Metropolitan Transportation Commission
Programming and Allocations Committee

May 11, 2011 **Item Number 3a**

Resolution No. 4012

Subject: New Freedom Cycle 4 Program Guidelines for Large Urbanized Areas

Background: The Federal Transit Administration's (FTA) New Freedom Program provides grants for new capital and operating projects aimed at reducing transportation barriers faced by individuals with disabilities beyond the requirements of the Americans with Disabilities Act of 1990.

Funds are apportioned by formula to large urbanized areas (UAs), small UAs, and rural areas based on the population of persons with disabilities in those areas and funds are required to be spent on projects that provide transportation services within those areas. Designated recipients of the funds are responsible for conducting a competitive project selection process. MTC is the designated recipient for the Bay Area's large UA funds. Caltrans is the designated recipient for the state's small UA and rural area funds. To date, MTC has conducted three competitive funding cycles for large UA funds.

The target programming amount for Cycle 4 is $3.7 million, which includes the actual FY2009-10 apportionment and the estimated FY2010-11 apportionment, less a set-aside of no more than 5% for program administration.

Staff is proposing the following significant changes from prior funding cycles:

- In December 2010, the Commission adopted Resolution No. 3986, the Job Access and Reverse Commute (JARC) and New Freedom Program Management Plan (PMP) Revisions. The new PMP delineates the designated recipient, direct recipient and subrecipient roles and responsibilities, and clarifies requirements for subrecipient Title VI reporting, complaint procedures and investigation, and Limited English Proficient provisions. The PMP revisions have been incorporated into the Cycle 4 guidelines.
- The federal New Freedom guidance allows MTC to use up to 10 percent of the total fiscal year New Freedom apportionment to fund program administration costs including administration, planning and technical assistance. In previous cycles, MTC has not used any of the New Freedom funds for program administration. In Cycle 4, MTC is proposing to set-aside up to five percent of the region's large UA apportionment for program administration necessary to implement the procedures outlined in the PMP.
- Starting this cycle, MTC is proposing to add a project delivery requirement that project sponsors must expend the New Freedom funds within three years of the FTA grant award or execution of subrecipient agreement with MTC, whichever is applicable.

Following approval of the guidelines, staff will release a Call for Projects, and return to the Commission in the fall with a proposed program.

In April, the proposed Cycle 4 guidelines were presented to the Policy Advisory Council Equity and Access Subcommittee, the Transit Finance Working Group, the Partnership Technical Advisory Committee, and the Partnership Accessibility Committee. The committees did not request any changes to staff's proposal.

Issues: None

Recommendation: Refer Resolution No. 4012 to the Commission for approval.

Attachments: MTC Resolution No. 4012

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Date: May 25, 2011
W.I.: 1512
Referred by: PAC

ABSTRACT
Resolution No. 4012

This resolution adopts the program guidelines for Cycle 4 of the Federal Transit Administration's New Freedom Program for the large urbanized areas of the San Francisco Bay Area.

The following attachment is provided with the resolution:

Attachment A New Freedom Cycle 4 Program Guidelines for Large Urbanized Areas

Further discussion of this action is contained in the Programming and Allocations Committee Summary dated May 11, 2011.

Date: May 25, 2011
W.I.: 1512
Referred by: PAC

Re: Guidelines for Cycle 4 of Federal Transit Administration's New Freedom Program

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION No. 4012

WHEREAS, Title 49 United States Code (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. §5317(c) apportions New Freedom funds by formula to large urbanized areas, small urbanized areas, and non-urbanized areas; and

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

WHEREAS, MTC is the 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) New Freedom Program funding apportionments for large urbanized areas in the nine-county San Francisco Bay Area; and

WHEREAS, as the designated recipient, MTC is responsible for administering the program, including: conducting a competitive selection process; certifying a fair and equitable distribution of funds resulting from the competitive selection process; certifying that each project was derived from a locally developed, coordinated public transit-human services transportation plan, and certifying that the plan was developed through a process that included representatives of public, private, and non-profit transportation and human services providers and participation by the public; managing all aspects of grant distribution and oversight for subrecipients receiving funding under the program; and submitting reports as required by FTA; and

WHEREAS, MTC has developed program guidelines for Cycle 4 of the New Freedom Program, attached hereto as Attachment A, and incorporated herein as though set forth at length; now, therefore, be it

RESOLVED, that MTC adopts the New Freedom Cycle 4 Program Guidelines as provided in Attachment A; and be it further

RESOLVED, that MTC will use these guidelines to conduct the competitive selection process for Cycle 4 of the New Freedom Program; and be it further

RESOLVED, that the Executive Director of MTC is authorized and directed to modify the programming targets in Attachment A if the final FY2010-11 New Freedom funding apportionments differ from the estimated amounts.

METROPOLITAN TRANSPORTATION COMMISSION

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Adrienne J. Tissier, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at the regular meeting of the Commission held in Oakland, California, on May 25, 2011.

METROPOLITAN
TRANSPORTATION
COMMISSION

New Freedom Cycle 4 Program Guidelines for Large Urbanized Areas

May 2011

METROPOLITAN TRANSPORTATION COMMISSION
NEW FREEDOM CYCLE 4 PROGRAM GUIDELINES
FOR LARGE URBANIZED AREAS

May 2011

The following guidelines are excerpted from Federal Transit Administration (FTA) Circular C 9045.1, the *New Freedom Program Guidance and Application Instructions*, except where modified to meet the region's needs or where additional clarification is provided. The FTA Circular is available at www.fta.dot.gov/laws/circulars/leg_reg_6624.html. MTC's Program Management Plan for New Freedom can be found at http://www.mtc.ca.gov/funding/FTA/RES-3986_approved.pdf.

1. STATUTORY AUTHORITY. The New Freedom Program is authorized under the provisions set forth in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA–LU), enacted on August 10, 2005, as codified at 49 U.S.C. 5317. The Secretary may make grants to recipients for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101 et seq.), that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

2. PROGRAM GOAL. The New Freedom formula grant program aims to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation in society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. The 2000 Census showed that only 60 percent of people between the ages of 16 and 64 with disabilities are employed. The New Freedom formula grant program seeks to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the ADA of 1990.

3. FUNDING APPORTIONMENT AND AVAILABILITY. New Freedom funds are first apportioned 60 percent to large urbanized areas[1] (UAs), 20 percent to small UAs, and 20 percent to non-UAs. Funds are then apportioned to all designated recipients for an area type by the ratio of the number of disabled individuals in the designated recipient's area to the total number of disabled individuals for that area type. **Figure 1** shows the Bay Area's five large UAs and seven small UAs. (Note that the names given to the urbanized areas correspond to the most populated city/cities within the area, and that the urbanized areas themselves are larger than the cities for which they are named.) **Table 1** shows large UA actual apportionments for FYs 2006 through 2010, and estimated apportionments for FY2011. Funds are available to the region for obligation during the fiscal year of apportionment
plus two additional years. Starting this cycle, MTC is adding a project delivery requirement that project sponsors must expend the New Freedom funds within three years of the FTA grant award or execution of subrecipient agreement with MTC, whichever is applicable.

[1] An urbanized area is an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce. Large urbanized areas as used in the context of FTA formula grant programs are urbanized areas with a population of greater than 200,000, and small urbanized areas are those with a population of at least 50,000 but less than 200,000.

Figure 1. Map of Urbanized Areas

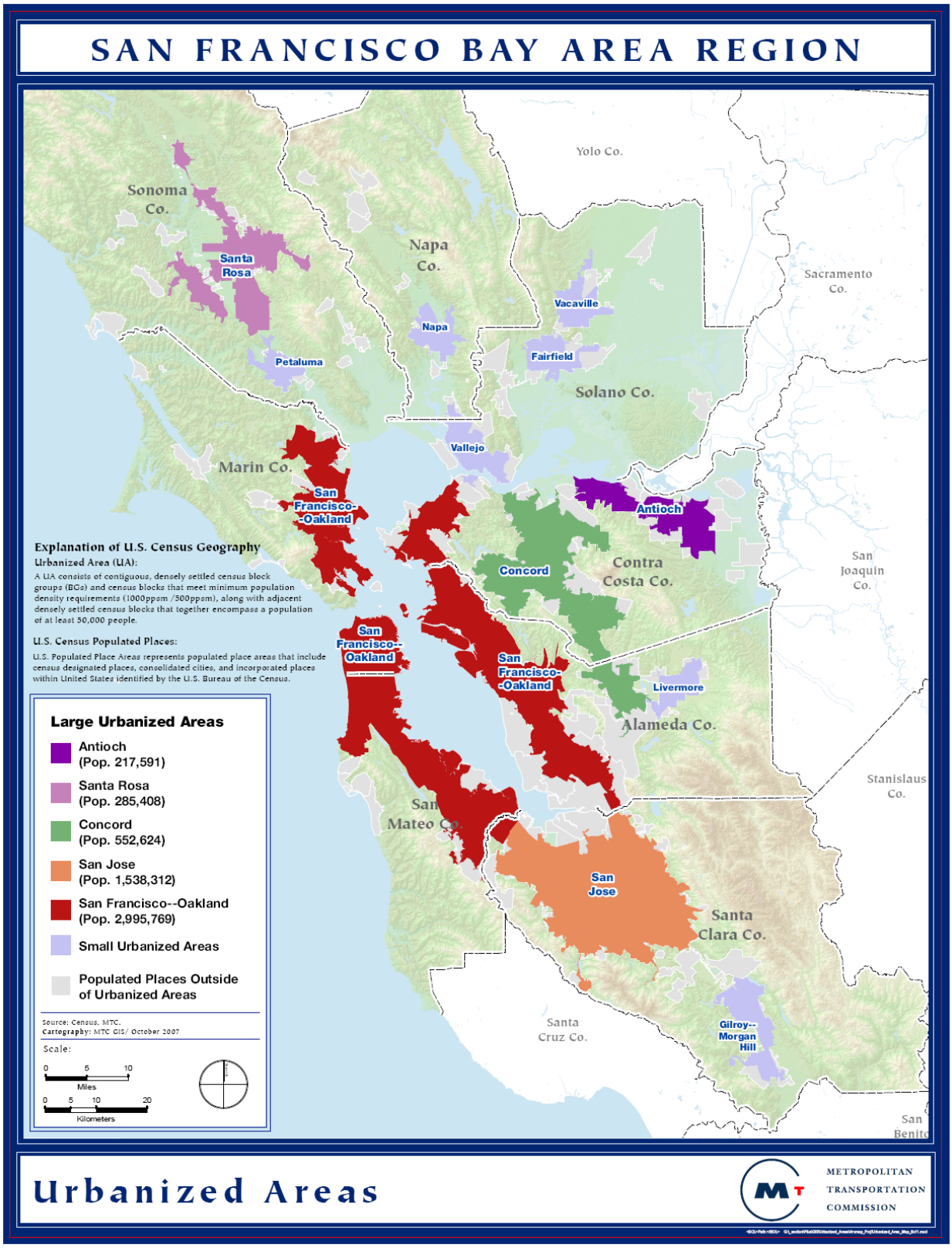

Table 1. New Freedom Program Apportionments

	Past Calls for Projects				Current Call for Projects	
Area	**Actual FY 2006**	**Actual FY 2007**	**Actual FY 2008**	**Actual FY 2009**	**Actual FY 2010**	**Estimated FY 2011**
Bay Area Large UA	$1,545,232	$1,612,117	$1,741,484	$2,007,374	$1,970,119	$1,970,119
Antioch	*$56,232*	*$60,601*	*$65,464*	*$75,459*	*$74,058*	*$74,058*
Concord	*$127,429*	*$121,779*	*$131,551*	*$151,636*	*$148,822*	*$148,822*
S.F.-Oakland	*$885,254*	*$950,208*	*$1,026,459*	*$1,183,180*	*$1,161,221*	*$1,161,221*
San Jose	*$404,370*	*$399,440*	*$431,494*	*$497,374*	*$488,143*	*$488,143*
Santa Rosa	*$71,947*	*$80,089*	*$86,516*	*$99,725*	*$97,875*	*$97,875*

UA = Urbanized Area
= Subject of Current Call for Projects

4. ROLE OF THE DESIGNATED RECIPIENTS. MTC is the designated recipient for the Bay Area's large UA funding apportionment, and Caltrans is the designated recipient for California's small and non-UA funding apportionments. The designated recipient is responsible for conducting the competitive selection process to determine which projects should receive funding. For the large UA apportionment, the competitive selection is conducted on a region-wide basis. For the small and non-UA apportionment, the competitive selection is conducted by Caltrans on a statewide basis.

   Once projects are selected in the large UA competitive process, transit operators with selected projects that are FTA grantees (i.e., transit operators that are direct recipients under Section 5307 and typically receive funds directly from FTA) must submit their own New Freedom grants to FTA and serve as direct recipients of the funds. MTC reserves the right to reprogram funds if direct recipients fail to obligate the funds through grant submittal and FTA approval within 12 months of program approval. Direct recipients are responsible for carrying out the terms of their grants.

   MTC will serve as the direct recipient of New Freedom funds for transit operators or public entities that are not FTA grantees, and for non-profits that are selected in the large UA competitive process. These agencies and organizations will enter into a subrecipient relationship with MTC through the execution of funding agreements with MTC. MTC will monitor subrecipient compliance with federal requirements through inclusion of such requirements in funding agreements and through ongoing monitoring activities.

5. FUNDING DISTRIBUTION. Projects may compete for funding that is apportioned to the UA in which the project will provide services. Projects that will provide services in multiple UAs may compete for funding from all of the affected UAs. This call for projects is for large UAs only.

   Large UA Programming Targets. Cycle 1 programmed the FY2006 apportionment, Cycle 2 programmed the FY2007 apportionment, and Cycle 3 programmed the FY2008 and FY2009 apportionments. The total funding available for the Bay Area's large UAs in Cycle 4 is approximately $3.7 million. This consists of the actual FY2009-10 apportionment and the estimated FY2010-11 apportionment, less a five percent takedown for program

administration.[2] The FY2011 amounts may be adjusted if final apportionments differ from the estimated amounts. The target programming amount for each large UA is shown in **Table 2.** There is no minimum or maximum grant request, except that applicants should not request more than the target amount for the large UAs in which their projects will provide services.

Table 2. Programming Targets for New Freedom Program Cycle 4

Area	Cycle 4 Targets
Bay Area Large UA	**$3,743,226**
Antioch	*$140,710*
Concord	*$282,762*
San Francisco-Oakland	*$2,206,320*
San Jose	*$927,472*
Santa Rosa	*$185,963*

UA = Urbanized Area

Small and Non-UA Programming Targets. The small and non-UA calls for projects are conducted by Caltrans. The last small and non-UA call for projects took place in winter 2009. Additional information about the small and non-UA call for projects can be found on the Caltrans website: http://www.dot.ca.gov/hq/MassTrans/5317.html

6. ELIGIBLE RECIPIENTS/SUBRECIPIENTS. There are three categories of eligible recipients/subrecipients of New Freedom funds: a) private non-profit organizations; b) state or local governmental authorities; and c) operators of public transportation services, including private operators of public transportation services.

   All recipients/subrecipients will be required to have a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number and provide it during the application process.[3] A DUNS number may be obtained from D&B by telephone (866-705-5711) or the Internet (http://fedgov.dnb.com/webform).

7. ROLE OF RECIPIENTS/SUBRECIPIENTS. New Freedom recipients/subrecipients' responsibilities include:
   - For direct recipients (transit operators who are FTA grantees), submitting a grant application to FTA and carrying out the terms of that grant;
   - Meeting program requirements and grant/funding agreement requirements including, but not limited to, Title VI reporting requirements;
   - Making best efforts to execute selected projects; and
   - Complying with other applicable local, state, and federal requirements.

8. ELIGIBLE ACTIVITIES. New Freedom Program funds are available for capital and operating expenses that support new public transportation services beyond those required by the ADA and new public transportation alternatives beyond those required by the ADA

[2] The federal New Freedom guidance allows MTC to use up to 10 percent of the total fiscal year New Freedom apportionment to fund program administration costs including administration, planning and technical assistance. In Cycle 4, MTC will set aside five percent of the region's large UA apportionment for program administration.
[3] A Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number is a unique, non-indicative 9-digit identifier issued and maintained by D&B that verifies the existence of a business entity. The DUNS number is a universal identifier required for Federal financial assistance applicants, as well as recipients and their direct subrecipients.

designed to assist individuals with disabilities with accessing transportation services, including transportation to and from jobs and employment support services. "New" service is any service or activity that was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Plan (TIP) or the STIP. In other words, if not for the New Freedom Program, the project would not have consideration for funding, and the proposed service enhancements would not be available for individuals with disabilities. Recipients or subrecipients may not terminate ADA paratransit enhancements or other services funded as of August 10, 2005, in an effort to reintroduce the services as "new" and then receive New Freedom funds for those services.

Both new public transportation services and new public transportation alternatives are required to go beyond the requirements of the ADA and must (1) be targeted toward individuals with disabilities; and (2) meet the intent of the program by removing barriers to transportation and assisting persons with disabilities with transportation, including transportation to and from jobs and employment services.

Following is an illustrative list of activities that are eligible for funding under New Freedom:

New Public Transportation Services Beyond the ADA

- Enhancing paratransit beyond minimum requirements of the ADA
- Feeder services
- Making accessibility improvements to transit and intermodal stations not designated as key stations under 49 CFR 37.47, 37.51, or 37.53, and that are not required under 49 CFR 37.43 as part of an alteration or renovation to an existing station
- Travel training
- New and expanded fixed route and demand responsive transit service planned for and designed to meet the needs of individuals with disabilities[4]

New Public Transportation Alternatives Beyond the ADA

- Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs
- Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers
- Supporting new volunteer driver and aide programs
- Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation

Refer to Appendix 1 for additional requirements pertaining to the above examples. The list is not intended to be exhaustive. Applicants are encouraged to develop innovative solutions to meet the needs of individuals with disabilities in their communities, considering the transportation needs, proposed solutions, and enhanced coordination strategies identified in the Bay Area's Coordinated Public Transit-Human Services Transportation Plan (see Section 10).

[4] FTA originally said that these activities were not eligible for New Freedom funding; however, on April 29, 2009, the FTA issued a notice of policy statement in the Federal Register, announcing that it had revised its interpretation of the New Freedom circular to say that these activities are eligible for New Freedom funding. See Federal Register Vol. 74, No. 81, pages 19624-19627.

9. FEDERAL/LOCAL MATCHING REQUIREMENTS.

a. General. New Freedom funds may be used to finance capital and operating expenses. The Federal share of eligible capital and planning costs may not exceed 80 percent of the net cost of the activity. The federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity.

The local share of eligible capital costs shall be no less than 20 percent of the net cost of the activity, and the local share for eligible operating costs shall be no less than 50 percent of the net operating costs. All of the local share must be provided from sources other than federal Department of Transportation (DOT) funds. Some examples of sources of local match which may be used for any or all of the local share include: state or local appropriations; other non-DOT Federal funds; dedicated tax revenues; private donations; revenue from human service contracts; toll revenue credits; and net income generated from advertising and concessions. Non-cash share such as donations, volunteer services, or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, represents a cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for New Freedom operating assistance. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service.

b. Exceptions. The Federal share is 90 percent for vehicle-related equipment and facilities required by the Clean Air Act (CAA) or the Americans with Disabilities Act (ADA). It is only the incremental cost of the equipment or facility required by the CAA or ADA that may be funded at 90 percent, not the entire cost of the vehicle or facility, even if the vehicle or facility is purchased for use in service required by the ADA or CAA. *Applicants wishing to apply for assistance at the higher match ratio should inform MTC before submitting an application, as MTC would need to consult the FTA regional office for further guidance regarding methods of computing the incremental cost.*

c. Use of Other Federal Funds. Local match may be derived from other federal programs that are eligible to be expended for transportation, other than funds from DOT programs. Examples of types of programs that are potential sources of local match include: employment, training, aging, medical, community services, and rehabilitation services. To be eligible for local match for FTA funds, the other federal funds must be used for activities included in the total net project costs of the FTA grant. Expenditure of other federal funds for transportation outside of the scope of the project cannot be applied as a credit for local match in the FTA grant. Specific program information for other types of Federal funding is available at www.unitedweride.gov.

10. COORDINATED PLANNING. SAFETEA requires that projects selected for funding under the Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute (JARC), and New Freedom programs be “derived from a locally developed, coordinated public transit-human services transportation plan”, and that the plan be “developed through a process that includes representatives of public, private, and non-

profit transportation and human services providers and participation by members of the public." A locally developed, coordinated, public transit-human services transportation plan ("coordinated plan") identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes, and provides strategies for meeting those local needs. The Bay Area's Coordinated Plan was adopted in December 2007 and is available at http://www.mtc.ca.gov/planning/pths/. The plan includes a low-income component and an elderly and disabled component, the latter being more germane to the New Freedom Program.

Agencies and organizations interested in applying for New Freedom funds must consider the transportation needs, proposed solutions, and enhanced coordination strategies presented in the Coordinated Plan in developing their project proposals. Applicants will be asked to demonstrate their proposed project's consistency with the Coordinated Plan. Following is a summary of the solutions and strategies that are identified in Chapters 7 and 8, respectively, of the elderly and disabled component of the plan.

Solutions to Gaps

- Additions or improvements to ADA paratransit
- Additions or improvements to demand-responsive services other than ADA paratransit
- Additions or improvements to transit services
- Improved access to transit services
- Information and assistance

Strategies to Enhance Coordination of Service Delivery

- Enhance land use and transportation coordination.
- Promote enhanced pedestrian access to public transit and alternative modes of travel.
- Promote coordinated advocacy and improve efforts to coordinate funding with human service agencies.
- Improve interjurisdictional and intermodal travel.
- Develop and implement mobility management approaches.

11. APPLICATION FORMS AND TECHNICAL ASSISTANCE. The application form will be available at http://www.mtc.ca.gov/funding/new_freedom.htm. Interested agencies must submit eight (8) paper copies and an electronic copy on CD of their application, including attachments, by 5:00 PM on Friday, August 5, 2011 to the addressee below. *Incomplete and/or late applications will not be considered.*

    Kristen Mazur
    Metropolitan Transportation Commission
    Joseph P. Bort MetroCenter
    101 Eighth Street
    Oakland CA 94607-4700

    A workshop for prospective applicants will be held from 10:00 AM to 12:00 PM on Tuesday, June 28, 2011 at the Claremont Conference Room on the 2nd floor of MTC's office. Attendance is not required but is encouraged. Beyond the workshop, MTC staff is available to provide technical assistance throughout the program process.

12. APPLICATION EVALUATION. Following an initial eligibility screening by MTC staff, eligible projects will be evaluated by a panel consisting of Bay Area representatives of disabled population interests and MTC staff. Applications will be evaluated based on the following criteria:

Need and Benefits	(maximum 40 points)

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

Effectiveness at mitigating or eliminating transportation barriers for disabled individuals

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

Extent to which project could only be funded by New Freedom Program or federal human service grant programs

Extent to which project provides additional benefits

Coordination, Partnership, & Outreach	(maximum 30 points)

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

Extent to which project advances the development and implementation of coordinated transportation services

Extent of community support

Thoroughness of 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 New Freedom grant to leverage 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

13. TIMELINE. The anticipated timeline for Cycle 4 is as follows:

Release Call for Projects	End of May 2011
Outreach	June/July 2011
Applicant Workshop at MTC	June 28, 2011
Project Applications Due to MTC	**August 5, 2011 5:00 PM**

Project Selection	August to Sept. 2011
Present Recommended Program of Projects to Policy Advisory Council, Transit Finance Working Group, Partnership Accessibility Committee, Partnership Technical Advisory Committee, etc.	October 2011
Present Recommended Program of Projects to MTC Programming & Allocations Committee	November 9, 2011
Commission Actions: Program Adoption and add projects to TIP	November 16, 2011
Grant preparation by MTC and Direct Recipients	December 2011
Federal TIP approval	January 4, 2012 (estimated)
Grant review by FTA	January 2012
Contract Negotiations between MTC and Subrecipients	Begin after FTA grant approval (estimated Feb. 2012)

14. COMPLIANCE WITH FEDERAL REQUIREMENTS. Applicants should be prepared to abide by all applicable federal requirements as specified in 49 U.S.C. Section 5317, FTA Circulars C 9045.1 and 4702.1A, the most current FTA Master Agreement MA(13), and the most current Certifications and Assurances for FTA Assistance Programs.

    MTC includes language regarding these federal requirements in its funding agreements 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.

    Direct recipients are responsible for adhering to FTA requirements through their agreements and grants with FTA directly.

15. REPORTING REQUIREMENTS. Subrecipients to MTC will be required to submit quarterly reports to MTC on the following:
    a. Budget or schedule changes, if any
    b. Progress toward meeting milestones
    c. Quantitative or qualitative information, as available, on the following measures:
        (a) Services provided that impact availability of transportation services for individuals with disabilities as a result of the project for the reporting period;
        (b) Additions or changes to environmental infrastructure, technology, vehicles that impact availability of transportation services as a result of the project for the reporting period;
        (c) Actual or estimated rides (as measured by one-way trips) provided for individuals with disabilities as a result of the project for the reporting period
    d. Financial status report
    e. Disadvantaged Business Enterprise (DBE) participation as applicable.

Direct recipients of New Freedom funds with active grants will be required to submit quarterly reports to FTA on the progress of their projects.

Detailed quarterly reporting requirements will be included in the funding agreement (if sponsor is a subrecipient to MTC) or in the FTA grant (if sponsor is a direct grantee with FTA).

Both direct recipients and subrecipients of New Freedom funds will be required to participate in FTA's annual Job Access and Reverse Commute (JARC) and New Freedom reporting, in which performance measures will be collected.

16. TITLE VI. 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 in the grant application:

    a. 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.
    b. 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 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 New Freedom program, MTC will keep a record of applications submitted for 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.

    MTC requires that all 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 or be denied the benefits of any program for which the subrecipient receives federal funding via MTC.

As a condition of receiving 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.

Appendix 1
New Freedom Program – Eligible Activities

The following list of eligible activities, excerpted from Federal Transit Administration (FTA) Circular C 9045.1, the *New Freedom Program Guidance and Application Instructions*, and Federal Register Vol. 74, No. 81, the *Notice of Policy Statement for Eligible New Freedom Projects* dated April 29, 2009, is intended to be illustrative, not exhaustive. Applicants are encouraged to develop innovative solutions to meet the needs of individuals with disabilities in their communities, considering the transportation needs, solutions, and strategies for enhanced coordination in the Bay Area's Coordinated Public Transit-Human Services Transportation Plan (see Section 9 of MTC's New Freedom Program Guidelines).

New Public Transportation Services Beyond the ADA*	
Enhancing paratransit beyond minimum requirements of the ADA	ADA complementary paratransit services can be eligible under New Freedom in several ways as long as the services provided meet the definition of "new:" ▪ Expansion of paratransit service parameters beyond the three-fourths mile required by the ADA; ▪ Expansion of current hours of operation for ADA paratransit services that are beyond those provided on fixed-route services; ▪ Incremental cost of providing same day service; ▪ Incremental cost of making door-to-door service available to all eligible ADA paratransit riders, but not as a reasonable modification for individual riders in an otherwise curb-to-curb system; ▪ Enhancement of the level of service by providing escorts or assisting riders through the door of their destination; ▪ Acquisition of vehicles and equipment designed to accommodate mobility aids that exceed the dimensions and weight ratings established for common wheelchairs under the ADA and labor costs of aides to help drivers assist passengers with over-sized wheelchairs. This would permit the acquisition of lifts with a larger capacity, as well as modifications to lifts with a 600 lb design load, and the acquisition of heavier-duty vehicles for paratransit and/or demand-response service; and ▪ Installation of additional securement locations in public buses beyond what is required by the ADA.
Feeder services	New "feeder" service (transit service that provides access) to commuter rail, commuter bus, intercity rail, and intercity bus stations, for which complementary paratransit service is not required under the ADA.

New Public Transportation Services Beyond the ADA* (continued)	
Making accessibility improvements to transit and intermodal stations not designated as key stations	Improvements for accessibility at existing transportation facilities that are not designated as key stations established under 49 CFR 37.47, 37.51, or 37.53, and that are not required under 49 CFR 37.43 as part of an alteration or renovation to an existing station, so long as the projects are clearly intended to remove barriers that would otherwise have remained. New Freedom funds are eligible to be used for new accessibility enhancements that remove barriers to individuals with disabilities so they may access greater portions of public transportation systems, such as fixed-route bus service, commuter rail, light rail and rapid rail. This may include: ▪ Building an accessible path to a bus stop that is currently inaccessible, including curbcuts, sidewalks, accessible pedestrian signals or other accessible features, ▪ Adding an elevator or ramps, detectable warnings, or other accessibility improvements to a non-key station that are not otherwise required under the ADA, ▪ Improving signage, or wayfinding technology, or ▪ Implementation of other technology improvements that enhance accessibility for people with disabilities including Intelligent Transportation Systems (ITS).
Travel training	New training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities. This includes travel instruction and travel training services.

New Public Transportation Services Beyond the ADA* (continued)	
New and expanded fixed route and demand responsive transit service planned for and designed to meet the needs of individuals with disabilities	New or expanded fixed route service and new or expanded demand response service which constitute new public transportation services beyond those required by ADA of 1990 (42 U.S.C. Section 12101 et seq.) that assist individuals with disabilities with transportation, and are therefore eligible for funding under the New Freedom program, provided that these services: (1) Are identified in the grant applicant's coordinated public transit human services transportation plan; (2) Are available to the public at large but were planned and designed to meet the mobility needs of individuals with disabilities in response to circumstances where existing fixed route and demand response transportation is unavailable or insufficient to meet the mobility needs of individuals with disabilities; (3) Were not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Program (TIP) or the State Transportation Improvement Program (STIP); and (4) Are not designed to allow an agency to meet its obligations under the ADA or the DOT ADA implementing regulations at 49 CFR parts 37 and 38. Examples of such services would be: ▪ A fixed route service that is open to the general public but that is extended to serve a congregate living facility or a workplace serving large numbers of individuals with disabilities; or ▪ A demand response service that is available to the general public but whose service coverage or span of service is designed in response to mobility needs expressed by individuals with disabilities. FTA notes that expanded fixed route service may result in expanded ADA complementary paratransit service; since the ADA complementary paratransit service is required under the ADA, it would not be eligible for New Freedom funding. All new or expanded fixed route and demand responsive services funded under the New Freedom program will be subject to the requirements of the ADA and DOT ADA implementing regulations.

New Public Transportation Alternatives Beyond the ADA*	
Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs.	New Freedom funds can be used to purchase and operate accessible vehicles for use in taxi, ridesharing and/or van pool programs provided that the vehicle has the capacity to accommodate a passenger who uses a "common wheelchair" as defined under 49 CFR 37.3, at a minimum, while remaining in his/her personal mobility device inside the vehicle, and meeting the same requirements for lifts, ramps and securement systems specified in 49 CFR part 38, subpart B.
Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers.	This activity is intended to support and supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Only new voucher programs or expansion of existing programs are eligible under the New Freedom Program. Vouchers can be used as an administrative mechanism for payment of alternative transportation services to supplement available public transportation. The New Freedom Program can provide vouchers to individuals with disabilities to purchase rides, including: (a) mileage reimbursement as part of a volunteer driver program; (b) a taxi trip; or (c) trips provided by a human service agency. Providers of transportation can then submit the voucher for reimbursement to the recipient for payment based on pre-determined rates or contractual arrangements. Transit passes for use on existing fixed route or ADA complementary paratransit service are not eligible. Vouchers are an operational expense which requires a 50/50 (Federal/local) match.
Supporting new volunteer driver and aide programs.	New volunteer driver programs are eligible and include support for costs associated with the administration, management of driver recruitment, safety, background checks, scheduling, coordination with passengers, and other related support functions, mileage reimbursement, and insurance associated with volunteer driver programs. The costs of new enhancements to increase capacity of existing volunteer driver programs are also eligible. FTA notes that any volunteer program supported by New Freedom must meet the requirements of both "new" and "beyond the ADA." FTA encourages communities to offer consideration for utilizing all available funding resources as an integrated part of the design and delivery of any volunteer driver/aide program.

New Public Transportation Alternatives Beyond the ADA* (continued)	
Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation.	Mobility management is an eligible capital cost. Mobility management techniques may enhance transportation access for populations beyond those served by one agency or organization within a community. For example, a non-profit agency could receive New Freedom funding to support the administrative costs of sharing services it provides to its own clientele with other individuals with disabilities and coordinate usage of vehicles with other non-profits, but not the operating costs of the service. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service. Mobility management activities may include: ▪ The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, older adults, and low-income individuals; ▪ Support for short term management activities to plan and implement coordinated services; ▪ The support of State and local coordination policy bodies and councils; ▪ The operation of transportation brokerages to coordinate providers, funding agencies and customers; ▪ The provision of coordination services, including employer-oriented Transportation Management Organizations' and Human Service Organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers; ▪ The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and ▪ Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System Technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems (acquisition of technology is also eligible as a stand alone capital expense).

* "New" service is any service or activity that was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Plan (TIP) or the State TIP. In other words, the project would not have consideration for funding and the proposed service enhancement would not be available for individuals with disabilities if not for the New Freedom Program. Recipients or subrecipients may not terminate ADA paratransit enhancements or other services funded as of August 10, 2005, in an effort to reintroduce the services as "new" and then receive New Freedom funds for those services.