Date: December 15, 2010
W.I.: 1512
Referred By: PAC

<u>ABSTRACT</u>

Resolution No. 3986

This resolution adopts the Metropolitan Transportation Commission's Job Access and Reverse Commute (JARC) and New Freedom Program Management Plan for the large urbanized areas of the San Francisco Bay Area.

The following attachment is provided with the resolution:

Attachment A Job Access and Reverse Commute (JARC) and New Freedom Program Management Plan

Further discussion of this action is contained in the Programming and Allocations Committee Summary sheet dated December 8, 2010.

Date: December 15, 2010
W.I.: 1512
Referred By: PAC

Re: Job Access and Reverse Commute (JARC) and New Freedom Program Management Plan

METROPOLITAN TRANSPORTATION COMMISSION
Resolution No. 3986

WHEREAS, Title 49 United States Code (U.S.C.) Section 5316 (49 U.S.C. 5316) authorizes and sets forth the provisions for the Job Access and Reverse Commute Program, which makes grants to recipients for access to jobs and reverse commute projects; and

WHEREAS, Title 49 U.S.C. Section 5317 (49 U.S.C. 5317) authorizes and sets forth the provisions for the New Freedom Program, which makes grants to recipients for addressing 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; and

WHEREAS, 49 U.S.C. §5316(c) apportions Job Access and Reverse Commute funds by formula to large urbanized areas, small urbanized areas, and non-urbanized areas; and

WHEREAS, 49 U.S.C. §5317(c) apportions New Freedom funds by formula to large urbanized areas, small urbanized areas, and non-urbanized areas; and

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Section 66500 et seq.; and

WHEREAS, MTC is also the federally designated metropolitan planning organization (MPO) for the nine-county San Francisco Bay Area; and

WHEREAS, consistent with 49 U.S.C. §5307(a)(2), MTC is the designated recipient of the Federal Transit Administration's (FTA's) Job Access Reverse Commute and New Freedom funding apportionments for large urbanized areas in the nine-county San Francisco Bay Area; and

WHEREAS, the Federal Transit Administration (FTA) has published FTA Circular 9050.1 entitled "The Job Access and Reverse Commute (JARC) Program Guidance and

Application Instructions," dated May 1, 2007, which issues guidance on the administration of the JARC Program under 49 U.S.C. 5316; and

WHEREAS, the Federal Transit Administration (FTA) has published FTA Circular 9045.1 entitled "New Freedom Program Guidance and Application Instructions," dated May 1, 2007, which issues guidance on the administration of the New Freedom Program under 49 U.S.C. 5317; and

WHEREAS, FTA Circulars 9045.1 and 9050.1 require designated recipients to describe their policies and procedures for administering FTA's JARC and New Freedom programs in a Program Management Plan (PMP); now, therefore, be it

RESOLVED, that MTC hereby adopts the Job Access and Reverse Commute and New Freedom Program Management Plan, consistent with the requirements of FTA Circulars 9045.1 and 9050.1, attached hereto and incorporated herein as Attachment A; and, be it further

RESOLVED, that the Executive Director of MTC is authorized and directed to make minor changes to Attachment A of this resolution as may be necessary from time to time, with appropriate notification to stakeholders; and, be it further

RESOLVED, that the Executive Director or designee shall forward a copy of this resolution and such other information as may be required to the Federal Transit Administration and to other such agencies as may be appropriate.

METROPOLITAN TRANSPORTATION COMMISSION

_____
Scott Haggerty, Chair

The above resolution was entered
into by the Metropolitan Transportation
Commission at a regular meeting of this
Commission held in Oakland, California,
December 15, 2010.

Date: December 15, 2010
W.I.: 1512
Referred By: PAC

Attachment A
Resolution No. 3986
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METROPOLITAN
TRANSPORTATION
COMMISSION

PROGRAM MANAGEMENT PLAN

Federal Transit Administration
Section 5316 Job Access and Reverse Commute and
Section 5317 New Freedom Programs

December 2010

PROGRAM MANAGEMENT PLAN

Federal Transit Administration
Section 5316 Job Access and Reverse Commute and
Section 5317 New Freedom Programs

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This Program Management Plan (PMP) describes the Metropolitan Transportation Commission's policies and procedures for administering the Federal Transit Administration's (FTA's) Section 5316 Job Access and Reverse Commute (JARC) and Section 5317 New Freedom (NF) Programs in accordance with requirements in FTA Circulars C 9050.1 and 9045.1, both dated May 1, 2007.

I. GENERAL

The Metropolitan Transportation Commission (MTC) is the federally-designated Metropolitan Planning Organization (MPO) and state-designated Regional Transportation Planning Agency (RTPA) for the San Francisco Bay Area, including the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma. Created by the state Legislature in 1970 (California Government Code § 66500 et seq.), MTC is the transportation planning, coordinating and financing agency for the nine-county region. MTC's work is guided by a 19-member policy board: fourteen commissioners appointed directly by local elected officials; two members representing regional agencies — the Association of Bay Area Governments and the Bay Conservation and Development Commission; and three nonvoting members representing federal and state transportation agencies and the federal housing department.

The Governor of California designated MTC to be the recipient of JARC and New Freedom funds apportioned to the Bay Area's urbanized areas over 200,000 in population, referred to as the Antioch, Concord, San Francisco-Oakland, San Jose, and Santa Rosa large urbanized areas. Transit services in the over 7,000-square mile region are provided by over two dozen transit operators.

The stakeholders listed in Section IV have been provided with an opportunity to review and comment on this PMP, as required in the FTA Circulars.

II. PURPOSE OF PMP

This PMP is intended to fulfill several functions:

1. Serve as the basis for FTA to perform management reviews of MTC's administration of the program;
2. Provide public information on MTC's administration of the program; and,
3. Provide program guidance to local project applicants.

III. PROGRAM GOALS AND OBJECTIVES

JARC: FTA's goal for the JARC program is to improve access to transportation services to employment and employment-related activities for welfare recipients and eligible low-income individuals, and to transport residents of urbanized areas and nonurbanized areas, regardless of income level, to suburban employment opportunities. FTA's objectives are:

a. To increase the number of jobs that can be accessed as a result of geographic or temporal coverage; and,
b. To increase the number of rides provided.

New Freedom: FTA's goal for the New Freedom program is to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements for the Americans with Disabilities Act of 1990. FTA's objectives are:

a. To increase or enhance geographic coverage, service quality and/or service times that impact availability of transportation services for individuals with disabilities;
b. To add or change environmental infrastructure (e.g. transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services; and
c. To increase the number of rides provided for individuals with disabilities.

MTC's Program: MTC aims to fulfill the following objectives through its administration of the JARC and New Freedom Programs:

a. To advance the recommendations in the Bay Area's Coordinated Public Transit-Human Services Transportation Plan (Coordinated Plan), including implementing the priority solutions to the identified transportation gaps and the strategies to enhance service delivery for the transportation-disadvantaged population in the region;
b. To encourage high levels of program participation in the Bay Area by conducting outreach, and coordinating MTC's efforts with Caltrans' efforts for the small urbanized and rural areas; and,
c. To administer the JARC program as an integral part of MTC's larger Lifeline Transportation Program, which is a funding program intended to improve the mobility options of the region's low-income population.

IV. ROLES AND RESPONSIBILITIES

MTC: As the designated recipient of JARC and New Freedom funds for the Bay Area's large urbanized areas, MTC has the principal authority and responsibility for administering the programs. MTC's responsibilities include:

a. Notifying eligible local entities of funding availability;
b. Developing project selection criteria;
c. Determining applicant eligibility (in consultation with FTA when needed);
d. Conducting the competitive selection process to determine which projects should receive funding (in conjunction with the County Lifeline Program Administrators for the JARC/Lifeline program);
e. Seeking Commission approval for the programs of projects;
f. Amending approved projects into the Transportation Improvement Program (TIP);
g. Forwarding a program of projects to FTA;
h. Documenting procedures in this PMP;
i. Certifying that grants are distributed on a fair and equitable basis; and,
j. Certifying that all projects are derived from the Bay Area's Coordinated Plan.

Transit operators who are FTA grantees must serve as direct recipients and submit their own JARC and New Freedom grants, if they are selected through the competitive process for the Lifeline and New Freedom Programs. MTC will serve as the direct recipient for non-FTA grantee transit operators or public entities, and for non-profits, that are competitively selected for the JARC and New Freedom programs.

In the role of a direct recipient (for non-FTA grantee transit operators or public entities, and for non-profits only), MTC's responsibilities also include:

a. Forwarding a grant application to FTA;
b. Entering into funding agreements with subrecipients; and
c. Monitoring subrecipient compliance with Federal requirements, through inclusion of such requirements in subrecipient agreements and through ongoing monitoring activities. (See Section XVI on Designated Recipient Program Management.)

Recipients/subrecipients: JARC and New Freedom recipients/subrecipients' responsibilities include:

a. For direct recipients (transit operators who are FTA grantees), submitting a grant application to FTA and carrying out the terms of that grant;
b. Meeting program requirements and grant/funding agreement requirements including, but not limited to, Title VI reporting requirements;
c. Making best efforts to execute selected projects; and
d. Complying with other applicable local, state, and federal requirements.

Caltrans: The California Department of Transportation (Caltrans) is the designated recipient of JARC and New Freedom funds for the State's small urbanized and rural areas. In the Bay Area, there are seven small urbanized areas: Fairfield, Gilroy-Morgan Hill, Livermore, Napa, Petaluma, Vacaville, and Vallejo. Caltrans is responsible for administration of JARC and New Freedom funds for the small and non-urbanized areas listed above.

CMAs: For JARC, MTC delegates prioritization of project applications to the Congestion Management Agencies (CMAs) of each county. MTC approves Lifeline guidelines for each funding cycle that may spell out more specific instructions for conducting calls for projects. See Section VIII on Project Selection Criteria and Method of Distributing Funds.

Other/Advisory Groups: The following groups also advise MTC's administration of the programs:

- Policy Advisory Council – A 27-member panel with membership structured around interests related to the economy, the environment and social equity. In the areas of economy and the environment, there are a total of nine members, with four members representing economic interests and four bringing an environmental perspective; the ninth member is representative of either category. In the area of social equity, nine members (one from each county) represent communities of color and issues affecting low-income communities or environmental justice. Of these, four members represent communities of color and four members represent environmental justice/low-income issues; the ninth member is representative of either category. In addition, nine members (one from each county) represent issues related to transportation for seniors and persons with disabilities. Four members represent seniors and four members represent people with disabilities; the ninth member is representative of either category

- Bay Area Partnership - The Bay Area Partnership Board consists of the top managers of public agencies responsible for moving people and goods in the Bay Area, as well as protecting the region's environmental quality. The Partnership collaboratively assists the Commission in fashioning consensus among its federal, state, regional and local transportation agency partners regarding the policies, plans and programs to be adopted and implemented by the Commission.

  The Partnership may establish committees to assist in its business. The committee and working group that currently address funding topics including JARC and New Freedom are the Partnership Technical Advisory Committee and the Transit Finance Working Group.

- Accessibility Committee, formerly the Partnership Transit Coordinating Council – A group of representatives from 21 Bay Area transit operators who meet and confer about paratransit policies and procedures in the region (generally staff works with this committee on New Freedom only).

In general, MTC staff consults with these groups in the development of program guidelines and programs of projects.

V. COORDINATION

From the programming process perspective, the level of coordination in the Bay Area is enhanced by virtue of MTC being the designated recipient for the five large urbanized areas. MTC also makes every effort to coordinate the programming efforts for the large urbanized areas with Caltrans' efforts for small urbanized area programming. MTC has also dedicated staff to manage the programming of JARC, New Freedom, and the related Elderly and Disabled Specialized Transit Program (also known as the 5310 Program) in the region. These staff serve several functions that enhance coordination: day-to-day points of contact for other stakeholders in the region; reporting to MTC's advisory groups; and also providing feedback to other staff on related aspects of MTC's legislative program.

From the programming priorities perspective, MTC, through the Bay Area's Coordinated Public Transit Human Services Transportation Plan (Coordinated Plan), strongly encourages the following strategies that enhance service delivery for the transportation-disadvantaged population: enhancing land use and transportation coordination; promoting enhanced pedestrian access to public transit and other modes of travel; promoting coordinated advocacy and improving efforts to coordinate funding with human service agencies; improving interjurisdictional and intermodal travel; and developing and implementing mobility management approaches.

VI. ELIGIBLE RECIPIENTS/SUBRECIPIENTS

MTC designates the same eligible recipients/subrecipients for the JARC and New Freedom programs as allowed by Federal guidelines:

a. Private non-profit organizations;
b. State or local governmental authority; and
c. Operators of public transportation services, including private operators of public transportation services.

VII. LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS

MTC generally requires the same local match for the JARC and New Freedom programs as required by Federal guidelines: minimum of 20 percent of the project cost for eligible capital projects, and minimum of 50 percent for eligible operational projects. MTC will indicate any deviations from this match requirement at the time of each funding cycle, and will document the match requirements in the program guidelines.

VIII. PROJECT SELECTION CRITERIA & METHOD OF DISTRIBUTING FUNDS

MTC develops program guidelines with each call for projects. For JARC, the program guidelines are part of MTC's larger Lifeline Transportation Program. Developing new guidelines with each solicitation provides MTC with the flexibility to designate regional priorities as needed and to incorporate refinements based on lessons learned from prior funding cycles. The guidelines include relevant excerpts from the program circulars and additional information that is particular to the Bay Area, and they are prepared with the goals of providing sufficient information for prospective applicants to determine whether they should apply for funds and making transparent the competitive selection process. In general, staff will provide the various advisory groups an opportunity to comment on the draft program guidelines prior to seeking formal approval of those guidelines. The frequency of competition is determined by MTC, and does not cover more than three years of funding. MTC publicly advertises the availability of funds and selection criteria in formats and forums appropriate to the potential recipients/subrecipients. Applicants are required to fill out a standardized application form to facilitate the evaluation process. The application forms are prepared in accordance with the guidelines.

In connection with MTC's Title VI monitoring obligations, as outlined in FTA Circular 4702.1A (Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients), applicants will be required to provide the following information:

- The organization's policy regarding Civil Rights (based on Title VI of the Civil Rights Act) and for ensuring that benefits of the project are distributed equitably among low-income and minority population groups in the project's service area.

- Information on whether the project will provide assistance to predominantly minority and low-income populations. (Projects are classified as providing service to predominantly minority and low-income populations if the proportion of minority and low-income people in the project's service area exceeds the regional average minority and low-income population.)

In order to document that JARC and New Freedom funds are passed through without regard to race, color or national origin, and to document that minority populations are not being denied the benefits of or excluded from participation in the JARC and New Freedom programs, MTC will keep a record of applications submitted for JARC and New Freedom funding. MTC's records will identify those applicants that would use grant program funds to provide assistance to predominantly minority and low-income populations and indicate whether those applicants were accepted or rejected for funding.

JARC: MTC established regional evaluation criteria for all Lifeline Transportation Program projects, including project need/stated goals and objectives; implementation plan; project budget/sustainability; coordination and program outreach; and cost-effectiveness and performance indicators. The competitive selection process is conducted on a county-wide basis by designated Lifeline Program Administrators (LPAs), which are the Congestion Management Agencies (CMAs) for all counties, except in Santa Clara County where the program is administered jointly by the CMA and the County. The LPAs are allowed to establish the weight to be assigned to each criterion, and to add additional criteria as they see fit with MTC's review. Each LPA appoints a local review team of CMA staff, as well as representatives of local stakeholders, such as local jurisdictions, transit operators or other transportation providers, community-based organizations, social service agencies, and members of MTC's Policy Advisory Council, to score and select projects. Each LPA assigns local priorities for project selection and is required by MTC to maintain a transparent process.

In funding projects, preference is given to strategies emerging from local Community-Based Transportation Planning (CBTP) processes, countywide regional welfare-to-work transportation plans or other documented assessment of need within the designated communities of concern. Findings emerging from one or more CBTPs or other relevant planning efforts may also be applied to other low-income areas, or otherwise be directed to serve low-income constituencies within the county, as applicable.

In addition, MTC will certify that projects have been derived from the Bay Area's Coordinated Plan. While federal requirements prohibit the sub-allocation or distribution of JARC funds in any way other than through a competitive process, MTC provides each County CMA with a target programming amount that is based upon the County's proportion of the region's poverty population.

New Freedom: MTC conducts the competitive selection process, and certifies that projects have been derived from the Bay Area's Coordinated Plan. The project selection criteria include need and benefits; coordination, partnership, and outreach; and project readiness. Applicants are informed that they are eligible to apply for funds in the large urbanized area(s) (UAs) in which their projects will provide services. An evaluation panel consisting of MTC staff and representatives of the interests of the region's disabled population evaluate and score the applications.

IX. PROGRAM OF PROJECTS DEVELOPMENT AND APPROVAL PROCESS

MTC staff strive to provide sufficient time for prospective applicants to develop their project ideas and prepare their project applications; for evaluation panels to review and score project applications and develop the proposed program of projects; for staff to discuss with the various relevant working groups the results of the evaluation process and present the proposed program of projects; and for staff to present the proposed program of projects for approval by MTC's Programming and Allocation Committee and subsequent adoption by the MTC. In total, the process is expected to take about four to six months from the time the call for projects is issued to MTC's adoption of the program of projects. The detailed timeline for each call for projects is issued along with the program guidelines. The adopted program of projects is made available to the public on MTC's web site.

X. ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE

The FTA JARC Circular (FTA Circular 9050.1) and the FTA New Freedom Circular (FTA Circular 9045.1) allow MTC to use up to 10 percent of the total fiscal year JARC and New Freedom apportionments to fund program administration costs including administration, planning and technical assistance. MTC will indicate any JARC and New Freedom funds proposed for program administration at the time of each funding cycle, and will document the amount, if any, in the program guidelines.

Information about the JARC and New Freedom programs is provided on MTC's web site. MTC staff are also available by telephone or e-mail to provide technical assistance throughout the program process. During project solicitation, workshops are offered for prospective applicants. After projects have been selected, recipients/subrecipients are informed of necessary steps in order to obtain the grant award.

XI. TRANSFER OF FUNDS

MTC does not transfer any JARC or New Freedom program funds to Section 5311 or 5307 programs or for transfer of flexible funds.

XII. PRIVATE SECTOR PARTICIPATION

MTC conducts public outreach to potential private sector program participants using several avenues: agencies may request to be included in MTC's mailing list for funding notices; MTC sends out funding notices to various stakeholder groups; and MTC makes announcements at various meetings of the groups described under Section IV. The stakeholder groups to whom funding notices are sent include private non-profit organizations that participated in the preparation of the Coordinated Plan, as well as the County Paratransit Coordinating Councils, which have contacts with private transportation providers like taxi companies.

XIII. CIVIL RIGHTS

MTC complies with all provisions prohibiting discrimination on the basis of race, color, or national origin on Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq., and with U.S. D.O.T. regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act", 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, MTC will comply with any applicable implementing federal directives that may be issued. MTC filed its last Title VI Program[1] with Caltrans on November 22, 2006. MTC's first Title VI report under Circular 4702.1A will be filed in November 2010.

MTC specifically requires in all third party contracts and funding agreements that the subrecipient/contractor at any tier complies with all requirements of Title VI. Failure to do so is considered to be a breach of contract.

Furthermore, MTC complies with all applicable equal employment opportunity (EEO) provisions of 49 U.S.C. §§ 2000e, and implementing federal regulations and any subsequent amendments thereto. Except to the extent FTA determines otherwise in writing, MTC also agrees to comply with any applicable federal EEO directives that may be issued. MTC ensures that applicants and employees of MTC are treated fairly without regard to their race, color, creed, sex, disability, age, or national origin. MTC specifically requires in all its third party contracts and funding agreements that the contractor/subrecipient agree to comply with all applicable EEO requirements of Title VI and states that failure to do so is considered a breach of contract. MTC will also investigate any complaints received alleging breach of the requirements of Title VI.

Lastly, MTC does not discriminate on the basis of race, color, sex, or national origin in the award and performance of any federally assisted third party contract or funding agreement in the administration of its DBE Program and complies with the requirements of 49 C.F.R. Part 26. It will take all necessary and reasonable steps set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all third party contracts and funding agreements. On June 2, 2009, MTC executed a DBE Implementation Agreement with Caltrans to establish race conscious means or contract goals for meeting the overall statewide annual DBE goal. As required by 49 C.F.R. Part 26 and approved by U.S. D.O.T., MTC's DBE Program is incorporated into and made part of its third party contracts and agreements. MTC specifically states in its third party contracts and funding agreements that breach of the MTC DBE Program and/or failure by the contractor/subrecipient to honor all commitments made to DBEs at the time of award will be considered a breach of contract. Further, MTC requires subrecipients that are not FTA grantees to submit in their invoices and on an annual basis actual DBE participation.

XIV. SECTION 504 AND ADA REPORTING

MTC agrees to comply with the requirements of 49 U.S.C. 5301 (d), which states the federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts will be made in planning and designing those services and facilities to implement transportation

[1] MTC Resolution No. 2091, Revised.

accessibility rights for elderly individuals and individuals with disabilities. MTC also agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. 794 which prohibits discrimination on the basis of disability and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, and any subsequent amendments to these laws. Finally, MTC agrees to comply with applicable implementing federal regulations and directives and any subsequent amendments thereto.

MTC specifically requires in all third party contracts and funding agreements that the subrecipient/contractor at any tier complies with the applicable provisions of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.), Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

XV. PROGRAM MEASURES

The reporting and data collection measures of the JARC and New Freedom Programs are/will be specified in the funding agreements with the subrecipients. The following data are required at a minimum, consistent with FTA's reporting requirements for each program:

JARC:

- Actual or estimated number of jobs that can be accessed as a result of geographic or temporal coverage of JARC projects implemented in the current reporting year.
- Actual or estimated number of rides (as measured by one-way trips) provided as a result of the JARC projects implemented in the current reporting year.

New Freedom:

- Services provided that impact availability of transportation services for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year. Examples include geographic coverage, service quality, and/or service times.
- Additions or changes to environmental infrastructure (e.g., transportation facilities, sidewalks), technology, vehicles that impact availability of transportation services as a result of New Freedom projects implemented in the current reporting year.
- Actual or estimated number of rides (as measured by one-way trips) provided for individuals with disabilities as a result of New Freedom projects implemented in the current reporting year.

XVI. DESIGNATED RECIPIENT PROGRAM MANAGEMENT

The following section applies only to grants that MTC will administer on behalf of subrecipients for the JARC and New Freedom programs. When FTA grantees become direct recipients of JARC and New Freedom funds, they will sign a supplemental agreement found in TEAM, and MTC is released from any liability pertaining to the direct recipient grant. The direct recipient is then responsible for adhering to FTA requirements through their agreements and grants with FTA directly. MTC reserves the right to reprogram funds if direct recipients fail to obligate the

JARC and New Freedom funds through grant submittal and FTA approval within 12 months of program approval.

Title VI: MTC requires that all JARC and New Freedom subrecipients submit all appropriate FTA certifications and assurances to MTC prior to funding agreement execution and annually thereafter when FTA publishes the annual list of certifications and assurances. MTC will not execute any funding agreements prior to having received these items from the selected subrecipients. MTC, within its administration, planning, and technical assistance capacity, also will comply with all appropriate certifications and assurances for FTA assistance programs and will submit this information to the FTA as required.

The certifications and assurances pertaining to civil rights include:

1. Nondiscrimination Assurances in Accordance with the Civil Rights Act
2. Documentation Pertaining to Civil Rights Lawsuits and Complaints

Nondiscrimination assurances included above involve the prohibition of discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibit discrimination in employment or business opportunity, as specified by 49 U.S.C. 5332 (otherwise known as Title VI of the Civil Rights Act of 1964), as amended (42 U.S.C. 2000d et seq.) and U.S. DOT regulations, *Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act*, 49 C.F.R. Part 21. By complying with the Civil Rights Act, no person, on the basis of race, color, national origin, creed, sex, or age, will be excluded from participation in, be denied the benefits of any program for which the subrecipient receives federal funding via MTC.

As a condition of receiving Federal Transit Administration JARC or New Freedom program funds subrecipients must comply with the requirements of the US Department of Transportation's Title VI regulations. The purpose of Title VI is to ensure that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Subrecipients are also responsible for ensuring compliance of each third party contractor at any tier of the project.

Subrecipients must develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public upon request. In order to reduce the administrative burden associated with this requirement, subrecipients may adopt the Title VI complaint investigation and tracking procedures developed by MTC.

Subrecipients must prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the subrecipient that allege discrimination on the basis of race, color, or national origin. This list shall include the date, summary of allegations, current status, and actions taken by the subrecipient in response to the investigation, lawsuit, or complaint.

Subrecipients must provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Subrecipients that provide transit service shall disseminate this information to the public through measures that can include but shall not be limited to a posting on the agency's Web site.

All successful subrecipients must submit compliance reports to MTC. The following contents will be required with the submission of the standard agreement and annually thereafter with the submission of the annual FTA certifications and assurances:

1. A summary of public outreach and involvement activities undertaken and a description of steps taken to ensure that minority and low-income people had meaningful access to these activities.
2. A copy of the subrecipient's plan for providing language assistance for persons with limited English proficiency (LEP) that was based on the DOT LEP Guidance or a copy of the agency's alternative framework for providing language assistance.
3. A copy of the subrecipient procedures for tracking and investigating Title VI complaints.
4. A list of any Title VI investigations, complaints, or lawsuits filed with the subrecipient. This list should include only those investigations, complaints, or lawsuits that pertain to the subrecipient submitting the report, not necessarily the larger agency or department of which the entity is a part.
5. A copy of the subrecipient's notice to the public that it complies with Title VI and instructions to the public on how to file a discrimination complaint.

The first compliance report, submitted with the standard agreement, must contain all of the contents listed above. If, prior to the deadline for subsequent compliance reports, the subrecipient has not altered items 2, 3 and 5 above (its language assistance policies, procedures for tracking and investigating a Title VI complaint, or its notice to the public that it complies with Title VI and instructions to the public on how to file a Title VI complaint), the subrecipient should submit a statement to this effect in lieu of copies of the original documents. The annual compliance report should include an update on items 1 and 4.

Procurement: Each subrecipient is required to conduct procurement activities in accordance with their own procurement procedures that should reflect applicable State and local laws, provided that it conforms to federal requirements at 49 CFR Part 18 and guidance contained in FTA Circular 4220.1E. Certification of compliance will be made a part of the subrecipient's application and its contract with MTC.

Property Management and Vehicle Use, Maintenance, and Disposition: Real property requirements do not apply to either JARC or New Freedom. MTC complies with all applicable requirements in the FTA Grant Management Guidelines (FTA Circular 5010.1C) with regard to equipment, supplies, and rolling stock purchases by making the requirements part of the subrecipients' contract with MTC.

Financial Management: MTC complies with all applicable standards set forth in 49 CFR 18.20(b) and guidance in the FTA Grant Management Guidelines (FTA Circular 5010.1C) with regard to accounting records, internal controls, budget control, financial management systems, cost standards, financial reporting requirements, and annual audit. With regard to program

income, funding from both programs is on a reimbursement basis, so no program income accrues to MTC. MTC does not conduct third-party contract audits.

Accounting System: MTC uses the Integrated Fund Accounting System (IFAS) to record and track program encumbrances and expenditures.

Audit: MTC complies with the requirements of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" and provisional OMB Circular A-133 Compliance Supplement of May 1998. MTC may also require subrecipients that are required to be audited because total Federal funds from all sources exceed the $500,000 threshold to submit A-133 audit reports for review to ensure that audit findings are resolved. At a minimum, MTC requires subrecipients to bring to MTC's attention any audit findings relevant to their use of FTA funds.

Close-Out: Upon project completion, MTC will comply with the requirements set forth in the Close-Out Procedures section of the FTA Grant Management Guidelines (FTA Circular 5010.1C) and of the JARC and New Freedom Circulars.

Project Monitoring and Reporting: MTC maintains spreadsheets to track project expenditures, amounts charged to funding sources, local matching sources, and project budgets and schedules. MTC will be responsible for reporting to FTA the total expenditures for each federal grant and reconciling the grant expenditures and revisions to the project budgets. Further, subrecipients are required to submit to MTC status reports on a quarterly basis.

On-Site Reviews: MTC and/or its representatives may perform on-site project monitoring visits with subrecipients. Site visits may be conducted using checklists that outline accounting and record-keeping requirements in compliance with OMB Circulars A-122 and A-87 if the subrecipient received operating assistance; OMB 49 CFR Part 18 and Part 19 administrative requirements; the regulatory requirements for receipt of federal funds; and vehicle inventory and maintenance records if the subrecipient received capital assistance.

Standards for Productivity, Cost-Effectiveness, and Service: MTC has not set standards for productivity, cost-effectiveness, and service. Subrecipients are required to report on the program measures outlined in Section XV above.

XVII. <u>OTHER PROVISIONS</u>

Environmental Protection: MTC anticipates funding only projects with categorical exclusions from both the National Environmental Protection Act (NEPA) and the State's Energy Conservation Plan and Clean Air and Water Pollution Acts. However, should a project be approved that is subject to environmental review, MTC will require the subrecipient to prepare the environmental document and Notice of Determination for federal certification before the subrecipient receives any project funds.

Buy America, Pre-Award and Post-Delivery Reviews: MTC does not anticipate funding procurements over $100,000. However, should such a project be approved, MTC will require subrecipients to certify compliance with Buy America requirements as listed in 49 USC 5323(j) and 49 CFR Part 661; and for procurement of vehicles other than sedans or unmodified vans,

with pre-award audit, bid analysis, post-delivery audit, and final inspection requirements in 49 CFR parts 663 and 665.

Restrictions on Lobbying: MTC requires each subrecipient receiving more than $100,000 to complete FTA's Certification on Lobbying prior to contract execution.

Prohibition on Exclusive School Transportation: Subrecipients may not provide school bus transportation. School bus transportation is defined by FTA as transportation exclusively for school students or personnel. Subrecipients are required to certify compliance. An exception would be the transportation of students with disabilities who are eligible passengers.

Drug and Alcohol Testing: MTC requires subrecipients to make appropriate certifications of compliance with federal requirements for Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.

Monitoring Compliance by Subrecipients: MTC makes appropriate certifications of compliance with Federal requirements. MTC includes language regarding these federal requirements in its contracts with subrecipients and requires each subrecipient to execute a certification of compliance with the relevant federal requirements. Subrecipient certifications are required of the subrecipient prior to the execution of a contract by MTC and annually thereafter when FTA publishes the annual list of certifications and assurances. MTC may also conduct on-site visits as described in the previous section.