 204.

(d) Except as provided in § 450.324(c) and § 450.328(f), projects not included in the federally approved STIP shall not be eligible for funding with funds under title 23 U.S.C. or 49 U.S.C. Chapter 53.

(e) In nonattainment and maintenance areas, priority shall be given to the timely implementation of TCMs contained in the applicable SIP in accordance with the EPA transportation conformity regulations (40 CFR part 93).

#### **§ 450.332 Annual listing of obligated projects.**

(a) In metropolitan planning areas, on an annual basis, no later than 90 calendar days following the end of the program year, the State, public transportation operator(s), and the MPO shall cooperatively develop a listing of projects (including investments in pedestrian walkways and bicycle transportation facilities) for which funds under 23 U.S.C. or 49 U.S.C. Chapter 53 were obligated in the preceding program year.

(b) The listing shall be prepared in accordance with § 450.314(a) and shall include all federally funded projects authorized or revised to increase obligations in the preceding program year, and shall at a minimum include the TIP information under § 450.324(e)(1) and (4) and identify, for each project, the amount of Federal

funds requested in the TIP, the Federal funding that was obligated during the preceding year, and the Federal funding remaining and available for subsequent years.

(c) The listing shall be published or otherwise made available in accordance with the MPO's public participation criteria for the TIP.

#### **§ 450.334 Self-certifications and Federal certifications.**

(a) For all MPAs, concurrent with the submittal of the entire proposed TIP to the FHWA and the FTA as part of the STIP approval, the State and the MPO shall certify at least every four years that the metropolitan transportation planning process is being carried out in accordance with all applicable requirements including:

(1) 23 U.S.C. 134, 49 U.S.C. 5303, and this subpart;

(2) In nonattainment and maintenance areas, sections 174 and 176 (c) and (d) of the Clean Air Act, as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;

(3) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR part 21;

(4) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;

(5) Section 1101(b) of the SAFETEA-LU (Pub. L. 109-59) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;

(6) 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;

(7) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and 49 CFR parts 27, 37, and 38;

(8) The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

(9) Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and

(10) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

(b) In TMAs, the FHWA and the FTA jointly shall review and evaluate the transportation planning process for each TMA no less than once every four years to determine if the process meets the requirements of applicable provisions of Federal law and this subpart.

(1) After review and evaluation of the TMA planning process, the FHWA and



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*Memorandum*

TO: Partnership Technical Advisory Committee

DATE: April 21, 2008

FR: Shruti Hari

W. I.

RE: Amendment to Regional Measure 2 Policies and Procedures

The Bay Area Toll Authority (BATA) is responsible for conducting annual independent audits of the RM 2 projects and recently completed the fiscal year 2006-07 audits. Overall there were fewer findings in this year's audit report compared to last year. One finding that occurred for several sponsors was that sponsors should comply with the RM2 guidelines regarding not invoicing more frequently than monthly. Some sponsors have requested MTC for "more frequently than monthly" invoicing. Keeping this in mind, staff has made changes to the Invoicing and Reimbursements section of the policies and procedures to allow sponsors with extenuating circumstances to submit requests to invoice more frequently than monthly - to be approved by the RM2 program manager on a case-by-case basis in advance of allocation.

Additionally, staff is taking this opportunity to make other minor clarifications and technical changes to the policies and procedures. Attached is a strikeout version of the proposed revisions to the policies and procedures. After receiving feedback from the sponsors, staff will take the revised version of the Policies and Procedures to the Commission for approval in May.

Date: June 23, 2004  
W.I.: 1255  
Referred by: PAC  
Revised: 11/17/04-C  
09/21/05-C  
03/28/07-C  
05/28/08-C

# **Regional Measure 2 Regional Traffic Relief Plan Policies and Procedures**

**Amended May 28, 2008**

**MTC Resolution No. 3636  
Attachment A**

**Metropolitan Transportation Commission**

**Programming and Allocations Section**  
<http://www.mtc.ca.gov>



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## **SECTION 1 – GENERAL PROVISIONS**

### **BACKGROUND**

On March 2, 2004, voters passed Regional Measure 2 (RM2), raising the toll for all vehicles on the seven State-owned toll bridges in the San Francisco Bay Area, by \$1.00. This extra dollar is to fund 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). Specifically, RM2 establishes the Regional Traffic Relief Plan and identifies specific capital projects and programs and transit operating assistance eligible to receive RM2 funding as identified in Sections 30914(c) & (d) of the California Streets and Highways Code.

The following serve as the general provisions in the management of RM2 funding.

### **FUND MANAGEMENT**

The collection of toll revenue is estimated to equal \$125 million annually. Costs to administer the program are an annual drawdown on the revenue and an annual limit of up to 38 percent, a funding cap estimated to be reached in 2010, is made available for the RM2 operation projects. Available revenue for capital allocations will vary annually and capital allocations will be approved with respect to the fund management of the overall program. Final allocation decisions will be subject to the availability of funds. Finally, first year costs (FY 2004-05) include the required reimbursements to counties for the costs of administering the RM2 ballot measure as part of the March 2nd 2004 general election, as well as the 4-month discount from July 2004 through October 2004 to encourage more users to sign up for FasTrak®, the Bay Area's electronic toll collection system.

### **Program Financing Costs**

It is the intent of the Commission to implement those projects and programs outlined in Streets and Highways Code Section 30914 (c) and (d), to the funding amounts designated. The cost of bonding and financing associated with RM2, including interest payments shall be considered a program cost and shall be identified in the annual RM2 Budget as the first priority repayment. The financing costs are not expected to reduce the overall funding level available to projects and programs.

### **Funding Exchanges**

Generally, the exchange of RM2 funding with other types of funding from projects not identified in RM2 shall not be allowed, nor shall projects be substituted.

### **Matching Funds**

A local match is not required for RM2 funds. Complementary funds (non-RM2 funds), for the project phase where RM2 funds are being requested and identified in the financial plan must be available at the time of allocation. Regional Measure 2 funds can be used as the match for federal fund sources requiring a non-federal match.

### **PUBLIC INVOLVEMENT PROCESS**

The capital improvement projects and operating assistance for transit services identified for funding in RM2 are established by state legislation (Senate Bill 916, Chapter 715, Statutes of

2004) approved by the voters on March 2, 2004. In accordance with the legislation as approved by the voters, the Bay Area Toll Authority (BATA) is the financial manager for RM2 funds, whose responsibilities include the preparation of financial plans, the issuance of debt financing, and the disbursement of funds to project sponsors. The Metropolitan Transportation Commission (MTC) is the program and project coordinator, whose responsibilities include reviewing project applications, programming and allocating funds to specific projects, and monitoring project delivery. In some cases, MTC also serves as the project sponsor, for the regional Transit Connectivity Study, as well as certain regional customer service projects, such as the Transit Commuter Benefits promotion, the Real Time Transit information program, and implementation of TransLink®.

Generally, in conducting its review and approval responsibilities stipulated under RM2, MTC will adhere to its public participation policies as outlined in MTC Resolution No. 2648, MTC's Policy and Procedures on Public Involvement.

Specific statutory provisions require further that as part of its assessment of the status of programs and projects under RM2, MTC may make a finding that a program or project cannot be completed or cannot continue due to financing or delivery obstacles making the continuation of the program or project unrealistic. MTC may then determine that the funding will be reassigned. Under these circumstances, the Commission shall hold a public hearing on the project after consultation with the program or project sponsor. The process outlined in MTC's Policy and Procedures on Public Involvement for notification of actions at BATA, Commission, and committee meetings will be adhered to. After the hearing, the Commission may vote to modify the program or the project's scope, decrease its level of funding, or reassign all of the funds to another or an additional regional transit program or project in the same corridor.

### **INDEMNIFICATION OF MTC**

The sponsor shall indemnify and hold harmless MTC, its Commissioners, officers, agents, and employees from any and all claims, demands, suits, loss, damages, injury, and/or liability, direct or indirect, incurred by reason of any act or omission of sponsor, its officers, agents, employees, and subcontractors, under or in connection with the RM2 program. Sponsor agrees at its own cost, expense, and risk, to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, its Commissioners, officers, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments.

## **SECTION 2 – CAPITAL PROGRAM GUIDANCE**

### **BACKGROUND**

Projects eligible to receive funding from the Capital Program of the Regional Measure 2 (RM2) Regional Traffic Relief Plan are those projects identified to receive funding under Section 30914(c) of the California Streets and Highways Code (S&HC). Sponsors are required to submit an initial report to establish the baseline project data. These reports are the backbone of the allocation and funding agreements for the capital projects. The capital program is managed in a manner where allocations are approved based upon project sponsor need and readiness and the availability of funding in the bridge toll program. MTC's goal is to carry out the intent of the legislation and ensure that projects are delivered within the investments of the toll payers.

### **CAPITAL PROJECT DEFINITION**

#### **Initial Project Report (IPR)**

Project sponsors with projects identified to receive funding under Section 30914(c) of the S&HC are required to submit an Initial Project Report (IPR) to MTC before July 1, 2004. An updated report must be submitted as needed or as requested by MTC; at a minimum, sponsors must submit an updated IPR with any funding allocation request. The Commission will consider approval of the report, or updated report, in conjunction with the allocation of funds.

This report shall include all information required to describe the project in detail, including identification of lead sponsor, the status of any environmental documents relevant to the project, additional funds required to fully fund the project, the amount, if any, of funds expended to date, a summary of any impediments to the completion of the project and a detailed financial plan. Specific information on the Initial Project Report format is included in Appendix A.

#### **Useable Segment/ Deliverable Product**

RM2 funds for capital projects will be allocated with the specific intent of achieving a product. Deliverable products shall be considered as:

- A completed planning or transit study/ environmental decision/ project approval documentation when allocating to the environmental phase;
- The final design package including contract documents when allocating to the final design phase;
- Title to property/ easements/ rights of entry / possession or utility relocation when allocating to the right of way phase;
- A completely constructed improvement (or vehicle acquisition/ rehabilitation) available for public usage when allocating to the construction phase.

The expenditure of RM2 funds for any phase of the project must lead to making available to the public a useable or operable segment in accordance with the legislative intent. Any additional funds required to fully fund the project must be identified in the uncommitted funding plan of the Initial Project Report (IPR). If the RM2 revenues are funding only a phase or segment of a larger project, it must be demonstrated that the RM2 deliverable phase or segment is fully funded with committed funds.

#### **Project Phases**

Project costs and revenue must be separated into the following project phases:

1. Planning Activities, Environmental Studies & Preliminary Eng (ENV / PE / PA&ED)
2. Final Design - Plans, Specifications and Estimates (PS&E)
3. Right-of-Way Activities /Acquisition / Utility Relocation (R/W)
4. Construction / Rolling Stock Acquisition / Operating Service (CON)

(Planning studies should be categorized under the environmental phase. Vehicle acquisition or equipment purchase should be categorized under the construction phase.)

The project sponsor must display the project in these four components in the Initial Project Report and expenditure (cash flow) plans. If the project sponsors intend to use alternate delivery methods, such as but not limited to: design/build/operate/maintain, the preparation of the Request for Proposal is considered Final Design phase. The Alternate Delivery package is considered the Construction phase.

### **ALLOCATION AND FUNDING AGREEMENT PROCESS**

The allocation process for RM2 capital projects shall also serve as the process for executing funding agreements, in lieu of a separate funding agreement for each capital project. These agreements are fully executed through a process of project sponsor governing board certification followed by Commission allocation action. Notwithstanding, under S&HC 30914(e), MTC has the option of entering into a memorandum of understanding between itself and a capital project sponsor addressing specific requirements to be met prior to the allocation of funds.

An IPR for capital projects, as outlined in S&HC 30914(e) and detailed in Appendix A and B, shall be prepared and adopted by the appropriate governing board prior to MTC approval of the IPR and allocation of funds. The sponsor is expected to certify, through an action of its governing board, that certain conditions (general and project specific) are acknowledged and will be adhered to and compliance with the RM2 Policies and Procedures. Along with the certification of conditions from the project sponsor governing board and the IPR, the sponsor will need to provide evidence that the other fund sources contributing toward that project phase are committed. It is recommended that the sponsors submit the allocation request to MTC staff for review sixty days prior to the action by their governing board.

Upon completion of the lead sponsor governing board certification, the Commission will consider the allocation of RM2 funds. An allocation request is considered complete and ready for Commission consideration when all of the component elements to the request are submitted and approved by MTC staff. The Commission will (1) review the governing board action to ascertain that all conditions have been outlined and agreed to; (2) review the IPR approved by the governing board and approve it prior to allocating any funds; and (3) consider the commitment of other fund sources matching the RM2 funds that are required to complete that phase of the project. The Commission's resolution approving the IPR and allocation of RM2 funds will serve as the final agreement between MTC and the implementing agency and may include project specific conditions. Where the Commission approves an amount less than the sponsor requested, the Commission allocation amount prevails. Reimbursement of funds is subject to meeting the conditions as stipulated in the MTC allocating resolution.

### **Allocation Principles**

For the capital program, allocations will be considered on a rolling basis and final allocation decisions will be subject to the availability of funds in the overall RM2 program (capital and

operating elements). The Commission will carefully consider each allocation and apply the following principles in its allocation decisions:

1. **Replacement Fund Source Not Allowed.** RM2 funds will not be utilized as a replacement fund source on capital projects for any funds that have been programmed or allocated previously to the project, for the phase requested by the project sponsor, if such replacement results in a shortfall for the overall project or places prior programming commitments in jeopardy.
2. **Required Evidence of a Fully Funded Project Phase.** The Commission will allocate funds for capital projects only if it finds that the project phase is fully funded, either entirely with RM2 funds or with a combination of RM2 funds and other allocated funds. To receive an allocation of RM2 funds for a jointly funded phase, the other contributing funds must be assigned and allocated to that phase of work. Federal funds must have received an obligation (E-76) or Advance Construction Authorization, or be included in an approved FTA Grant. State Transportation Improvement Program (STIP) and Transportation Congestion Relief Program (TCRP) funds must have received an allocation from the California Transportation Commission (CTC). Local Measure funds must have an allocation action by the authority. All other funding must have an action allocating the funds for that phase of work by the responsible authorizing agency or governing body. At the request of the project sponsor, the Commission may, on an exception basis, consider allocations of RM2 funding conditioned on the allocation of other funds for that phase. In granting conditional allocations, the Commission will consider the nature and timing of other funding commitments to the requested and future phases of work.
3. **Phase at a Time Allocations.** Allocations will only be made to projects one phase at a time: environmental/project approval, final design, right of way, and construction. For example, if the project is entering the environmental phase, only an allocation for environmental will be considered. Exceptions will be considered on a case-by-case basis; however, the Commission will strive to minimize funding risks in making allocation exceptions.
4. **Environmental Clearance.** RM2 funds will not be utilized for any capital expenditure, either for right of way or construction, until the project has been environmentally cleared and approved by the project sponsor. Pursuant to California Environmental Quality Act Public Resources Code §21000, et seq., all applicants are required to submit a valid environmental document that has been certified by the County Clerk for each project. Please refer to Public Resources Code and Title 14 of the California Code of Regulations for more information. Applicants are urged to refer to the statutory and regulatory sections cited when preparing any environmental assessment under CEQA or NEPA. Applicants should consult their environmental officer for guidance in completion of this requirement. If a project is federally funded or is anticipated to be federally funded, project sponsors must submit approved National Environmental Protection Act documents.
5. **Right of Way Protection.** The Commission will give careful consideration to requests for right of way protection or hardship requests whereby early acquisition of right of way

is necessary to respond to owner hardship, or to avoid excessive right of way cost increases in the future due to development of the site.

6. **Conditions of Right of Way Allocations.** RM2 funds will be expended for right of way capital and support only if the project has identified and committed construction capital funds. The Commission will consider exceptions whereupon investment in right of way can be recovered if the project does not go forward.
7. **Future Funding Commitment.** When proposing allocations for only the preconstruction components of a capital project, the implementing agency must demonstrate the means by which it intends to fund the construction of a useable or operable segment or product, consistent with the Regional Transportation Plan. The anticipated total project cost and source of any uncommitted future funding must be identified in the IPR. To be considered committed for future phases of work, federal funds must be in the current TIP or have a Full Funding Grant Agreement (FFGA) or approved Earmark. State Transportation Improvement Program (STIP) funds must be in the current STIP and Local Measure funds must have a commitment action by the governing authority. Transportation Congestion Relief Program (TCRP) funds are considered committed, however, based on current state budget actions. All other funding must have an action committing the funds by the responsible authorizing agency.
8. **Deliverable Product.** RM2 funds will be allocated with the specific intent of achieving a deliverable product. That product shall be the environmental decision/ project approval documentation when allocating to the environmental phase, the final design package including contract documents when allocating to the final design phase, title to property/ easements/ rights of entry or possession when allocating to the right of way phase, and a constructed improvement or minimum operating segment available for public usage when allocating to the construction phase. The ability of the product to be completed will be taken into consideration when the Commission allocates funds to the project. Any impediments to achieving the specific product shall be brought to the attention to the Commission in the Initial Project Report and through progress reports submitted by the project sponsor. If in the opinion of the Commission, impediments are such that the required product is unachievable, the Commission may withhold allocations, or withhold reimbursements on previously allocated funds.
9. **Project Timeliness.** The ability of the product to be completed will be taken into consideration when the Commission allocates funds to the project. Any impediments to achieving the specific product shall be brought to the attention of the Commission in the IPR or through quarterly progress reports submitted by the project sponsor. If in the opinion of the Commission, impediments are such that the required product is unachievable, the Commission may withhold allocations. The Commission reserves the right to issue a 30-day stop notice in the event it has to reevaluate the project per S&HC 30914(f).
10. **Complementary Funds Consideration.** Projects with ~~complementary~~ fundings from other sources may be given priority if there are pending timely use of funds requirements on the other fund sources.

11. **Complementary Funds Spend Down Rate.** Other fund sources committed to a project phase that are complementary to RM2 funds will be expected to be spent down at an approximate proportional rate to RM2 funds. On an exception basis, the Commission may consider alternative cash flow expectations of other fund sources.
12. **Transit Operating Considerations.** For transit systems, an allocation of funds for capital expenditures, either right of way or construction, may be predicated on an ability to demonstrate that the service meets operating requirements.

### **Right of Way Hardship and Protection**

Advance acquisition of property may be advisable prior to the completion of the environmental decision and the approval of the project. This generally occurs either under conditions of hardship or protection.

Hardship is defined as a situation where unusual personal circumstances of an owner are aggravated by the proposed transportation improvement and cannot be solved by the owner without acquisition by the project sponsor. Owners of hardship parcels should receive full consideration and service from the project sponsor consistent with normal acquisition procedures, including appropriate relocation assistance and sufficient time to consider the sponsor's offer.

Protection is defined as an acquisition where substantial building activity or appreciation of vacant land value in excess of surrounding market appreciation is both likely and imminent in the event early purchase is not undertaken. Acquisition can occur with a showing that substantial new improvements are planned for the property or existing improvements are to be altered or enlarged, resulting in a substantial increase in future acquisition cost.

If applying for an allocation of RM2 funds for right of way hardship or protection acquisition, the sponsor must investigate need for acquisition, including but not limited to independent appraisals of the property including appropriate investigations of the site for any environmental conditions affecting the value of the property. In the case of advance acquisition due to hardship, the project sponsor must submit to MTC documentation addressing the following minimum criteria prior to a hardship allocation being approved:

- The owner demonstrates a need to dispose of the property.
- The owner is unable to dispose of the property at fair market value because of the pending transportation facility plans.
- The owner cannot reasonably alleviate the hardship in the absence of the sponsor's purchase of the property.
- The sponsor's purchase will substantially alleviate the hardship.

In the case of advance acquisition for the purpose of protection, the aforementioned showing must be made that prompt acquisition is required to prevent development of property, which would cause substantially higher acquisition or construction costs if acquisition were deferred. Relocation costs of residences or businesses should be considered in the final financial analysis provided by the sponsor.

Advance acquisitions made prior to completion of environmental and location processes are not to influence environmental assessment of the project. Note that there are federal and state laws, regulations and policies governing acquisition and relocation activities. It is not intended that the use of RM2 funds shall waive any of the laws, regulations, or policies that may apply.

If the Commission approves an allocation of RM2 funds for advance acquisition of right of way meeting the conditions as outlined above, the project sponsor shall provide that the land is held in escrow until project approval occurs for the transportation improvement.

### **Allocation Request Process**

Project sponsors or implementing agencies must initiate an allocation request by submitting a draft Initial Project Report and Sponsor/ Implementing Agency Resolution 60 days prior to the required Commission action. Thirty days prior to the Commission action, the project sponsor or implementing agency must submit the completed allocation application package to MTC. The allocation request consists of the following, detailed in Appendix A, and is available on the Internet (as applicable) at: <http://www.mtc.ca.gov>:

Intent to Request an Allocation (60 days prior to Commission action):

1. Draft Initial Project Report
2. Draft Sponsor/ Implementing Agency Resolution

Allocation Application Package (30 days prior to Commission action):

1. Sponsor/ Implementing Agency Resolution of Project Compliance
2. Opinion of Legal Counsel / MTC Indemnification\*
3. Board or Official Governing Body Approved Initial Project Report (IPR)
4. Environmental Documentation
5. Evidence of Allocation and Commitment of Complementary Funds

\* Project sponsors have the option of consolidating the 'Opinion of Legal Counsel / MTC Indemnification' within the 'Implementing Agency Governing Board Resolution of Project Compliance'.

## **EXPENDITURES AND REIMBURSEMENTS**

### **Authority to Expend**

The project sponsor must obtain the Commission's approval of the allocation and description of eligible costs prior to incurring costs. Project sponsors shall not receive reimbursement of costs incurred prior to MTC approval of the allocation of funding. Once the Commission approves the allocation, the sponsor may proceed with incurring eligible expenditures, in accordance with the allocating resolution. Project sponsors shall proceed solely at their own risk in advertising, opening bids, or awarding a contract prior to an allocation of RM2 funds. The advertising, bid opening, or awarding of a contract by the sponsor shall in no way prejudice the Commission into making an allocation they deem is unsuitable. Final allocation decisions will be subject to the availability of funds.

If a project or project component is ready for implementation earlier than RM2 funding is available, the sponsor may request an allocation of funds covering eligible expenditures with deferred reimbursement. A commitment of the funding may be made by the Commission

including a determination of when the funds will be available. This action will be taken with the concurrence of the project sponsor; otherwise, the sponsor may elect to wait for an allocation until such time revenues are available. The sponsors will proceed at their own expense recognizing that any interest incurred will not be eligible for reimbursement. The sponsor shall adhere to the policies and procedures governing allocations and reimbursements. This deferred reimbursement is similar in concept to the Federal Highway Administration's (FHWA)'s Advance Construction (AC) authorization, or the Federal Transit Administration's (FTA)'s pre-award authority or the California Transportation Commission's (CTC)'s AB 3090 approval.

### **Eligible Expenses**

To ensure that that RM2 funds are put to the most efficient use, limitations on allowable expenses have been placed on environmental, design, right of way, construction, staff support, oversight, consultant services and other aspects of project delivery. Furthermore, agency overhead costs, including administrative support, office equipment, and office leases, shall not exceed the cap as described under "Implementing Agency Costs" below.

Note that for all project phases, RM2 funds are limited to the statutorily authorized amount:

#### **1. Environmental Studies and Preliminary Engineering**

Expenses incurred by sponsor staff and consultant staff for environmental study costs, including determination of the appropriate environmental document, preparation of all preliminary engineering for each alternative, including geometric layouts, determination of right-of-way needs, environmental technical studies (such as air, noise, energy, cultural resources and hazardous waste), and all other studies or activities necessary to prepare and to finalize the appropriate environmental document for approval are eligible for reimbursement. Environmental costs eligible for reimbursement shall be limited to the project as described in S&HC Section 30914 (c). Any environmental costs associated with an element of the environmentally scoped project that is beyond the project scope and intent as outlined in S&HC 30914 (c) and approved by the Commission in the IPR is not eligible for reimbursement under RM2.

#### **2. Design Costs**

RM2 funds are eligible for expenses incurred by sponsor staff and consultant staff for design activities related to the project scope identified in S&HC 30914 (c) and as approved by the Commission in the IPR. These activities include preparation of alternative design studies; materials and foundation reports; drainage, hydrology and hydraulic reports; management oversight; surveying and mapping; preparation of the plans, specifications and estimate; preparation of bid documents and files for project; preparation of permit applications and maintenance agreements; coordination of agency reviews and any other activities necessary to prepare final PS&E for bid advertisement and award.

If the sponsor wishes to include items of work not covered under the statutory description of the project and as approved by the Commission in the IPR, the cost for including the additional work shall be segregated and the cost borne by the sponsor from non-RM2 fund sources. Items of work that would fall into this area would be the correction or betterment of pre-existing items such as pavement, drainage facilities, landscaping (beyond Caltrans standards) or pedestrian facilities, unless these are an integral part of the project scope and necessary to meet the congestion relief goals of the RM2 program.

### **3. Right-of-Way Acquisition and Utility Relocation**

RM2 funds are eligible for expenses incurred by sponsor staff and consultant staff for all activities related to right-of-way, advanced right-of-way, and hardship acquisitions, including determination of right-of-way needs; title searches; parcel appraisals; hazardous materials disposition; preparation of right-of-way acquisition documents; negotiation with property owners; activities involved with acquiring rights-of-way including condemnation proceedings, right-of-way capital costs, and cost-to-procure impacts related to the acquisition; utility relocation costs.

Services provided for right-of-way activities involved with property not necessary for the RM2 project as defined in the scope of work approved by the Commission in the IPR shall be at the expense of the sponsor and borne by non-RM2 fund sources.

If any excess right-of-way is sold, or otherwise disposed of, the value of such property shall be returned to MTC, including any profit realized from the sale of the property based on the prorated percentage of funds MTC contributed to the purchase of the property.

### **4. Construction Costs**

RM2 funds are available to cover all construction expenditures for the project including construction capital, management and inspection, surveys, public outreach, and others as appropriate that are part of the scope of work approved by the Commission in the IPR. RM2 funds are eligible for reimbursement of sponsor's management oversight expenses associated with the construction of the project. This would include activities such as construction management, inspection, expenses associated with reviewing proposed change orders, and activities involved with managing the fund sources contributing to the project.

Sponsor may include additional work beyond the scope of work for the RM2 project at their expense. These costs will be segregated from the other item work expenses and paid for with non-RM2 funds. Items of work could include correction or betterment of pre-existing facilities such as pavement, drainage, landscaping or pedestrian facilities. Items of work within the scope, but covering more expensive treatment for the facility such as specialized lighting standards and signs, more elaborate landscaping or specialized treatment on the face of soundwalls and retaining walls, and specialized sidewalk/hardscape treatments will also be segregated from other project work and paid with non-RM2 funds.

Capital improvements and vehicle procurements for the implementation of the approved RM2 projects are eligible for construction funds. Vehicles procured with RM2 funds must be operated in revenue service for their useful life, as defined by MTC's Transit Capital Priorities process and criteria program.

### **5. Project Sponsor/ Implementing Agency Costs**

The amount for which the project sponsor/implementing agency can be reimbursed will be limited, as described below. In all cases, project sponsor/ implementing agency costs will be reimbursed within the cap of project funds stipulated in RM2. These changes are applicable to expenses beginning July 1, 2005. Prior to July 1, 2005, overhead expenses are not eligible for reimbursement.

- a) **DIRECT STAFF COSTS.** Implementing agency staff costs are eligible, provided costs are directly related to the project tasks. Allowable implementing agency staff

- costs shall include the actual salary and fringe benefits directly related to the project only.
- b) **INDIRECT OVERHEAD COSTS.** An overhead rate for indirect costs can be assessed on direct staff costs (salary and fringe benefit costs). The overhead rate shall be calculated by multiplying total labor cost (salaries and fringe benefits as described in above), by the sponsors' or implementing agencies' overhead rate as approved in its OMB Circular A-87 standard or an equivalent rate accepted by MTC. For projects with multiple project sponsors, the project sponsors must mutually agree to the method and overhead rate being applied to that particular RM2 project. The overhead rate effective July 1 of each year shall be applied for the entire fiscal year. Sponsors and implementing agencies may update the rate as of July 1 of each fiscal year. The amount reimbursable for the overhead rate shall not to exceed 50% of the direct staff cost and shall not be leveraged on consultant contract costs. Project sponsors and implementing agencies must self certify and submit an independent opinion with respect to its agency compliance with OMB Circular A-87 standards and laws.
  - c) **OTHER DIRECT PROJECT COSTS.** Other direct costs as approved by MTC.
  - d) **CONSULTANT COSTS.** Consultant services directly responsible for delivering the project are eligible. Consultant services shall be listed separately and supported in the invoice submittal to MTC.

## 6. Miscellaneous Costs

The costs of fees from other agencies, including permit fees, or reimbursement for review or oversight costs needed for the project are eligible costs. However, the cost of permits or fees from the sponsor will not be eligible. Utility relocation costs are eligible for reimbursement according to previous agreements establishing rights for those utilities. The costs for specialized equipment for testing, analysis or production of documents for project-related work are also eligible.

### Invoicing and Reimbursements

All eligible costs shall be invoiced on a reimbursable basis. Sponsors are encouraged to invoice quarterly, ~~but not and not~~ more frequently than monthly. Any exceptions should be requested when submitting the IPR to MTC. For each fiscal year in which expenditures are incurred, sponsors should invoice at least once in that fiscal year. ~~The MTC Executive Director is delegated the authority to act on behalf of the Commission to grant more frequent invoicing and reimbursements, but not more frequently than monthly.~~ Invoices shall include only eligible costs as described above. On the invoices, the project sponsor must show that the RM2 and matching fund sources are reimbursed and drawn down at approximately the same rate as the RM2 funds. Costs shall be accounted for in the invoice, sufficient to detail services performed with respect to the project scope as approved by MTC and payments made. An invoice format is provided to sponsors by MTC and shall include appropriate supporting reports from the sponsoring agency's general ledger. Approval of invoices shall be contingent on the timely submittal of Progress Reports. In the event such Progress Reports are not complete and current, approval of invoices shall be withheld until an acceptable Progress Report is submitted. Final reimbursement of funds will be subject to review of the delivered useable/ operable phase or segment and project close out procedures.

**Availability for Audits**

Sponsors of capital projects shall be available for an audit as requested by MTC.

**TIMELY USE OF FUNDS PROVISIONS AND DEADLINES**

The majority of fund sources used for transportation improvements are bound by timely use of funds deadlines. Failure to meet specific funding milestones can result in the funds being deleted from the project. Timely use of funds provisions are established in state and federal statutes for the State Transportation Improvement Program, the federal Surface Transportation Improvement Program (STP), and the federal Congestion Mitigation and Air Quality Improvement (CMAQ) program. MTC's Regional Project Delivery Policy (MTC Resolution No. 3603, approved October 22, 2003) established additional funding milestones for regional STP and CMAQ funding. Given that most RM2 projects are jointly funding with STIP, STP or CMAQ funding, project sponsors must be cognizant of the funding deadlines of the other funds on the project, and reflect appropriate deadlines in the financial plans submitted as part of the Initial Project Report. In the event of funding loss due to the sponsor's inability to meet timely use of funds provisions, the sponsor must demonstrate that the project or project phase is still deliverable.

Although legislation governing RM2 does not place specific deadlines on the funds, MTC will be managing the availability of RM2 funding to ensure continued progress and timely project delivery. As part of its assessment of the status of programs and projects, MTC shall consider the reasonable progress of the project after receiving its allocation. If a program or project cannot continue to be delivered, as evidenced in part by a lack of reasonable further progress, the Commission shall consult with project sponsors, hold a public hearing on the project, then determine whether to modify the project's scope or funding; or to reassign the funds to another or an additional program or project within the same corridor.

Generally, project sponsors should encumber funds within one year of receiving an allocation. With respect to project phase milestones 1) sponsors should not take more than 3 years to complete the environmental document and clearance process for environmental phase allocations and 2) Right of Way agreements should be finalized within two years of the allocation of funds for right of way acquisition. Deviations from these timely use of funds guidelines should be highlighted in the progress reporting process and sponsors are required to provide an explanation for this lapse. Any specific conditions and requirements for expenditure and reimbursement pertinent to each project shall be identified in the allocating resolution.

Project sponsors must demonstrate and certify that they can meet all of the timely use of funds deadlines as part of the financial plan included in the Initial Project Report for the various fund sources on the project. It is encouraged that project sponsors follow the provisions of the Regional Project Delivery Policy (MTC Resolution No. 3606).

**Project Cancellation**

If the RM2 project or project phase is not completed, the project sponsor shall repay MTC any RM2 funds expended above the proportionate share of eligible costs for the project or project phase. With regard to vehicle procurements, removal from revenue service or sale of the vehicle prior to the end of the vehicle's useful life will result in repayment to MTC and the RM2 program for the depreciated value of the vehicle at the time of removal or sale. Lease financing of vehicle procurements that do not result in the removal of the vehicles from revenue service is

permissible. Project sponsors entering into a sale-leaseback or lease-leaseback financing agreement for the purpose of generating operating funds are permitted to do so provided:

- 1) Federal, state, and local tax and finance regulations are adhered to;
- 2) Any sales lease back agreement be structured so that no change of ownership for U.S. tax analysis occurs;
- 3) MTC is provided with opinion from the transit operator's tax counsel of compliance with applicable regulations;
- 4) The transit operator indemnifies and defends MTC as to any challenges of any such transactions and to pay the costs of any resulting liability arising from such challenges; and
- 5) RM2 funded vehicles must remain in service for their depreciable service term. Failure to comply with these conditions may result in the rescission of the RM2 allocation and reimbursement to MTC of the prorated value of the vehicles.

Following the Commission consultation with the sponsor, public hearing and determination to redirect funds from the project, payment to MTC shall be made with interest and shall be made in accordance with a negotiated repayment schedule, not to exceed 24 months. MTC shall withhold funds due the sponsor for any missed payments under the negotiated agreement.

## **OTHER PROJECT COST CONDITIONS**

### **Maintenance and Operating Costs**

Pertaining to capital projects outlined in Streets and Highways Code Section 30914 (c), it is the obligation of the project sponsor to arrange for all costs to operate and maintain the improvement constructed under RM2. No costs will be considered as eligible for reimbursement out of RM2 funds to operate or maintain the facility or any portion of the facility. If a minimum operating segment or other useable segment of the facility is open for public use prior to the entire facility being opened, and if that segment is still the responsibility of the contractor for operation and maintenance, then these contractor costs can be considered eligible for reimbursement as a capital expense. For transit projects that result in enhanced or expanded services, this financial capacity should be documented as part of the Initial Project Report and its updates (as outlined in Appendix A).

### **Escalated Costs**

RM2 funding for any individual project or program shall be limited to the amount designated in the RM2 legislation. The cost of the project phases should be escalated to the year of expenditure when submitting project cost information to MTC. RM2 funds do not escalate. Local project sponsors may use the state escalation rates or their own rates in determining the escalated project phase cost for the year of expenditure. If funding beyond RM2 amounts are required to complete the project phase the sponsor is responsible for securing the additional funding prior to allocation of RM2 funds.

### **Cost Increases**

MTC participation in project or program costs shall be limited to those dollar amounts as outlined in S&HC Section 30914 (c). All cost estimates by project phase, being environmental/project approval, design, right of way, and construction, shall be shown in the Initial Project Report in the year of expenditure.

In cases where more than RM2 funds are needed to complete a project phase, it is the sole responsibility of the sponsor to secure the additional necessary funding. In the event that the sponsor cannot secure additional funding, and/or the project cannot be segmented to meet the available funds and still conform to the intent of the legislation and voter mandate, the Commission shall consult with the program or project sponsor, and conduct a public hearing as outlined in S&HC Section 30914(f). After the hearing, the Commission may vote to modify the project's or program's scope, decrease its level of funding, or reassign all of the funds to another regional project or program within the same corridor. If the existing project is removed from the RM2 program, MTC and the sponsor agree to share expenditures of eligible costs to date in accordance with the allocation conditions accompanying the project allocation.

It is the responsibility of the project sponsor to provide Progress Reports, working in cooperation with MTC and its consultants. Proposed contract change orders or cost increases that may arise once the contract has been awarded that are in excess of \$250,000 or 20% of the project cost, whichever is less, shall be noticed to MTC as soon as those increases have been identified or no later than the next scheduled Progress Report. The project sponsor will provide assurance that the project phase the Commission allocated to is still deliverable. A revised financial plan for the project shall be included as part of the submitted Progress Report. ~~Failure to provide the report and required information shall be ground for MTC to withhold reimbursements until a report is submitted and accepted by MTC.~~

The sponsor is not authorized to claim any RM2 funds in excess of the allocation amount approved by the Commission in association with the scope, cost, and schedule approved by the Commission. Increased costs are eligible for allocation of unallocated RM2 funds if the sponsor provides an updated funding plan indicating that funds from other phases or other sources are available to assure the delivery of the prescribed RM2 project or project phase. This must be accompanied by evidence that other fund sources, either new or increased in dollar amount, are committed. As mentioned elsewhere in this Policy and Procedure document, other fund sources must be programmed and allocated to the project phase requesting an allocation of RM2 funds or a supplement to the allocation of RM2 funds prior to the Commission approving an allocation of RM2 funds. In no case shall the financial responsibility of BATA and/or MTC regarding RM2 funds exceed the amount designated in S&HC 30914 (c) and (d).

If outside funding is found to be available for the RM2 project or project phase to partially offset the RM2 funds, the RM2 funds will not be transferred out of the project until after it is ensured that any known cost increases are adequately addressed.

### **Cost Savings and Cost Increases at Bid Opening**

At the time of bid opening, the responsible low bid may exceed the funding commitment of RM2 funds as well as other fund sources. If in the event of construction budget exceedences, the sponsor may seek an allocation of any remaining RM2 funds not yet allocated to the project only if other funds are committed in sufficient amounts to deliver the construction phase. If all available fund sources are not sufficient to award the project, the sponsor shall consult with MTC on suitable measures to enable the project to proceed, including but not limited to downscoping the project and rebidding, providing additional clarity to enable a more cost-effective bid, or seeking additional revenues. In no case shall the sponsor exceed the levels of RM2 funding allowable under Street and Highway Code Section 30913(d). In utilizing all

available funding from all sources for contract award, the sponsor shall consult with MTC staff or its consultants on the likelihood of cost increases during construction and what contingencies are available to address these costs, including the presentation of a risk management plan for constraining construction expenditures to available revenues.

In the event of cost savings at bid opening, the sponsor shall distribute bid savings proportionately to all construction fund sources, including both capital and support. The RM2 funds shall be available to the sponsor for any cost increases associated with the project after construction award until the time of final close-out of the construction phase, including the settlement of all claims.

## **MONITORING AND REPORTING REQUIREMENTS**

### Annual Updates

On an annual basis, sponsors and implementing agencies may be asked to notify the Commission of anticipated allocation requests for subsequent fiscal year (12 months). ~~Failure to comply may impact the allocation approval capacity of the Commission. The Commission's capacity to allocate RM2 funds depends in part on the information provided by the sponsors and the failure to comply may result in the sponsor's allocation request being deferred until such time when RM2 funds become available.~~

### ~~Quarterly and~~ Semi-annual Progress Reports

As directed by MTC, sponsors and/or implementing agencies will provide MTC with a ~~Quarterly Progress Reports or~~ Semi-Annual Progress Report. ~~Quarterly and~~ Semi-annual periods begin on July 1 and January 1 of any given fiscal year. These reports are meant to update MTC on the project's scope, cost, and schedule. These reports shall include the following:

- Status: the phase currently underway and the progress since the last report; major meetings and decisions on the project; any significant accomplishments; any setbacks to the project. The sponsor should note whether they anticipate any problems, and what area these problems exist in.
- Expenditures to date: these will be specified as expenditures since the prior reporting, and will include all funding sources including RM2. These will be in sufficient detail to determine that they are eligible expenses.
- Schedule changes: any changes in the project schedule as outlined and approved in the IPR and the consequences of those changes, particularly related to project costs. If the schedule has been modified, a revised schedule must be attached.
- Cost changes: all changes should be noted in the Progress Report; changes greater than 20% or \$250,000 dollars, whichever is less, must be accompanied by a detailed explanation of what options the sponsor has considered to manage the change, including but not limited to what savings can be realized elsewhere in the project to compensate for the change, and what the risks are to not funding the change. If costs have changed by more than \$250,000 or 20%, whichever is greater, a revised funding plan and cash flow schedule must be attached.
- Potential Claims: If RM 2 funds are utilized for the construction phase of the project, then the sponsor must certify if there are any Notices of Potential Claim. If they exist, a summary of such notices as well as the likely cost or schedule impact shall be included. MTC

acknowledges that information may be limited, given the need for confidentiality between the sponsor and the contractor. A confidential discussion with MTC staff may be requested; the sponsor shall make every effort to comply with this information request.

- Address of Project Specific Conditions: If project specific conditions were approved as part of the allocation, the sponsor must address the status of meeting the condition.
- Failure to provide the report and required information shall be ground for MTC to withhold reimbursements until a report is submitted and accepted by MTC.

### **Project Close Out**

The Implementing Agency shall be responsible for notifying MTC of the completion of project, prior to submitting the final invoice for the project. After notification, MTC staff will provide the sponsor with the appropriate forms to close out the project, specific to the project type. The final close-out procedure for a project may include sponsor provided documentation verifying the completion of the project, summarizing project costs and expenditures with a reconciliation of balances remaining on the project, transmittal of final deliverables, and on-site field visits. For projects that expend all of the RM 2 funds before completing the overall project as stipulated in statute, MTC has the discretion to continue requesting progress reports on the project. This will be considered on a case-by-case basis.

### **At Risk Report/Cooperation with Consultants**

Upon receipt of the sponsor-submitted quarterly progress reports, MTC and/or its consultant shall prepare an At-Risk Report (Report) for submittal to the Commission that outlines critical scope, cost, or schedule changes to the project. MTC may retain a project control and monitoring consultant to monitor projects, and report to the Commission on projects or project phases at risk for meeting the adopted scope, cost, or schedule, assessing what options are available to the sponsor to respond to the at-risk condition, and what recommendations may be available to the Commission. The sponsor shall cooperate with MTC and its consultant in the preparation of the Report. This report shall include options the sponsor has or has not considered and the costs and risks associated with those options. The sponsor is expected to participate in discussions with the Commission regarding options to proceed. The Commission will take the Report into consideration when assessing the ability of the project or project phase to be delivered, per Section 30914(f) of the S&HC. Regarding scope changes, any changes resulting in changes in costs or schedule should be delineated. The sponsor at a minimum should mention changes in scope due to permit agency requirements, local governing board direction, or changes in federal, state, or local laws and regulations. The sponsor shall cooperate with MTC or its consultants in the preparation of these documents.

## **CONSISTENCY WITH OTHER PLANS AND POLICIES**

### **RTP Consistency**

Capital projects seeking allocations must be consistent with the adopted Regional Transportation Plan (RTP), which state law requires be consistent with federal planning and programming requirements.

### **CMP Consistency**

For capital projects, it is required that all committed project phases be included in a Countywide Plan. The phase of the project requiring funding shall be in an approved County Congestion Management Plan (CMP) or in an adopted Capital Improvement Program (CIP) for counties that

have opted out of the CMP requirement, prior to seeking allocation of RM2 funds. For multi-county projects, the project must be in the countywide plans and CMP/CIP of the counties affected by the project.

### **TIP and Air Quality Conformity**

Federal laws governing requirements for regions to achieve or maintain federally mandated air quality standards require that all regionally significant transportation improvements be part of a required regional conformity finding. This conformity finding is performed by MTC, the Metropolitan Planning Organization (MPO) for the Bay Area, in concert with the Bay Area Air Quality Management District and the Association of Bay Area Governments and must state that if all the transportation improvements proceed, air quality standards can be reached.

A project is regionally significant if it increases transit or highway capacity or offers an alternative to established regional highway travel. Projects must be included in the conformity analysis, regardless of their fund source. To that extent, all regionally significant RM2 projects must be included in the conformity analysis for the Regional Transportation Plan (Plan) and Transportation Improvement Program (Program). Project sponsors are responsible for updating the TIP listing for their projects following an RM2 allocation or rescission or other significant change to the project. Project specific air quality conformity analysis and findings are the sole responsibility of the project sponsor.

### **Accommodations for Bicyclists, Pedestrians and Persons with Disabilities**

Federal, state and regional policies and directives emphasize the accommodation of bicyclists, pedestrians, and persons with disabilities when designing transportation facilities. As with many existing projects in the Bay Area, an RM2 project is likely to have a number of fund sources that make it whole. A project must incorporate the appropriate policy associated with the fund sources that make up the project. Federal, State, and regional policies and directives regarding non-motorized travel include the following:

#### **Federal Policy Mandates**

TEA-21 states that, "Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation projects, except where bicycle and pedestrian use are not permitted" (Section 1202).

#### **State Policy Mandates**

Caltrans Deputy Directive 64 (<http://www.dot.ca.gov/hq/tpp/offices/bike/DD64.pdf>), states: "the Department fully considers the needs of non-motorized travelers (including pedestrians, bicyclists, and persons with disabilities) in all programming, planning, maintenance, construction, operations, and project development activities and products. This includes incorporation of the best available standards in all of the Department's practices. The Department adopts the best practices concept in the US DOT Policy Statement on Integrating Bicycling and Walking into Transportation Infrastructure."

#### **Routine Accommodations Policy**

MTC Resolution 3765 requires agencies applying for regional transportation funds to consider the needs of bicyclists and pedestrians in the process of planning and designing a project.

**Resolution 3434 TOD policy**

MTC has developed policies, funding programs and technical studies to foster livability in the region's communities, improve the quality of our development patterns and enhance alternatives to auto travel. In order to support the development of such communities around new transit lines and stations, MTC adopted a Transit-Oriented Development (TOD) Policy (PDF) that applies to key transit extension projects in the Bay Area. RM2 projects, as appropriate shall comply with the TOD policy.

**Intelligent Transportation Systems Policy**

In collaboration with federal, state, and local partners, MTC is developing the regional Intelligent Transportation Systems (ITS) architecture. MTC, state and federal agencies will soon require projects funded with federal highway trust funds to meet applicable ITS architecture requirements. Through the on-line WEBFMS application process, project sponsors will identify the appropriate ITS category, if applicable. Information on the regional ITS architecture can be found at: <http://www.mtc.ca.gov/planning/ITS/index.htm>.

**Traffic Operations System Policy for Major New Freeway Projects**

It is the Commission's policy that all major new freeway projects included in the Transportation 2030 Plan and subsequent regional transportation plans shall include traffic operations system (TOS) elements to effectively operate the region's freeway system and coordinate with local transportation management systems. MTC is requiring that all applicable RM2 projects conform to the regional policy. For purposes of this policy, a "major freeway project" is a project that adds lanes to a freeway, constructs a new segment of freeway, modifies a freeway interchange, or reconstructs an existing freeway. A project is considered "new" if it does not have an approved Project Study Report (PSR) by December 2004. Caltrans shall operate, manage, maintain and replace the TOS elements installed within its right-of-way.

## **SECTION 3 – OPERATING PROGRAM GUIDANCE**

### **BACKGROUND**

Regional Measure 2 (RM 2) will provide operating support for a number of transit services. These projects are identified in Section 30914(d) of the California S&HC.

On October 13, 2004, the Federal Highway Administration with concurrence of the Federal Transit Administration approved the use of toll revenues from the four non-federalized Bay Area bridges for funding transit operations through the RM2 program. This decision allows MTC to begin allocating operating funds to the projects that were approved as part of RM2.

RM2 funds for operating assistance will be made available annually in accordance with the policies and procedures defined in this section.

### **ALLOCATION PROCESS**

Prior to the beginning of each fiscal year, pending resolution of the federal limitation concerning using toll revenues for operations, MTC will adopt a project specific budget for RM 2 operating funds. It is against this budget, subject to meeting eligibility requirements and fund availability, that project sponsors should request operating allocations.

In S&HC 30914.5(b), MTC is directed to execute an operating agreement with sponsors seeking RM2 funding covering operating assistance for transit services. These agreements are to be executed through a process of project sponsor governing board certification followed by Commission allocation action. The annual funding agreement will consist of approval by both project sponsors and MTC of the terms outlined in the sponsor Implementing Agency Resolution and Operating Assistance Proposal (OAP). The Implementing Agency Resolution should provide evidence of a full funding plan, adherence to performance measures, local agreement to conditions, local certification of absence of legal impediments and local indemnification of the Commission and adherence to the planned activity as outlined in the OAP.

For projects identified in Streets and Highway Code Section 99314(d) that are eligible for operating funds, the project sponsors may defer requesting allocation of such funds until capital elements of their respective projects are in place. The project sponsors shall provide MTC with an expenditure plan outlining a schedule when these funds will be requested not later than February of each year. The expenditure plan shall be reviewed annually, and may be revised by the project sponsor as necessary, subject to the concurrence of MTC. The projects include RM2 projects 2, 3, 5, 6, 7 and 8. For TransLink®, operations funds may be allocated and expended in three non-consecutive years and the total amount is not to exceed \$20 million."

### **Environmental Documentation**

Pursuant to California Environmental Quality Act (CEQA) Public Resources Code §21000, et seq., all applicants are required to indicate that an environmental document has been filed with the County Clerk for each project in their annual application. Please refer to Public Resources Code and Title 14 of the California Code of Regulations for more information. At the time of service initiation, an applicant may submit a request for RM2 funding to cover the costs of the environmental assessment for the RM2 route. Applicants are urged to refer to the statutory and

regulatory sections cited when preparing the environmental assessment documents. Applicants should consult their environmental officer for guidance in completion of this requirement. An application for operating funds solely to maintain existing transit services normally will be a Class I categorical exemption under CEQA, and requires only a Notice of Exemption. Applicants should check with their environmental officer for further assistance.

### **Allocation Applications**

An allocation request will be considered complete and ready for consideration by the Commission when all of the component elements to the request are submitted and approved for forwarding to the Commission by MTC staff. Each request must be submitted using the most current forms available on the MTC website.

Applications for operating assistance should be submitted sixty days prior to expected allocation date and should include the following material:

1. Cover letter detailing the allocation request;
2. Implementing Agency Resolution; \*
3. Operating Assistance Proposal;
4. Opinion of Legal Counsel; \*
5. Environmental documentation;
6. Certifications and assurances; and
7. Fiscal audit.

\* Project sponsors have the option of consolidating the ‘Implementing Agency Resolution’ and the ‘Opinion of Legal Counsel.’

Appendix C details the formats for the Implementing Agency Resolution, Operating Assistance Proposal, the Opinion of Legal Counsel, and the Certifications and Assurances.

Staff will review the operating assistance request to ensure that the project request meets eligibility per S&H code 30914(d), compliance with financial audit requirements, satisfaction of established performance measures, and other requirements outlined in this policies and procedures manual.

## **ELIGIBILITY**

### **Reimbursable Activities**

Transit services eligible to receive operating assistance under RM2 are those projects identified under Section 30914(d) of the S&HC. These projects and services have been determined to reduce congestion or to make improvements to travel in the toll bridge corridors. Due to other federal, state and regional requirements, full eligibility for the receipt of RM2 funding is not determined until approval of the funding allocation by the Commission.

Operating costs included in the operating expense object classes of the uniform system of accounts, exclusive of depreciation and amortization expenses and direct costs for providing charter service, are eligible for RM2 operating assistance. In the case of a transit service claimant that is allocated funds for payment to an entity, which is under contract with it to provide transportation services, “operating cost” also includes the amount of the fare revenues that are

received by the entity providing the services and not transferred to the claimant. Eligible expenses for operating follow the eligibility criteria for Transportation Development Act funds.

Service initiation costs for RM2 routes – including preparation of environmental clearance – are an eligible expense.

No operator or transit service claimant shall be eligible to receive moneys during the fiscal year from RM2 operating assistance for operating costs that exceed its actual operating cost for the service identified in S&HC 30914(d) or subsequently amended through an action by the MTC Commission (including payment for disposition of claims arising out of the operator's liability) in the fiscal year less the sum of the following amounts:

1. The actual amount of fare revenues received during the fiscal year.
2. The amount of other operating subsidies directed at the service during the fiscal year.

For those cases where the RM2 service is a portion of an operator's service, the methodology used to derive the costs and revenues for the route must be specified at the time of allocation. Any change in the methodology will require a revision to the allocation.

The period of eligibility for operating expenses is for the fiscal year for which the allocation is made. The term fiscal year has reference to the year commencing July 1 and ending June 30 of the following year.

Notwithstanding the provisions listed above for transit operating, for purposes of TransLink® and Water Transit Authority administrative expenses, the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) have determined that planning activities are eligible for reimbursement from toll revenues. Allocation for planning activities will be in accordance with federal guidance and may need to be reviewed by federal agencies in advance of the allocation to confirm that the planned activities are Title 23 eligible.

### **Consistency with Plans**

In addition to the eligibility requirements outlined above, applicants must demonstrate consistency with regional plans and federal planning requirements including but not limited to:

- MTC Regional Transportation Plan: For operations projects, applicants should provide the necessary project reference or information to verify that their project is compatible with the RTP.
- Applicant's Short Range Transit Plan (SRTP) or Countywide Plan: For operations projects, applicants must reference how the project is reflected in their Short Range Transit Plan or County-wide Five Year Plan. All transit operators that receive operating assistance shall prepare a Short Range Transit Plan, or planning document equivalent for their system, including reference to the planned use of RM2 bridge tolls as part of their overall operations. Failure to complete an SRTP could delay an allocation or make a project sponsor ineligible for RM2 operating assistance.
- Air Quality Conformity: An applicant's project must be consistent with the TIP for which MTC has completed an air quality conformity assessment.

## **DISBURSEMENT OF FUNDS**

After approval by the Commission, allocations of operating funds through RM2 will be disbursed in accordance with the terms and conditions as established in the allocation instructions by MTC. Generally, allocation instructions will direct payments to be made monthly in advance, subject to quarterly adjustments to reflect actual expenses based on monthly invoices. Sponsors that do not require regular monthly payments in advance and do not invoice quarterly are required to submit the final fiscal year invoice within 45-30 days after June 30th, the end of the fiscal year. All disbursements are subject to the availability of bridge toll revenues and determination of eligible expenses based on submitted invoices. Specific invoicing procedures will be provided to the sponsor.

Disbursement of RM2 operating assistance is conditional on timely and satisfactory completion of a fiscal audit and may be delayed, cancelled, or adjusted based on audit findings of ineligible expenses. Delinquency of report submittals or failure to comply with other RM2 operating assistance conditions could be grounds for withholding disbursement of funding or rescinding allocations.

## **MONITORING REQUIREMENTS**

### **Annual Update of Operating Assistance Plan**

Streets and Highway Code 30914.5(b) requires that MTC enter into an agreement with all recipients of RM2 operating assistance that shall include, at a minimum, a fully funded operating plan that conforms to and is consistent with the adopted performance measures. The agreement shall also include a schedule of projected fare revenue and any other operating revenues needed to demonstrate that the service is viable in the near-term and is expected to meet the adopted performance measures. These agreements are to be executed through a process of project sponsor governing board certification followed by Commission allocation action as discussed above in Allocation Process.

Applicants for RM2 operating assistance will use the Operating Assistance Plan (OAP) to demonstrate a fully funded operating plan that is consistent with MTC adopted performance measures. The original submittal of the OAP for FY 2004-05 was due by May 1<sup>st</sup> for sponsors requesting allocation in the fiscal year and by June 1<sup>st</sup> for all other sponsors. In subsequent years, the submittal shall follow a similar schedule but be updated to reflect audited actual data as well as adjusted current year financial and operating data statistics, as appropriate.

The OAP required information is included in Appendix C.

### **Performance Measures**

Prior to allocation of revenue for transit operating assistance under subdivision (d) of Section 30914 of the S&HC, the MTC shall adopt performance measures related to farebox recovery, ridership, and other performance measures as needed. The performance measures are included in Appendix C, Part 5.

The performance measures, as developed in concert with the affected transit operators and the Advisory Council and as approved by the Commission, will effect allocations starting in FY 2006-07. The applicable year for calculating performance measures will be two years in arrears of a requested allocation year. In other words, for FY 2006-07 operating allocations, the

Commission will base compliance with the performance measures on FY 2004-05 operating performance.

An independent auditor in the fiscal audit, as discussed below shall verify the certification of compliance with adopted performance measures.

### **Fiscal Audit**

As established in S&H Code 30914.5(c), prior to annual allocation of transit operating assistance by the MTC, the MTC shall conduct an independent audit that contains audited financial information, including an opinion on the status and costs of the project and its compliance with the approved performance measures. At a minimum, the fiscal audit will provide the auditor's professional opinion as to whether RM2 operating assistance was spent on eligible costs and performance measures were met.

In addition, a project sponsor should include RM2 expenses and revenues in its general fiscal audit. This annual certified fiscal audit shall be submitted to MTC within 180 days after the close of the fiscal year in which the RM2 allocation was received. MTC may suspend disbursement of RM2 operating assistance if an operator fails to meet this deadline.

The Commission's determination of eligibility for operating assistance will depend on the fiscal audit that is two years in arrears. The first year that fiscal audits must address is FY 2004-05, for use in allocation decisions for FY 2006-07.

All fiscal and accounting records and other supporting papers shall be retained for a minimum of four years following the close of the fiscal year of expenditure.

### **Cooperation with MTC and MTC's Consultants**

Recipients of RM2 operating assistance funds agree to work cooperatively with MTC staff and/or MTC consultants to provide operating statistics that will be used to monitor the effectiveness of the RM2 operating program and consistency with MTC adopted performance measures. This includes but is not limited to assisting in the collection of survey data, on-board vehicle counts, and making available relevant ridership and costs information. It is important to note that, in most cases, these performance measures will be route-specific and therefore require isolation of the operating cost, passenger boardings, and fare revenue for the route or line for which RM 2 operating assistance is secured.

### **Regional Coordination/Participation in MTC Programs**

Recipients of RM2 operating assistance agree to participate in regional programs aimed at enhancing transit information and customer service. At a minimum, recipients agree to 1) provide their schedule and real-time transit information/data to 511, maintain the data so that it is updated in a timely and accurate manner, and market 511 as the way to learn about the transit service; and 2) offer TransLink® services and market TransLink® as the fare medium to pay for the transit service, as applicable based on transit operator implementation of TransLink®. Recipients also agree to participate in the Integrated Fare Structure and Transit Connectivity studies, as authorized under S&H codes 30914(c). Further, transit operators receiving RM2 operating assistance agree to make reasonable efforts to implement any recommendations resulting from these studies, as appropriate.

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## **Appendix A – Capital Allocation Request Forms**

### **Part 1: RM2 Implementing Agency Resolution of Project Compliance**

#### **Resolution No.**

**Implementing Agency:**

**Project Title:**

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

WHEREAS, the (project title) 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 (agency name) is requesting that MTC allocate Regional Measure 2 funds; now, therefore, be it

RESOLVED, that (agency name), 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 (agency) 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 (agency name) approves the updated Initial Project Report, attached to this resolution; and be it further

RESOLVED, that (agency name) approves the cash flow plan, attached to this resolution; and be it further

RESOLVED, that (agency name) 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 (agency name) 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 (agency name) is authorized to submit an application for Regional Measure 2 funds for (project name) in accordance with California Streets and Highways Code 30914(c); and be it further

RESOLVED, that (agency name) 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 (agency name) 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 (agency name) to deliver such project; and be it further

RESOLVED, that (agency name) 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 (agency name), 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 (agency name) 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 (agency name) 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 (agency name) authorizes its (Executive Director, General Manager, or his/her designee) to execute and submit an allocation request for the (environmental/ design/ right-of-way/ construction) phase with MTC for Regional Measure 2 funds in the amount of (\$\_\_\_\_\_), for the project, purposes and amounts included in the project application attached to this resolution; and be it further

RESOLVED, that the (Executive Director, 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 (agency name) application referenced herein.

**Part 2: RM2 Sample Opinion of Legal Counsel**

Project sponsors have the option of including specified terms and conditions within the Resolution of Local Support as included in Part 1. If a project sponsor elects not to include the specified language within the Resolution of Local Support, then the sponsor shall provide MTC with a current Opinion of Counsel stating that the agency is an eligible sponsor of projects for the Regional Measure 2; that the agency is authorized to perform the project for which funds are requested; that there is no legal impediment to the agency applying for the funds; and that there is no pending or anticipated litigation which might adversely affect the project or the ability of the agency to carry out the project. A sample format is provided below.

(Date)

To: Metropolitan Transportation Commission  
Fr: (Applicant)  
Re: Eligibility for Regional Measure 2 funds

This communication will serve as the requisite opinion of counsel in connection with the allocation of (Applicant) \_\_\_\_\_ for funding from Regional Measure 2 Regional Traffic Relief Plan made available pursuant to Streets and Highways Code Section 30914(c)(d) for (Project Name) \_\_\_\_\_

1. (Applicant) \_\_\_\_\_ is an eligible sponsor for the Regional Measure 2 funding.
2. (Applicant) \_\_\_\_\_ is authorized to submit an allocation request for Regional Measure 2 funding for (project) \_\_\_\_\_
3. I have reviewed the pertinent state laws and I am of the opinion that there is no legal impediment to (Applicant) \_\_\_\_\_ making applications for Regional Measure 2 funds. Furthermore, as a result of my examinations, I find that there is no pending or threatened litigation that might in any way adversely affect the proposed projects, or the ability of (Applicant) \_\_\_\_\_ to carry out such projects.

Sincerely,

\_\_\_\_\_  
Legal Counsel

\_\_\_\_\_  
Print name

### **Part 3: RM2 Initial Project Report (IPR) Format**

Section 30914(e) of the California Streets and Highways Code requires that project sponsors with projects listed in the capital program of the Regional Traffic Relief Plan (Section 30914(c)) submit an Initial Project Report (IPR) to the Metropolitan Transportation Commission (MTC) by July 1, 2004. Furthermore, MTC requires the project sponsor to submit an updated report ~~to MTC at least annually, and an updated report be submitted~~ along with the any funding allocation request. The governing board of the agency submitting the allocation request must approve the updated IPR before MTC can approve the IPR, or allocation of funds. MTC will approve the report, or updated report, in conjunction with the funding allocation.

The report shall include all information required to describe the project in detail, including identification of lead sponsor, the status of any environmental documents relevant to the project, additional funds beyond RM2 required to fully fund the project, the amount, if any, of funds expended to date, a summary of any impediments to the completion of the project, a detailed financial plan, and notification of whether Regional Measure 2 (RM2) funds will be needed within the subsequent 12 months (following fiscal year). The Initial Project Report is outlined below, with the electronic template available at [www.mtc.ca.gov](http://www.mtc.ca.gov).

- **Project Description and Sponsor Information**, including identification of lead sponsor in coordination with all identified sponsors, and identification of agency to seek and receive allocations from MTC,
- **Project Delivery Information**, including summary of any impediments to the completion of the project, status of any environmental documents relevant to the project, status of the project phases and delivery milestones, and discussion of the operability of the project once completed.
- **Project Budget Information**, including the total budget for the project, and any prior expenditure.
- **RM2 Funding Need Information**, including RM2 expenditure (cash flow) plan, status of any prior RM2 expenditures, and identification of any RM2 funding needs for the next fiscal year, and beyond.
- **Project Funding Information**, including identification of committed funding to the project, any uncommitted funding required to fully fund the project, and segregation of the RM2 deliverable segment if different from the total project. Any timely use of funds requirements must be noted and incorporated into the overall funding schedule of the financial plan. The RM2 phase or component must be fully funded with committed funds, and it must be demonstrated that the RM2 funded phase or component results in a useable or operable segment. For transit projects resulting in expanded or enhanced services, the sponsor shall document the financial capacity to operate and maintain those services for a period of at least 10 years following the year services are initiated.
- **Allocation Budget Plan**. The sponsor must complete an Estimated Budget Plan (EBP) outlining the agency costs, consultant costs, and any other costs associated with the delivery of the Work Plan element for the allocation request. The EBP should represent both the RM2 funds as well as the complementary funds (for projects with

complementary fund sources) for the entire work scope. A separate EBP is required for each deliverable segment within each allocation. In some instances an allocation may have only one deliverable. In other instances an allocation may be associated with multiple deliverables.

- **Governing Board Action**, including verification of approval of the IPR. The IPR must be approved by the board or governing body of the agency responsible for preparing and submitting the IPR and requested the allocation of RM2 funding prior to MTC approval of the IPR and allocation of funds. Verification of the governing board action should be attached to the IPR.
- **Agency Contact and IPR Preparation Information**, including agency and project manager, and IPR preparer contact information, and date the report was prepared or updated.

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#### **Part 4: Environmental Documentation**

Pursuant to California Environmental Quality Act Public Resources Code §21000, et seq., all applicants are required to submit a valid environmental document that has been certified by the County Clerk for each project. Please refer to Public Resources Code and Title 14 of the California Code of Regulations for more information. Applicants are urged to refer to the statutory and regulatory sections cited when preparing any environmental assessment under CEQA or NEPA. Applicants should consult their environmental officer for guidance in completion of this requirement. If a project is federally funded or is anticipated to be federally funded, project sponsors must submit approved National Environmental Protection Act documents.

#### **Part 5: RM2 Evidence of Allocation and Commitment of Complementary Funds**

Applicants are required to submit evidence of the commitment of complementary funds for the phase for which the applicant is seeking an allocation of RM2 funds. Copies of the applicable resolution(s) and/or governing body actions allocating the funds to the phase, within the years displayed in the cash flow plan, must be attached to the allocation request. The applicant must demonstrate that the phase is entirely funded prior to the allocation of RM2 funds. Part 6: RM2 Allocation Work Plan

The implementing agency must submit a detailed Work Plan covering the deliverables for which a RM2 funding allocation is being sought. The Work Plan should be consistent with the parameters included in the Board approved Initial Project Report, and must have sufficient detail regarding each deliverables' scope, cost and schedule. The elements of the work plan will serve as the basis of MTC staff review of project sponsor invoices. MTC staff will work with sponsors to ascertain the work breakdown level appropriate to the funding request being made. The Work Plan must be submitted with the allocation application request.

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## **Appendix B – Operating Allocation Request Forms**

### **Part 1: Certifications and Assurances**

(Sample form is available at [www.mtc.ca.gov](http://www.mtc.ca.gov))

Applicant certifies that, if RM-2 funding was received in the prior year, it has included the RM-2 costs and revenues in its general fiscal audit for that year. Applicant also assures that it will include the RM-2 costs and revenues in its general fiscal audit for the year in which funds are requested.

Applicant certifies to one of the following:

- 1) For bus operators, that it has submitted a copy of the California Highway Patrol (CHP) certification, which was issued within the last 13 months indicating compliance with California Vehicle Code §1808.1 and Public Utility Code §99251 (CHP "pull notice system and periodic reports").
- 2) For rail or ferry operators, it certifies that it is current on all inspections and certifications required by federal and state agencies.

Applicant for RM2 funds certifies that it has current SB 602 "joint fare revenue sharing agreements" in place with transit operators in the MTC region with which its service connects, and that it has submitted valid and current copies of all such agreements to MTC.

Applicant also agrees to participate in the Integrated Fare Structure and Transit Connectivity studies authorized in SB 916 (Chapter 715, Statutes of 2004).

Applicant for funds certifies that it complies with MTC's Transit Coordination Implementation Plan (MTC Resolution No. 3055, revised) and with Public Utilities Code §99314.5(c) and §99314.7).

The applicant may be asked to certify such other assurances as MTC may deem appropriate consistent with the RM2 Policies and Procedures outlined above.

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## **Part 2: RM2 Operating Assistance Proposal (OAP)**

The Operating Assistance Proposal (OAP) includes the information outlined below. The format for sponsors to complete is available to be downloaded at [www.mtc.ca.gov](http://www.mtc.ca.gov).

### **1. Description of Proposed Service**

- a. Map of service area.
- b. Description of markets being served (both travel demand as well as inter-operator connections)
- c. Description of methodology used to estimate ridership/assign ridership

### **2. Service Parameters**

- a. Service start/end times.
- b. Headways in the peak and off-peak
- c. Vehicles in service during the peak and off-peak
- d. Daily revenue vehicle hours

### **3. Budget Information**

- a. Basis of expense projections, i.e., description of cost model.
- b. Basis of fare revenue projections (assumptions on fare structure, including any increases over the five years, and resulting average fare).
- c. Description of other revenues – if subsidies from other agencies are included, describe status of commitments.
- d. Five-year projections and audited past actual and adjusted current year information for operating cost and revenue. Revenue projections should disaggregate fare revenue, TDA, local sales tax, private sector contributions, and other subsidies.

### **4. Operating Data and Performance Measures**

- a. Five-year projections and audited past actual and adjusted current year information for service parameters including annual ridership, weekday ridership, revenue vehicle hours, and revenue miles.
- b. Five-year projections and audited past actual and adjusted current year information for performance measures including farebox recovery ratio, passengers per revenue hour, cost per rider, subsidy per rider, and cost per revenue hour.

### **5. Implementation Schedule and Status Report**

- a. Proposed start date
- b. Environmental clearance – status and schedule
- c. Vehicles/other capital – status and procurement schedule for incremental capital needed to support RM2 funded operations.
- d. If partnering with other agencies, provide letters of support from partners.
- e. Description of potential implementation issues
- f. Once operational, please provide a status report on the implementation to-date as well as any planned schedule adjustments or other service changes in the coming year.

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### **Part 3: Sample RM2 Operating Board Resolution**

#### **Resolution No.**

**Implementing Agency:**

**Project Title:**

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

WHEREAS, the (project title) 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 Operating Assistance Proposal and incorporated herein as though set forth at length, demonstrates a fully funded operating plan that is consistent with the adopted performance measures, as applicable, for which (agency name) is requesting that MTC allocate Regional Measure 2 funds; and

WHEREAS, Part 2 of the project application, attached hereto and incorporated herein as though set forth at length, includes the certification by (agency name) of assurances required for the allocation of funds by MTC; now, therefore, be it

RESOLVED, that (agency name), 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 (agency) certifies that the project is consistent with the Regional Transportation Plan (RTP).

RESOLVED, that (agency name) approves the updated Operating Assistance Proposal, attached to this resolution; and be it further

RESOLVED, that (agency name) approves the certification of assurances, attached to this resolution; and be it further

RESOLVED, that (agency name) 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(d); and be it further

**Appendix B**

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RESOLVED, that (agency name) is authorized to submit an application for Regional Measure 2 funds for (project name) in accordance with California Streets and Highways Code 30914(d); and be it further

RESOLVED, that (agency name) certifies that the projects and purposes for which RM2 funds are being requested 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.) 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 (agency name) 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 (agency name) to deliver such project; and be it further

RESOLVED, that (agency name) 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 (agency name), 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.

RESOLVED, that (agency name) 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 project(s); and be it further

RESOLVED, that (agency name) authorizes its (Executive Director, General Manager, or his/her designee) to execute and submit an allocation request for operating or planning costs for (Fiscal Year) with MTC for Regional Measure 2 funds in the amount of (\$\_\_\_\_\_), for the project, purposes and amounts included in the project application attached to this resolution; and be it further

RESOLVED, that the (Executive Director, 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 (agency name) application referenced herein.

**Part 4: RM2 Sample Opinion of Legal Counsel**

Project sponsors have the option of including specified terms and conditions within the Resolution of Local Support as included in Part 3. If a project sponsor elects not to include the specified language within the Resolution of Local Support, then the sponsor shall provide MTC with a current Opinion of Counsel stating that the agency is an eligible sponsor of projects for the Regional Measure 2; that the agency is authorized to perform the project for which funds are requested; that there is no legal impediment to the agency applying for the funds; and that there is no pending or anticipated litigation which might adversely affect the project or the ability of the agency to carry out the project. A sample format is provided below.

(Date)

To: Metropolitan Transportation Commission  
Fr: (Applicant)  
Re: Eligibility for Regional Measure 2 funds

This communication will serve as the requisite opinion of counsel in connection with the allocation of (Applicant) \_\_\_\_\_ for funding from Regional Measure 2 Regional Traffic Relief Plan made available pursuant to Streets and Highways Code Section 30914(c)(d) for (Project Name) \_\_\_\_\_

4. (Applicant) \_\_\_\_\_ is an eligible sponsor for the Regional Measure 2 funding.
5. (Applicant) \_\_\_\_\_ is authorized to submit an allocation request for Regional Measure 2 funding for (project) \_\_\_\_\_
6. I have reviewed the pertinent state laws and I am of the opinion that there is no legal impediment to (Applicant) \_\_\_\_\_ making applications for Regional Measure 2 funds. Furthermore, as a result of my examinations, I find that there is no pending or threatened litigation that might in any way adversely affect the proposed projects, or the ability of (Applicant) \_\_\_\_\_ to carry out such projects.

Sincerely,

\_\_\_\_\_  
Legal Counsel

\_\_\_\_\_  
Print name

**Appendix B****Part 5: RM2 Performance Measures for Operating Projects**

1. The objective in establishing performance measures is to ensure that the Regional Measure 2 (RM2) operating dollars are directed to productive services within the corridors identified in the legislation, or as redirected by the Commission after a public hearing process.
2. Two performance measures will be used to assess cost recovery and ridership change in accordance with California Streets and Highway Code (S&HC) 30914.5(a), which requires that MTC shall adopt performance measures related to farebox recovery ratio and ridership: 1) farebox recovery and 2) change in passengers per revenue vehicle hour. Farebox recovery ratio and change in passengers per hour performance measures are established in items 4 and 5.
3. Recognizing that the market demands as well as policy goals for the operating projects in S&HC 30914(d) are not uniform, several thresholds for farebox recovery are established and outlined in item 4.
4. An operating segment must meet or exceed the farebox recovery ratio conforming to its particular mode and service type as defined in the table below. Peak service is defined as service that does not continue at least hourly between the morning and afternoon commute periods. All day service is generally defined as service that is provided at least hourly between the hours of 6 a.m. and 7 p.m. Long-haul bus services (> 25 miles) will be deemed “all day” if service is provided at least every two hours during the midday. Owl service is service that has been developed with the specific goal of closing a temporal gap in the transit network.

Service Type	Ferry	Rail	Bus
<b>Peak Service</b>	40%	35%	30%
<b>All Day Service</b>	30%	25%	20%
<b>Owl Service</b>	N/A	N/A	10%

Projects (11) and (12) in S&HC 30914(d) are exempt from the farebox thresholds above and instead must meet the farebox requirements established for receiving allocation for state funds (Transportation Development Act, State Transit Assistance, and AB 1107).

5. It is the expectation that all operating segments will maintain a positive ~~annual~~ change in passengers per revenue vehicle hour when a rolling average over a three-year period is applied. The first three years of service must demonstrate an increase in passengers each year. From the fourth year forward, three-year averages will be calculated and compared. The previous three-year average will be compared to the most recent three-year average, with the most recent year being added and the oldest year being dropped from each average (FYs 2004, 2005 and 2006 will be compared to FYs 2005, 2006, and 2007, and so on). If productivity during the audit year is better than the most recent three-year average, then the previous three-year average will be compared to the audit year. A negative change in an amount equal to or less than a negative change in Transportation Development Act revenues in the county of operation (or average between the origination and destination) for the same period will be allowable. The goal is to have positive ridership change ~~from year-to-year~~between each three-year cycle, but the

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allowance for a negative change is to account for economic adjustments in the region and for fluctuations in regional market demand for each service.

**Appendix B**

Projects (11) and (12) in S&HC 30914(d) are exempt from the passenger per revenue vehicle hour changes and instead must meet the performance measure requirements established for receiving allocation for state funds (Transportation Development Act, State Transit Assistance, and AB 1107).

6. If an operating program cannot achieve its performance objectives described above, MTC staff will consult with the project sponsor about potential service adjustments or redeployment to increase the productivity of the route and best serve transit in the corridor. After this consultation, the sponsor will be given the opportunity to present to the Commission a corrective action plan for meeting the RM2 performance measures. Based on the corrective action plan recommendation, the Commission shall give the sponsor a time certain to achieve the performance measure or have its funding reassigned. If the project continues to not meet the performance measure, the Commission shall hold a public hearing concerning the project. After the hearing, the Commission may vote to modify the program's scope, decrease its level of funding, or to reassign all of the funds to another or an additional project.
7. Only transit operations will be subject to the performance measure outlined in this policy. Projects (13) and (14) outlined in RM2 under S&HC 30914(d) are not subject to these performance measures as these projects do not meet the definition of transit operations.
8. Each operating project that requests RM2 operating funding will be given a two-year ramp-up period to meet the performance measures with an expectation that measures will be met in the third year of service. If an operating scope or definition is changed at the sponsor request after initial rollout of the operating project, no new ramp-up period will be granted.
9. Compliance with the performance measures must be certified as part of the annual fiscal audit prepared by the project sponsor. The compliance and, therefore eligibility for RM2 operating funds, for a given fiscal year will be based on fiscal audit two years in arrears. Therefore, the first year for which performance measures will be assessed is for FY 2008-09 operating requests; these requests will take into consideration performance in FY 2006-07.
10. For purposes of calculating farebox recovery ratio and passengers per revenue vehicle hour, project sponsors must allocate costs in accordance with the cost allocation shown below for the various service types. This cost allocation strategy must be consistent with that provided to MTC as part of the annual Operating Assistance Plan (OAP). Further, baseline data on ridership, costs, fares, and average fare must be established as part of the OAP for RM2 services that represent an incremental change to the operator's overall service plan. The operator should establish a data collection plan for assessing changes to the baseline system for purposes of calculating ridership, costs, and fare for the new RM2 incremental services.

<b>Service Type</b>	<b>Cost Allocation Methodology</b>
<b>Peak Service</b>	Fully Allocated Costs
<b>All Day Service</b>	Fully Allocated Costs
<b>Owl Service</b>	Marginal Costs

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11. For purposes of this policy, the farebox recovery ratio is the ratio of fares collected on the RM2-funded segment to total operating costs for that same segment. Passenger per revenue vehicle hour is defined as the total passengers (total of all adult, youth and student, senior and disabled, inter-operator paid transfer, and non-revenue boardings) divided by the revenue vehicle hours (the total number of hours that each transit vehicle is in revenue service, including layover time).



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## *Memorandum*

TO: Partnership Technical Advisory Committee

DATE: April 21, 2008

FR: Christina Atienza

RE: MTC's Proposed FY 07-09 New Freedom Programming Guidelines

### **Background**

SAFETEA established the New Freedom Program to address the transportation needs of disabled persons through the provision of new services and facility improvements that go beyond those required by the Americans with Disabilities Act (ADA). Funds are apportioned by formula to large urbanized areas (UAs), small UAs, and rural areas based on the population of persons with disabilities. Funds are required to be spent on projects that provide services within those areas.

Designated recipients of the funds are responsible for conducting a competitive selection process to determine which projects should receive funding. MTC is the designated recipient for the Bay Area's large UA funds. Caltrans is the designated recipient for the Bay Area's small UA funds and for the State's rural area funds; however, MTC may, at its discretion, conduct the competitive selection process on behalf of Caltrans for the Bay Area's small UA funds.

In February 2008, MTC adopted an interim program for the FY 2006 large UA funds, in order to ensure the timely use of those funds and inform the programming priorities for the remaining three years of funding. For the small UA and rural funds, Caltrans on January 31, 2008 issued two calls for projects: an accelerated one for the FY 2006 funds, and another, proceeding in a more typical schedule, for the FY 2007-2009 funds. The available funding is summarized below.

Area Type (Designated Recipient)	Actual FY 2007	Actual FY 2008	Estimated FY 2009	Total
<b>Bay Area Large Urbanized Areas (MTC)</b>	<b>\$1,612,117</b>	<b>\$1,741,484</b>	<b>\$1,840,998</b>	<b>\$5,194,599</b>
Antioch, CA	\$60,601	\$65,464	\$69,205	\$195,270
Concord, CA	\$121,779	\$131,551	\$139,069	\$392,399
San Francisco-Oakland	\$950,208	\$1,026,459	\$1,085,114	\$3,061,781
San Jose, CA	\$399,440	\$431,494	\$456,151	\$1,287,084
Santa Rosa, CA	\$80,089	\$86,516	\$91,460	\$258,065
<b>Bay Area Small Urbanized Area (Caltrans)*</b>	<b>\$429,544</b>	<b>\$464,014</b>	<b>\$490,529</b>	<b>\$1,384,087</b>
Fairfield	\$72,185	\$77,977	\$82,433	\$232,595
Gilroy-Morgan Hill	\$36,766	\$39,717	\$41,986	\$118,470
Livermore	\$42,802	\$46,237	\$48,879	\$137,918
Napa	\$53,582	\$57,882	\$61,189	\$172,654
Petaluma	\$32,056	\$34,628	\$36,607	\$103,291
Vacaville	\$55,900	\$60,386	\$63,837	\$180,123
Vallejo	\$136,253	\$147,187	\$155,598	\$439,038
<b>California Rural Areas (Caltrans)**</b>	<b>\$681,111</b>	<b>\$735,768</b>	<b>\$777,812</b>	<b>\$2,194,691</b>

\* Amounts shown are target programming amounts, estimated from those provided by Caltrans for FY 2006.

\*\* Amounts shown are total for the State. No target programming amount will be set.

Note: The names given to the UAs correspond to the most populated city/cities within the area, but the areas are actually larger.

## Proposed New Freedom FY 2007-2009 Programming Guidelines

April 21, 2008

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**Minimum Program Requirements**

***Eligible Activities.*** Projects must be intended to assist individuals with disabilities in accessing transportation services, and must expand transportation mobility options beyond the requirements of ADA. Projects must not have been operational on August 10, 2005, and must not have had an identified funding source as of August 10, 2005. Funds can be used for capital and operating expenses. Examples of eligible projects include paratransit enhancements, feeder services, travel training, accessibility enhancements, purchase of vehicles with wheelchair accommodations for vanpooling, administration of voucher programs, administration of volunteer driver programs, and mobility management. Further, all projects in the Bay Area are required to be derived from the Coordinated Human Services-Public Transit Transportation Plan (“Coordinated Plan”).

***Eligible Applicants.*** Include private non-profit organizations; local governmental authorities; and operators of public transportation services, including private operators of public transportation services.

***Match Requirements.*** The federal share of the total eligible cost can be no more than 80 percent for capital projects and 50 percent for operating projects. The local share must be provided from sources other than federal transportation funds.

***Compliance with Federal Requirements.*** Recipients will be required to enter into an agreement with the designated recipient (MTC for large UA funds, Caltrans for small UA and rural funds) and comply with all pertinent federal requirements, including quarterly reporting of project progress and annual reporting of project performance.

**Proposed Programming Guidelines**

The following outlines staff’s proposed programming guidelines for the \$6.6 million available from FY 2007-09 for the Bay Area’s urbanized areas. The proposed guidelines build upon the experience gained from developing the interim FY 2006 program.

***Multi-Year Programming for Large UA Funds.*** Staff recommends programming the entire \$5.2 million in large UA funds from FY 2007 through 2009 in the upcoming call for projects, consistent with Caltrans’ call for projects for the small UA and rural funds. The actual amount of FY 2009 funds will not be known until later this year, so the program for FY 2009 funds would be estimated only and contingent upon MTC’s receipt of the actual apportionment amounts.

***Timeline and Coordination with Caltrans Call for Projects.*** Staff recommends conducting a combined call for projects for the large and small UA funds. Combining the calls for projects would reduce confusion for the applicants, avoid duplication of effort for the evaluators, and streamline MTC’s certification for derivation from the Coordinated Plan. While this approach would require a one month extension of the due date to Caltrans for the small UA program of projects, it is not anticipated to adversely affect the timeline for the availability of funding.

The proposed timeline for the combined call for projects is:

Release Combined Call for Projects	mid-May 2008
Applications Due to MTC	July 31, 2008
Present Recommended Program of Projects to MTC Programming & Allocations Committee	September 10, 2008
MTC’s Adoption of Program of Projects	September 24, 2008
Submit Small UA Program of Projects to Caltrans	September 25, 2008

## Proposed New Freedom FY 2007-2009 Programming Guidelines

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***Programming Priorities.*** Staff recommends the following prioritization of project types shown in priority order, and is seeking your feedback:

1. Mobility management projects. Mobility Management is the coordination of public and human service transportation in a cost-effective manner to enhance the level of service provided to transportation-disadvantaged populations. This could entail a broad range of activities, from inventorying current service providers, to dedicating staff positions, to developing centralized software systems. The Coordinated Plan lists mobility management as an effective strategy for enhancing service delivery, and there is a growing interest in these types of projects in the Bay Area and at the state and federal levels. Mobility management projects are considered eligible capital expenses under the New Freedom Program.
2. Other capital projects or discrete operational projects. This includes projects that do not require continuous funding. Examples of these types of projects are equipment purchases, travel training programs, and maintenance subsidies for retired vans.
3. Ongoing operational projects. This includes projects that require continuous funding. These types of projects would be considered for funding; however, there is no assurance that the New Freedom Program will continue beyond SAFETEA. Examples of these types of projects are expansion of current hours of operation of ADA paratransit services beyond those provided on fixed-route services, door-through-door services, and feeder services.

***Evaluation Criteria for Large UA Applications.*** For the interim FY 2006 program, applications were evaluated based on qualitative criteria including: demonstration of need and benefits; evidence of coordination, partnership, and outreach efforts; and project readiness. The same three criteria are proposed for the FY 2007-2009 program; however, point values are assigned to reflect the recommended relative importance of each criterion, and additional considerations are added under each criterion to reflect the proposed program priorities discussed above and the lessons learned from the interim FY 2006 program. Staff proposes not to assign points for the considerations under each criterion, and instead enable evaluators to use their local knowledge to prioritize those considerations. Staff seeks your feedback on the proposed prioritization of the evaluation criteria and the completeness of the list of considerations under each criterion.

□ **Need and Benefits** (maximum 40 points)

*Extent to which project address critical needs for disabled individuals as identified in the Coordinated Plan*

*Effectiveness at mitigating or eliminating transportation barriers for disabled individuals*

*Project type: mobility management, discrete capital or operational project, or ongoing operational project*

*Extent to which project promotes integration of disabled individuals into the work force and their full participation in society*

*Competitiveness for other federal or state funding sources*

*Additional benefits*

## Proposed New Freedom FY 2007-2009 Programming Guidelines

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□ **Coordination, Partnership, & Outreach** (maximum 30 points)

*Extent of coordination with other affected transportation systems, providers, and services, and with related social service programs*

*Advancing the development and implementation of coordinated transportation services*

*Extent of community support*

*Plan for marketing the project to beneficiaries*

□ **Project Readiness** (maximum 30 points)

*Reasonableness and completeness of funding plan*

*Project sustainability beyond the grant period*

*Thoroughness of implementation plan and reasonableness of project schedule*

*Ability to use grant for leveraging additional resources*

*Sponsor's experience in managing services for disabled individuals*

*How project fits into a larger program with well-defined goals, objectives, and performance standards*

*Sponsor's institutional capacity to manage the project*

*Sponsor's history of managing federal transportation funds*

The proposed criteria above will not apply to projects competing for small UA and rural funds. Those will be evaluated based on criteria that have been adopted by Caltrans, which are similar to the above, but do not reflect the proposed regional priorities. A copy of Caltrans' criteria is attached.

The proposed guidelines have been discussed with the Transit Finance Working Group and the Elderly and Disabled Advisory Committee meeting, and will be discussed with the Partnership Accessibility Committee at their April 14 meeting. Staff will provide a briefing of the feedback received from these groups at your meeting.

### **Next Steps**

The proposed guidelines will be revised as appropriate based on the stakeholders' comments. The detailed draft final guidelines will be presented to the Programming and Allocations Committee for approval at their May 14 meeting.

**Attachment**  
**Caltrans Evaluation Criteria for Small Urbanized and Rural Areas**

***A. Does the project meet the New Freedom Program Goals and Objectives? (20 total points)***

1. An applicant must be consistent with the overall New Freedom program goals and objectives. (10 points maximum)
2. Applicant demonstrates how project activities directly address transportation gaps and/or barriers identified through the locally developed human services transportation planning process within their communities. (10 points maximum)

***B. Operational/Implementation Plan? (20 points)***

3. Applicant provides a well-defined operations plan with defined routes, schedules, current/projected ridership, key personnel, and marketing strategies with supporting documentation for carrying out the project. For Capital and Mobility Management projects, applicant provides an implementation plan that includes project tasks, timeframes, benchmarks, key milestones, key personnel, deliverables and estimated completion date with supporting documentation. Both the operations and implementation plans must identify key personnel assigned to this project and their qualifications, including resumes and certifications as supporting documentation. Applicants must demonstrate their institutional capability to carry out the service delivery aspect of the project.

***C. Describe the Program Effectiveness and Performance Indicators (20 total points):***

4. Applicant identifies clear measurable outcome-based performance measures and indicators to track the effectiveness of the project. Applicant states the number of persons to be served, trip purpose(s), and the number of trips. Additional measurable units of service can also be used. Applicant must describe the outcome (impact) that the project will have on individuals with disabilities. (10 points maximum)
5. Applicant describes a process that details the ongoing monitoring and evaluation of the project or service, including methodologies and desired outcomes based upon the performance objectives identified above in Question 4. (10 points maximum)

***D. Communication and Outreach (20 total points):***

6. Stakeholder list should include, but not be limited to, Health and Human Services Agencies, public/private sector, non-profit agencies, transportation providers, and members of the public representing individuals with disabilities. Applicants will be evaluated based on their ability to coordinate with other community transportation and/or social service resources. (10 points maximum)
7. Applicants must keep stakeholders involved and informed of project activities throughout the project timeline. Applicant must also describe how they would promote public awareness of the project. Three (3) letters of support from stakeholders must be attached to the grant application. (One of the three support letters may come from a client of the proposed project.) (10 points maximum)

***E. Provide the Applicant's Project Budget (0 or 20 points):***

8. Please provide your budget information on the form(s) supplied. A complete listing of budgetary information will be necessary to receive the full 20-point value. *Failure to provide all of the required information will result in 0 points for this question.* Applicants must submit a clearly defined project budget, indicating anticipated project expenditures and revenues, including documentation of matching funds.