

Date: January 23, 2008  
W.I.: 1512  
Referred By: PAC

ABSTRACT

Resolution No. 3841

This resolution approves the process and establishes the criteria for programming the FTA Section 5307 and 5309 Fixed Guideway (FG) funds in the San Francisco Bay Area for FY 2008-09.

Further discussion of the Transit Capital Priorities Policy is contained in the Programming and Allocations Summary Sheet dated January 9, 2008.

Date: January 23, 2008  
W.I.: 1512  
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RE: San Francisco Bay Area Transit Capital Priorities Process and Criteria

METROPOLITAN TRANSPORTATION COMMISSION  
RESOLUTION NO. 3841

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

WHEREAS, MTC is the designated Metropolitan Planning Organization (MPO) for the nine-county Bay Area and is required to prepare and endorse a Transportation Improvement Program (TIP) which includes a list of priorities for transit capital projects; and

WHEREAS, MTC has worked cooperatively with the cities, counties and transit operators in the region to establish a process and a set of criteria for the selection of transit capital projects to be included in the TIP; and

WHEREAS, the process and criteria to be used in the selection and ranking of projects are set forth in Attachment A, which is incorporated herein as though set forth at length; now, therefore, be it

RESOLVED, that MTC approves the Transit Capital Priorities Process and Criteria as set forth in Attachment A; and, be it further

RESOLVED, that MTC will use the process and criteria to program Federal Transit Administration (FTA) Sections 5307 and 5309 funds for FY 2008-09 to finance transit capital projects in the San Francisco Bay Area region; and, be it further

RESOLVED, that the Executive Director of MTC is authorized and directed to forward a copy of this resolution to FTA, and such agencies as may be appropriate.

METROPOLITAN TRANSPORTATION COMMISSION

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Bill Dodd, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California on January 23, 2008

Date: January 23, 2008  
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Attachment A  
Resolution No. 3841  
Page 1 of 28

**FY 2008-09  
San Francisco Bay Area  
FTA Section 5307 and FTA Section 5309 Fixed Guideway  
Transit Capital Priorities Criteria**

**For development of the  
FY 2008-09  
Transit Capital Priorities Project Lists**

Metropolitan Transportation Commission  
Joseph P. Bort MetroCenter  
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Oakland, CA 94607

## Table of Contents

<b>I. GOALS AND OBJECTIVES .....</b>	<b>3</b>
<b>II. TCP APPLICATION PROCESS .....</b>	<b>4</b>
<b>III. PROJECT ELIGIBILITY .....</b>	<b>7</b>
<b>IV. PROJECT DEFINITION AND SCORING .....</b>	<b>14</b>
<b>V. PROGRAMMING POLICIES .....</b>	<b>17</b>
<b>APPENDIX 1 – BOARD RESOLUTION.....</b>	<b>24</b>
<b>APPENDIX 2 – OPINION OF COUNSEL.....</b>	<b>27</b>

## FY 2008-09 Transit Capital Priorities Criteria

### I. GOALS AND OBJECTIVES

The FY 2005-06 through FY 2008-09 Transit Capital Priorities (TCP) Criteria are the rules, in part, for establishing a program of projects for eligible transit operators in the San Francisco Bay Area Region's large urbanized areas (UA) of San Francisco/Oakland (SF/O), San Jose (SJ), Concord, Santa Rosa (SR), and Antioch; and the small urbanized areas of Vallejo, Fairfield, Vacaville, Napa, Livermore, Gilroy-Morgan Hill (GM), and Petaluma.

The goal of the TCP Criteria is to fund transit projects that are most essential to the region and consistent with Transportation 2030, the region's 25-year plan. The TCP applies to programming of the Federal Transit Administration (FTA) Section 5307 and Section 5309 Fixed Guideway (FG) funds.

The region's objectives for the TCP are to:

*Fund basic capital requirements:* All eligible projects are to be considered in TCP score order, with emphasis given to the most essential projects that replace and sustain the existing transit system capital plant. MTC will base the list of eligible replacement and expansion projects on operators' Short Range Transit Plans (SRTP) service objectives, and capital plans. All projects not identified as candidates for the TCP process are assumed to be funded by other fund sources and are so identified in operators' SRTPs.

*Maintain reasonable fairness to all operators:* Tests of reasonable fairness are to be based on the total funding available to each operator over a period of time, the level and type of service provided, timely obligation of prior year grants, and other relevant factors. (A proportional share distributed to each operator is specifically not an objective.)

*Complement other MTC funding programs for transit:* MTC has the lead responsibility in programming regional Surface Transportation Program (STP) and Congestion Mitigation-Air Quality (CMAQ) funds, and State Transportation Improvement Program (STIP) funds. Transit capital projects not funded through the TCP process are eligible for funding under these federal and state programs. Development of the TCP will complement the programming of STP, CMAQ, and STIP funds to maximize the financial resources available in order to fund the most essential projects for the San Francisco Bay Area's transit properties.

## **II. TCP APPLICATION PROCESS**

The Transit Finance Working Group (TFWG) will serve as the forum for discussing TCP and other transit programming issues. Each transit operator in the MTC region is responsible for appointing a representative to staff the Transit Finance Working Group (TFWG). The TFWG serves in an advisory capacity to the MTC Partnership Technical Advisory Committee (PTAC). All programming-related decisions are to be reviewed with PTAC. In general, the MTC Programming and Allocations Committee and the full Commission take action on the TCP and any other transit-related funding programs after the PTAC has reviewed them.

**Capital Program Submittal.** For the purposes of programming, project sponsors will submit requests for funding in accordance with detail instructions in MTC's call for projects. The level of detail must be sufficient to allow for MTC to screen and score the project.

### **Board Approval**

MTC requires that operators seek board approval prior to programming projects in the TIP. The board resolution for FY 2008-09 programming must be submitted no later than March 5, 2008, the date when the Programming and Allocations Committee will consider the FY 2008-09 proposed program. Appendix 1 is a sample resolution of board support.

### **Opinion of Counsel**

Project sponsors have the option of including specified terms and conditions within the Resolution of Local Support as included in Appendix 1. If a project sponsor elects not to include the specified language within the Resolution of Local Support, then the sponsor shall provide MTC with a current Opinion of Counsel stating that the agency is an eligible sponsor of projects for the FTA Section 5307 and 5309 FG Programs; that the agency is authorized to perform the project for which funds are requested; that there is no legal impediment to the agency applying for the funds; and that there is no pending or anticipated litigation which might adversely affect the project or the ability of the agency to carry out the project. A sample format is provided on Appendix 2.

### **Screening projects**

MTC staff will evaluate all projects for conformance with the Screening Criteria (Section III) below. Certain requirements must be met for a project to reach the scoring stage of the Transit Capital Priorities process. Operators will be informed by MTC staff if a project has failed to meet the screening criteria, and will be given an opportunity to submit additional information for clarification.

### **Scoring projects**

MTC staff will only score those projects, which have passed the screening process. Based on the score assignment provided in Section IV below, MTC staff will inform

operators of the score given to each project. Operators may be asked to provide additional information for clarification.

**Programming Projects/Assigning projects to fund source**

Projects will be programmed in the TCP in the year proposed. Project funds sources will be assigned by MTC staff and will be based on project eligibility and the results of Multi-County Agreement model. Projects passing screening and scoring criteria will be consider for programming in the TCP in the year proposed, however, projects will only be programmed in the Transportation Improvement Program (TIP) if the following conditions are met: 1) funding is available in the year proposed, and 2) funds can be obligated by the operator in the year proposed.

**FTA Public Involvement Process and Transportation Improvement Program (TIP)**

*FTA Public Involvement Process:* To receive a FTA grant, a grant applicant must meet certain public participation requirements in development of the FTA programs. However, as provided for in FTA Circular 9030.1C (revised October 1, 1998), FTA considers a grantee to have met the public participation requirements associated with the annual development of the POP when the grantee follows the public involvement process outlined in the FHWA/FTA planning regulations for the TIP.

*Annual Programming in the TIP:* MTC, in cooperation with the state and eligible transit operators, is required to develop a TIP for the MTC Region. The TIP is a listing of federally funded transportation projects and projects deemed regionally significant. The TIP is a 3-year programming document. TCP programming in each year of the TIP will be financially constrained to the estimated apportionment level. Programming adjustments in the TIP will be done in consultation with eligible transit operators in the MTC region. In lieu of a separate public involvement process, MTC will follow the public involvement process for the TIP.

**Changes to Transit Capital Priorities Program**

Amendments may be allowed only in certain circumstances. The following general principles govern the changes:

- Amendments are not routine. Any proposed changes will be carefully studied.
- Amendments are subject to MTC and TFWG review.
- Amendments which adversely impact another operator's project will not be included without the prior agreement of other operators to the change.
- Amendments will be acceptable only when proposed changes are within the prescribed financial constraints of the TIP.
- Emergency or urgent projects will be considered on a case-by-case basis as exceptions.

Operators proposing the change must provide relevant information to substantiate the urgency of the proposed amendment. Projects that impede delivery of other projects will be considered only if an agreement can be reached between the affected operators for deferring or eliminating the affected projects from consideration.

**Funding Shortfalls**

If final apportionments for the FTA Section 5307 and Section 5309 FG programs come in lower than MTC has previously estimated, MTC staff will first redistribute programming to other urbanized areas with surplus apportionments in which the projects are eligible, and, second, negotiate with operators to constrain projects costs or defer projects to a future year. If sufficient resolution is not possible, MTC will consider additional information, including project readiness, prior funding (if the project is a phased multi-year project), whether the project had been previously deferred, and the amount of federal funds that each of the concerned operators received in recent years, in making reductions to programming.

**Project Review**

Each operator is expected to complete their own Federal grant application using FTA's Transportation Electronic Award and Management (TEAM) system. MTC staff will review grant applications and perform project review when required. In addition, MTC staff will submit concurrence letters and MTC project review resolutions to FTA on behalf of project sponsors as needed.

**FYs 2008-09 TCP Development Schedule**

To the extent possible, the region will adhere to the schedule proposed in the table below in developing the FY 2008-09 TCP. If a change in the schedule is required, MTC will notify participants of the TCP development process in a timely fashion.

<b>TCP Policy / Programming</b>	<b>Start Date</b>	<b>Finish/Due Date</b>
TFWG TCP Policy Discussions	December 5, 2007	January 9, 2008
PTAC TCP Policy Discussions	December 17, 2007	
Call for projects	January 2, 2008	January 18, 2008
TCP Policy to PAC/Commission	January 9/23, 2008	
FTA/AB 664 program to TFWG	February 6, 2008	March 5, 2008
Public comment period	February 25, 2008	March 26, 2008
FTA/AB 664 programs to PAC/Commission and amend TIP	March 5/26, 2008	
Approval of TIP amendment by FTA and FHWA	June 2008	

### III. PROJECT ELIGIBILITY

#### Federal Requirements and Eligibility

##### **Federal Legislation**

Projects selected will conform to the requirements of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Clean Air Act Amendments of 1990 (CAAA), the California Clean Air Act (CCAA), and the Americans with Disabilities Act (ADA).

##### **Intelligent Transportation Systems (ITS) Architecture Policy**

Project sponsors will be required to meet the Federal Transit Administration's National ITS Architecture Policy as established by FTA Federal Register Notice Number 66 FR 1455 published January 8, 2001 and as incorporated by the regional architecture policy which can be accessed at: <http://www.mtc.ca.gov/planning/ITS/index.htm>.

##### **1% Security Policy**

Project sponsors are also required to meet the FTA 1% security set-aside provisions as established in the FY 2004-05 Certifications and Assurances, FTA Federal Register Notice Number 69 FR 62521 published on October 26, 2004, and as it may be refined by FTA in future notifications. For project sponsors that are unable to meet the 1% security requirement, MTC will set-aside 1% of the total amount of FTA Section 5307 programmed to those sponsors for the purposes of meeting this requirement.

##### **Program Eligibility**

*FTA Section 5307 Urbanized Area Federally Defined Program Eligibility (Statutory Reference: 49USC5307):* Planning, engineering design and evaluation of transit projects and other technical transportation-related studies; capital investments in bus and bus-related activities such as replacement of buses, overhaul of buses, rebuilding of buses, crime prevention and security equipment and construction of maintenance and passenger facilities; and capital investments in new and existing fixed guideway systems including rolling stock, overhaul and rebuilding of vehicles, track, signals, communications, and computer hardware and software, and other related projects to meet unfunded mandates. All preventive maintenance and some ADA complementary paratransit service are considered capital costs.

*FTA Section 5309 Fixed Guideway Federally Defined Program Eligibility (Statutory Reference: 49USC5309):* Capital projects to modernize or improve fixed guideway systems are eligible including purchase and rehabilitation of rolling stock and ferries, track, line equipment, structures, ferry floats, ramps and other ferry fixed guideway connectors, ferry navigational equipment and related components, signals and communications, power equipment and substations, passenger stations and terminals, security equipment and systems, maintenance facilities and equipment, operational

support equipment including computer hardware and software, system extensions, and preventive maintenance

**Regional Requirements and Eligibility**

**Urbanized Area Eligibility**

Transit operators are required to submit annual reports to the National Transit Database. Service factors reported in large urbanized areas determine the amounts of FTA Section 5307 and 5309 FG funds generated in the region. MTC staff will work with members of the Partnership to coordinate reporting of service factors in order to maximize the amount of funds generated in the region and to determine urbanized area eligibility. An operator is eligible to claim FTA funds only in designated urbanized areas as outlined in Table 1 below. Eligibility is based on geographical operations, NTD reporting, and agreements with operators.

**Table 1: Urbanized Area Eligibility**

<b>Urbanized Area</b>	<b>Eligible Transit Operators</b>
San Francisco-Oakland	AC Transit, ACE, BART, Caltrain, GGBHTD, SFMTA, SamTrans, Union City Transit, Vallejo Transit, WestCat
San Jose	ACE, Caltrain, SCVTA
Concord	ACE, BART, CCCTA, LAVTA
Antioch	BART, Tri-Delta
Santa Rosa	GGBHTD, Santa Rosa City Bus, Sonoma County Transit
Vallejo	City of Benicia, Napa Vine on behalf of American Canyon, City of Vallejo, WestCat
Fairfield	Fairfield-Suisun Transit
Vacaville	Vacaville Transit
Napa	Napa VINE
Livermore	ACE, LAVTA
Gilroy-Morgan Hill	Caltrain, SCVTA
Petaluma	GGBHTD, Petaluma Transit, Sonoma County Transit

- (i) Altamont Commuter Express (ACE) is eligible to claim funds in four of the San Francisco Bay Area's urbanized areas according to Federal Transit Administration statute. ACE has entered into an agreement with other operators eligible to claim funds in the San Jose UA, which prevents ACE from claiming funds in that UA. Likewise, ACE has also determined that they will be reporting their Livermore area revenue miles in the Stockton UA and have elected not to seek funding from the Livermore UA. The project element that the Regional Priority Model would apportion to these two urbanized areas will be deducted from the total amount of their capital request. ACE operates on track privately owned by Union Pacific. Requests for track rehabilitation, maintenance, and or upgrades for funding in the

San Francisco-Oakland and Concord UAs will be assessed for eligibility upon review of the ACE and Union Pacific agreement.

- (ii) Santa Rosa City Bus and Sonoma County will apportion funding in accordance with previous agreements (75% Santa Rosa City Bus and 25% Sonoma County).
- (iii) Golden Gate Bridge and Highway Transportation District (GGBHTD) is eligible to claim funds in the Santa Rosa Urbanized Areas. However, as a result of an agreement between the operators and discussion with the TFWG, GGBHTD will not claim funds from the Santa Rosa UA at this time. However, should it become advantageous to the region for GGBHTD to report revenue miles in the Santa Rosa UA and thereby claim funds in that UA, agreements between the operators will be re-evaluated. Golden Gate is an eligible claimant for funds in the Petaluma UA, and in years where extensive capital need in other urbanized areas in the region is high; Golden Gate's projects could be funded in the Petaluma UA.
- (iv) WestCat is an eligible claimant in the Vallejo UA but will report revenue miles in the San Francisco-Oakland UA in order to maximize funding to the region. Therefore, WestCAT will claim funds exclusively in the San Francisco-Oakland UA.
- (v) Funding agreements between operators in the San Jose and Gilroy-Morgan Hill UAs are subject to the conditions outlined in the Caltrain Joint Powers Board Agreement.
- (vi) Petaluma Transit is an eligible claimant in the Petaluma UA starting in FY 2008-09 subject to Petaluma Transit becoming an eligible FTA grantee and filing NTD reports beginning in reporting year 2007. If Petaluma does not become an FTA grantee or pass-through recipient, or fails to file an NTD report for 2007, any 5307 funds programmed to Petaluma would be reprogrammed to other eligible operators.

### **Screening Criteria**

A project must conform to the following threshold requirements before the project can be scored and ranked in the TCP project list. Screening criteria envelops three basic areas. The following subheadings are used to group the screening criteria.

- Consistency Requirements;
- Financial Requirements;
- Project Specific Requirements;

#### *Consistency Requirements*

The proposed project must be consistent with the currently adopted Regional Transportation Plan (RTP). Smaller projects must be consistent with the policy direction

of the RTP, as the RTP does not go into a sufficient level of detail to specifically list them.

Projects near or crossing county boundaries must be consistent/complementary with the facility (or proposed facility) in the adjacent county.

Projects must be included in an operator's Short Range Transit Plan, and in an adopted local or regional plan (such as Congestion Management Programs, Countywide transportation plans pursuant to AB3705, the Seaport and Airport Plans, the State Implementation Plan, the Ozone Attainment Plan, the Regional Transportation Plan, and local General Plans).

#### *Financial Requirements*

The proposed project has reasonable cost estimates, is supported by an adequate financial plan with all sources of funding identified and a logical cash flow, and has sensible phasing. Transit operators must demonstrate financial capacity, to be documented in the adopted TIP, as required by the FTA. All facilities that require an ongoing operating budget to be useful must demonstrate that such financial capacity exists.

#### *Project Specific Requirements*

All projects must be well defined. There must be clear project limits, intended scope of work, and project concept. Planning projects to further define longer range federally eligible projects are acceptable. A project is defined as:

- The amount of train control replacement needs for a given year, replacement/rehab of one revenue vehicle sub-fleet or ferry vessel, replacement/rehab of fixed guideway (e.g. track replacement and related fixed guideway costs as defined in "Project Funding Caps" below for a given year.
- A sub-fleet is defined as the same bus size, manufacturer, and year; or any portion of a train set that reaches a common end of its useful life (i.e. a set that cycles at a common time).

All projects must be well justified, and have a clear need directly addressed by the project.

A proposed project includes an implementation plan that adequately provides for any necessary clearances and approvals.

The proposed project must be advanced to a state of readiness for implementation in the year indicated. For this requirement, a project is considered to be ready if grants for the project can be obligated within one year of the award date; or in the case of larger construction projects, obligated according to an accepted implementation schedule

**Asset Useful Life**

To be eligible for replacement or rehabilitation, assets must meet the following age requirements in the year of programming:

**Table 2: Useful Life of Assets**

Bus*	12 years
Over-the-Road-Coaches*	16 years
* (or an additional 5 years for buses rehabilitated with TCP funding)	
Van <sup>1</sup>	4, 5, or 7 years
Light Rail Vehicle (LRV)	25 years
Trolley	18 years
Heavy Railcar <sup>2</sup>	25 years
Locomotive	25 years
(or an additional 20 years for railcars rehabilitated with TCP funding)	
Heavy/Steel Hull Ferries	30 years
(or an additional 20 years for railcars rehabilitated with TCP funding)	
Light Weight/Aluminum Hull Ferries <sup>3</sup>	25 years
Used Vehicles <sup>4</sup>	Varies by type
Tools and Equipment	10 years
Service Vehicle	7 years
Non-Revenue Vehicle	7 years
Track	Varies by track type
Trolley Overhead/3 <sup>rd</sup> Rail	Varies by type of OVHD/3 <sup>rd</sup> rail
Facility	Varies by facility and component replaced

*Notes:*

- (1) A paratransit van is a specialized van used in paratransit service only such as service for the elderly and handicapped. Three general categories of vans are acceptable in Transit Capital Priorities: Minivans, Standard Conversion Vans, and Small Medium-Duty Coaches. The age requirements for each type are 4, 5, and 7 years respectively.
- (2) Includes Caltrain and ACE commuter rail and BART urban rail cars.
- (3) Light weight ferries will not generally last beyond a 25-year useful life. Propulsion and major component elements of lightweight ferries can be replaced in TCP without extending the useful life beyond its anticipated useful life of 25 years.
- (4) Used vehicles are eligible to receive a proportionate level of funding based on the type of vehicle and number of years of additional service. (See "used vehicle replacement" Section IV, Definition of Project Categories).

Exceptions for replacement of assets prior to the end of their useful life may be considered only if an operator has secured FTA approval for early retirement, which must occur before the annual apportionment has been released.

**Project Funding Caps**

In order to prevent committing a significant portion of the programming to an operator in any one year, the following annual funding ceilings for projects are established:

- revenue vehicle replacement projects cannot exceed \$20 million for buses or \$30 million for rail car or ferry vessel replacement and rehabilitation projects, in the aggregate for both Section 5307 and Section 5309 FG programs.
- other replacement projects cannot exceed \$7.5 million or for specific fixed guideway project categories, the amounts set forth in Table 3, whichever is less. See Table 4 for specific fixed guideway projects.
- expansion or enhancement projects cannot exceed \$3.75 million

Exceptions to these annual funding ceilings will be considered by the TFWG on a case-by-case basis. For large rehabilitation programs, MTC may conduct negotiations with the appropriate sponsor to discuss financing options and programming commitments. For FY 2008-09, MTC and the TFWG will consider temporary increases in project caps on a case-by-case basis after evaluating programming requested through the call for projects, and the region's estimated fiscal resources.

**Table 3: Fixed Guideway Caps**

FG Operator	Project Category	Proposed Cap for Each Category
ACE <sup>2</sup>	All Eligible FG Categories	1,057,000
BART	Train Control	13,000,000
	Track Replacement/Rehab	13,000,000
	Power Delivery (Traction Power)	13,000,000
	All Other Eligible FG Categories	7,500,000
Caltrain	All Eligible FG Categories	7,500,000
GGBHTD	All Eligible FG Categories	2,000,000
SFMTA	Power Delivery (Overhead Reconstruction)	13,000,000
	Track Replacement	13,000,000
	All Other Eligible FG Categories	7,500,000
Vallejo	All Eligible FG Categories	2,000,000
VTA	All Eligible FG Categories	7,500,000

1) Amount for ACE limited to Bay Area eligibility in SFO and Concord UA or 52.85% of regional total and was based on a gross project eligibility cap of \$2 million.

**TABLE 4: Fixed Guideway Categories by Operator**

FG Categories	Possible Fixed Guideway Categories						
	ACE	BART	Caltrain	GGBHTD	SFMTA	Vallejo	VTA
Track Rep/Rehab	1	1	1		1		1
Wayside Fare Collection Equipment	1	1	1	1	1	1	1
Power Delivery		1			1		1
Train Control/Signaling	1	1	1		1		
Dredging				1		1	
Ferry FG Connectors				1		1	
Ferry Major Component Replacement				1		1	
Ferry Propulsion Replacement				1		1	
Cable Car Infrastructure					1		
<b>Total Number of Categories by Operator</b>	<b>3</b>	<b>4</b>	<b>3</b>	<b>5</b>	<b>5</b>	<b>5</b>	<b>3</b>

Funding for buses and vans for FY 2008-09 is subject to the price list as shown in Table 5.

**Table 5: Regional Bus-Van Pricelist, FY 2008-09**

	Proposed FY09 Price				
	Total	Federal	Local	Federal %	Local %
Auto	26,000	21,695	4,305	83.44%	16.56%
Minivan Under 22'	48,000	40,052	7,948	83.44%	16.56%
Cut-Away/Van Under 26', 4 or 5-Year, Gas	72,000	58,770	13,230	81.62%	18.38%
Cut-Away/Van Under 26', 4 or 5-Year, Diesel	97,000	79,176	17,824	81.62%	18.38%
Cut-Away/Van Under 26', 4 or 5-Year, CNG	108,640	88,677	19,963	81.62%	18.38%
Cut-Away/Van Under 26', 7-Year, Gas	101,000	83,830	17,170	83.00%	17.00%
Cut-Away/Van Under 26', 7-Year, Diesel	136,000	112,880	23,120	83.00%	17.00%
Cut-Away/Van Under 26', 7-Year, CNG	152,000	126,159	25,841	83.00%	17.00%
Cut-Away/Van 26'+, 4 or 5-Year, Gas	76,000	62,034	13,966	81.62%	18.38%
Cut-Away/Van 26'+, 4 or 5-Year, Diesel	102,000	83,257	18,743	81.62%	18.38%
Cut-Away/Van 26'+, 4 or 5-Year, CNG	114,000	93,052	20,948	81.62%	18.38%
Cut-Away/Van 26'+, 7-Year, Gas	106,000	87,980	18,020	83.00%	17.00%
Cut-Away/Van 26'+, 7-Year, Diesel	143,000	118,689	24,311	83.00%	17.00%
Cut-Away/Van 26'+, 7-Year, CNG	160,000	132,799	27,201	83.00%	17.00%
Transit Bus 30' Diesel	445,000	358,917	86,083	80.66%	19.34%
Transit Bus 30' CNG	498,000	401,665	96,335	80.66%	19.34%
Transit Bus 30' Hybrid	601,000	484,740	116,260	80.66%	19.34%
Transit Bus 35' Diesel	458,000	369,320	88,680	80.64%	19.36%
Transit Bus 35' CNG	513,000	413,670	99,330	80.64%	19.36%
Transit Bus 35' Hybrid	619,000	499,146	119,854	80.64%	19.36%
Transit Bus 40' Diesel	471,000	379,730	91,270	80.62%	19.38%
Transit Bus 40' CNG	528,000	425,684	102,316	80.62%	19.38%
Transit Bus 40' Hybrid	637,000	513,562	123,438	80.62%	19.38%
Over-the-Road 40' Diesel	551,000	443,608	107,392	80.51%	19.49%
Over-the-Road 40' CNG	617,000	496,744	120,256	80.51%	19.49%
Over-the-Road 40' Hybrid	744,000	598,991	145,009	80.51%	19.49%
Over-the-Road 45' Diesel	595,000	479,032	115,968	80.51%	19.49%
Over-the-Road 45' CNG	666,000	536,194	129,806	80.51%	19.49%
Over-the-Road 45' Hybrid	803,000	646,492	156,508	80.51%	19.49%
Over-the-Road 60' Diesel	785,000	631,087	153,913	80.39%	19.61%
Over-the-Road 60' CNG	879,000	706,656	172,344	80.39%	19.61%
Over-the-Road 60' Hybrid	1,060,000	852,168	207,832	80.39%	19.61%
Articulated 60' Diesel	667,000	536,223	130,777	80.39%	19.61%
Articulated 60' CNG	747,000	600,537	146,463	80.39%	19.61%
Articulated 60' Hybrid	900,000	723,539	176,461	80.39%	19.61%

#### IV. PROJECT DEFINITION AND SCORING

##### Project Scoring

All FTA Section 5307 and FTA Section 5309 FG projects submitted to MTC for TCP programming consideration that have passed the screening process will be assigned scores by project category as follows:

Project Category/Description	Project Score
<b>Revenue Vehicle Replacement</b>	16
<p>Vehicle Replacement - replacement of a revenue vehicle at the end of its useful life (see Section III, Paragraph 3.e., Table 2). Vehicles previously purchased with revenue sources other than federal funds are eligible for FTA formula funding as long as vehicles meet the replacement age. Vehicles are to be replaced with vehicles of similar size (up to 5' size differential) and seating capacity, e.g. a 40-foot coach replaced with a 40-foot coach and not an articulated vehicle. If an operator is electing to purchase smaller buses, or do a sub-fleet reconfiguration, the replacement sub-fleet will have a comparable number of seats as the vehicles being replaced. Paratransit vehicles can be replaced with the next larger vehicle providing the existing vehicle is operated for the useful life period of the vehicle that is being upgraded to. Any other significant upgrade in size will be considered as vehicle expansion and not vehicle replacement. For urgent replacements not the result of deferred maintenance and replacement of assets 20% older than the usual replacement cycle (e.g. 12 or 16 years for buses depending on type of bus), a project may receive an additional point.</p>	
<b>Revenue Vehicle Rehabilitation</b>	16
<p>Vehicle Rehabilitation - major maintenance, designed to extend the useful life of a revenue vehicle (+5 years for buses, +20 years for railcars, +20 years for heavy hull ferries)</p>	
<b>Used Vehicle Replacement</b>	16
<p>Used Vehicle Replacement - replacement of a vehicle purchased used (applicable to buses, ferries, and rail cars) is eligible for federal, state, and local funding that MTC administers. Funds in this category include FTA Section 5307, STP, CMAQ, STIP, and Net Toll Revenues. However, funding for replacement of the used vehicle will be limited to a proportionate share of the total project cost, equal to the number of years the used vehicle is operated beyond its standard useful life divided by its standard useful life (e.g. if a transit property retained and operated a used transit bus for 5 years, it is eligible to receive 5/12<sup>th</sup> of the allowable programming for the project). <i>Note: Used buses placed in service prior to December 20, 2000 are eligible for replacement in the TCP after the vehicle has been part of the operator's "active fleet" as defined by the Federal Transit Administration for at least five years.</i></p>	

Fixed Guideway Replacement/ Rehabilitation	16
Rehabilitation/Replacement Fixed Guideway - projects replacing or rehabilitating fixed guideway equipment per categories outlined in Section II, Paragraph 3, Table 4 (rail, bridges, traction power system, wayside train control systems, overhead wires) at the end of its useful life.	
Ferry Propulsion Systems	16
Ferry Propulsion Replacement—projects defined as the mid-life replacement and rehabilitation of ferry propulsion systems in order that vessels are able to reach their 25-year useful life.	
Ferry Major Component	16
Ferry Major Components—projects associated with propulsion system, inspection, and navigational equipment required to reach the full economic life of a ferry vessel.	
Ferry Fixed Guideway Connectors	16
Ferry Fixed Guideway Connectors—floats, gangways, and ramps associated with the safe moorage and boarding of passengers to/from ferry vessels.	
Revenue Vehicle Communication Equipment	16
Communication Equipment - For operators who replace radios and base stations when the revenue vehicle/vessel is replaced, no additional system wide replacement will be funded through the regional capital priorities. For bus operators who elect the system wide replacement option, the regional participation in the project will be constrained by the radio allowance in the standard bus price (provided that the radio/base station is not replaced prior to the applicable replacement cycle). Maximum programming allowance outlined in Section III, Table 5.	
Non-TransLink® Fare Collection/Fareboxes	16
Revenue vehicle and wayside fare equipment are eligible for replacement as score 16. The maximum programming allowance for revenue vehicle fare equipment purchased separately from revenue vehicles is outlined in Section III, Table 5, providing the fare equipment is not replaced prior to the 12-year replacement cycle for buses. Fare equipment must be compatible with the TransLink® fare collection system.	
TransLink®	16
TransLink® - replacement of TransLink® fare collection equipment related to revenue vehicles and faregates.	
Safety	15
Safety/Security - projects addressing potential threats to life and/or property. The project may be maintenance of existing equipment or new safety capital investments. Adequate justification that the proposed project will address safety and/or security issues must be provided. The TFWG will be provided an opportunity to review proposed projects before a project is programmed funds in a final program.	

ADA/Non-Vehicle Access Improvement	14
ADA - capital projects needed for ADA <i>compliance</i> . Does not cover routine replacement of ADA-related capital items. Project sponsor must provide detailed justification that the project is proposed to comply with ADA. Subject to TFWG review.	
Fixed/Heavy Equipment Maintenance/Operating Facilities	13
Fixed/Heavy equipment and Operations/Maintenance facility - replacement/rehabilitation of major maintenance equipment, generally with a unit value over \$10,000; replacement/rehabilitation of facilities on a schedule based upon the useful life of the components.	
Station/Intermodal Stations/Parking Rehabilitation	12
Stations/Intermodal Centers/Patron Parking Replacement/Rehab - replacement/rehabilitation of passenger facilities.	
Service Vehicles	11
Service Vehicles - replacement/rehabilitation of non-revenue and service vehicles based on useful life schedules.	
Tools and Equipment	10
Tools and Equipment - maintenance tools and equipment, generally with a unit value below \$10,000.	
Office Equipment	9
Office Equipment - computers, copiers, fax machines, etc.	
Preventive Maintenance	9
Preventive Maintenance - ongoing maintenance expenses (including labor and capital costs) of revenue and non-revenue vehicles that do not extend the life of the vehicle. This includes mid-life change-out of tires, tubes, engines and transmissions that do not extend the life of the vehicle beyond the twelve years life cycle. <i>Note: Requests for preventive maintenance to meet budgetary shortfalls will be guided by the provisions outlined in Section V. Operators who wish to exchange a capital project for preventive maintenance funding in order to use their local funds to ease federal constraints or strictly as a financing mechanism may do so providing that the replacement asset funded with local funds is comparable to the asset being replaced and is maintained in service by the purchasing operator for its full useful life as outlined in Section V.</i>	
Operational Improvements/Enhancements	8
Operational Improvement/Enhancements - any project proposed to improve and/or enhance the efficiency of a transit facility.	
Operations	8
Operations—costs associated with transit operations such as the ongoing maintenance of transit vehicles including the cost of salaries. SCORE 9 (see Programming item 3c Operations).	
Expansion	8
Expansion - any project needed to support expanded service levels.	

## V. PROGRAMMING POLICIES

### **Project Apportionment Model for Eligible Urbanized Areas**

There are four elements that need to be considered to determine operators' urbanized area apportionment: multi-county agreements, high scoring capital needs, the 10% flexible set-aside amounts, and the 10% ADA set-aside amounts. The Regional Priority Model, as explained in paragraph (b), establishes funding priority for apportioning high scoring capital projects to eligible urbanized areas. Funding may be limited by multi-county agreements as explained in Paragraph (a) below.

Eligible programming revenues are net of the 10% flexible set-aside as outlined in paragraph (c) below, the 10% ADA set-aside shown in (d) below, and \$10 million to Zero Emission Buses as discussed in the section titled "Zero Emission Bus Set Aside for FY 2008 - 09", below.

- a) Multi-County Agreements: For some operators, urbanized area (UA) apportionments are guided by multi-county agreements. Aside from the acknowledged agreements, funds are apportioned based on the regional priority model.

There are three specific agreements that are being honored under the negotiated multi-county agreement model: the Caltrain Joint Powers Board Agreement, the Altamont Commuter Express (ACE) Cooperative Services Agreement and the Sonoma County-Santa Rosa City Bus Agreement.

Consideration for future agreements will include representation from each interested county, interested transit property, or an appointed designee, and be approved by all operators in the affected UA and MTC.

- b) Regional Priority Programming Model - The 2000 census changes to the region's urbanized areas made numerous operators eligible to claim funds in more than one urbanized area. This has necessitated a procedure for apportioning projects to eligible urbanized areas. The *Regional Priority Model*, as described below, was fashioned to prioritize funds for the replacement of the region's transit capital plant, while minimizing the impact of the 2000 census boundary changes.

The model assumes a regional programming perspective and constrains regional capital demand to the amount of funds available to the region, prior to apportioning projects to urbanized areas. It then apportions projects to urbanized areas in the following order:

- i. Funds are apportioned first for operators that are the exclusive claimant in a single UA (e.g. LAVTA, Fairfield, etc.)

- ii. Fund projects for operators that are restricted to receiving funds in one urbanized area (e.g. SFMTA, AC, WestCat, CCCTA, etc.)
  - iii. Fund balance of operator projects among multiple urbanized areas, as eligibility allows, with the objective of fully funding as many high scoring projects as possible.
  - iv. Reduce capital projects proportionately in urbanized areas where need exceeds funds available.
  - v. Fund lower scoring projects (additional programming flexibility) to operators in urbanized areas where apportionments exceed project need.
- c) 10% Set-aside Based on Apportioned Ridership and FTA Revenue Factors (weighted equally) - Prior to running the apportionment model, 10% of the FTA Section 5307 funds from each of the urbanized areas is redistributed based on apportioned ridership and FTA revenue factors. Table 6 shows the percentages by operator and urbanized area for this programming period. Urbanized areas not shown are either urbanized areas with only one operator or urbanized areas that have opted to not participate in the set-aside. Descriptions of these formulas are outlined below.

Apportioned Ridership: Ridership is apportioned based on how an operator reports their revenue miles to FTA. As an example, BART reports their revenue miles 71.28% in the San Francisco-Oakland UA, 26.14% in the Concord UA, and 2.58% in the Antioch UA. Instead of counting their total ridership, or 97.1 million, in each UA, ridership is apportioned to each UA based on the reporting factors.

FTA Revenue Factors: The set-aside is distributed on FTA revenue factors - bus tier and fixed guideway tier. Factors included in the analysis are revenue vehicle miles, passenger miles, and operating cost. Small-urbanized area set-asides are distributed to eligible operators based on a rough estimation of population and population density.

**Table 6: 10% Flexible Set-aside Amounts by Urbanized Area and Operator**

Operator	SFO	SJ	Concord	Antioch	Vallejo	Napa	Livermore	Gilroy-MH	Petaluma
AC Transit	15.8%								
ACE	1.5%		1.6%						
BART	25.6%		76.9%	47.9%					
Caltrain	3.3%	9.6%							
CCCTA			16.5%						
ECCTA				52.1%					
GGBHTD	5.2%								67.8%
LAVTA			5.0%				100.0%		
SFMTA	41.2%								
Napa VINE					13.5%	100.0%			
SamTrans	4.8%								
Sonoma Transit									32.2%
Union City	0.2%								
Vallejo	2.0%				86.5%				
VTA		90.4%						100.0%	
WCCTA	0.5%								
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

d) 10% ADA Set-aside – ADA Paratransit Service Set-aside: TEA-21 establishes a cap on the use of large urbanized area capital funds for ADA paratransit services not to exceed 10% of the region’s apportionment of FTA Section 5307 funds. An amount equal to 10% of each participating urbanized area’s FTA Section 5307 apportionment will be set-aside to assist operators in defraying ADA paratransit operating expenses. The purpose of this set-aside is to ensure that in any one year, a transit operator can use these funds to provide ADA service levels necessary to maintain compliance with the federal law, without impacting existing levels of fixed route service. ADA set-aside programmed to small UA operators will not impact eligible programming amounts in large UAs.

An operator may use its share of the FTA Section 5307 set-aside for capital purposes if the operator can certify that:

- Their ADA paratransit operating costs are fully funded in its proposed annual budget;
- For jointly funded paratransit services, operators’ FTA Section 5307 ADA set-aside shares have been jointly considered in making decisions on ADA service levels and revenues.

If MTC is satisfied with the operator’s certification, the operator may re-program its set-aside for any unfunded transit capital projects related to safety, ADA, maintenance facilities and heavy equipment, stations, shelters, Intermodal facilities, or station parking.

To ensure that the Section 5307 10% set-aside funding is duly considered for annual ADA paratransit needs, there will be no multi-year programming of the 10% ADA set-aside to capital-only purposes. Table 7 shows the percentages by operator and urbanized area for this programming period.

**Table 7: ADA Set-aside Amounts by Urbanized Area and Operator**

Operator	San Francisco-Oakland	San Jose	Concord	Antioch	Vallejo	Livermore	Gilroy-MH
AC Transit	31%						
ACE	2%		14%				
BART	15%		46%	22%			
Caltrain	3%	15%					
CCCTA			32%				
Fairfield-Suisun Transit	Not Applicable						
GGBHTD	9%						
LAVTA			8%			100%	
Napa VINE					7%		
SFMTA	30%						
SamTrans	8%						
SCVTA		85%					100%
SR City Bus	Not Applicable						
Sonoma City Transit	Not Applicable						
Tri-Delta				78%			
Union City							
Vacaville	Not Applicable						
Vallejo Transit	2%				93%		
WestCat	1%						
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**Limited Use of FTA Funds for Operating Purposes**

FTA permits the use of FTA Section 5307 small urbanized funds to be used for operating purposes. For operators eligible to claim in both large and small urbanized areas, the amount of funds used for operating will be deducted from the amount of capital claimed in the large UA. House Resolution (H.R.) 5157 provides that urbanized areas transitioning from small to large urbanized areas in the 2000 census can use a portion of their large UA funds for operating purposes. This includes the urbanized areas of Santa Rosa and Antioch. Providing that reauthorizing legislation provides that these UAs can continue to use a portion their FTA Section 5307 funds for operating, these operators will be allowed to use funds for operating providing that capital is adequately maintained and replaced on a reasonable schedule as outlined in operators' SRTPs and in accordance with goals outlined in the RTP for maintaining the region's capital plant (maintenance of effort).

### **Specified Urbanized Area Flexibility**

In urbanized areas with only one transit operator (Fairfield, Vacaville, Napa) greater flexibility for funding lower scoring projects will be allowed, providing that other operators in the region are not impacted. These operators will also be allowed to use funds for operating, without reduction of funding for capital projects, providing that capital is adequately maintained and replaced on a reasonable schedule as outlined in each operator's SRTPs and in accordance with goals outlined in the RTP for maintaining the region's capital plant (maintenance of effort).

### **Transit Enhancements**

TEA-21 requires that 1% of the FTA section 5307 apportionment be set aside for transit enhancements. Eligible projects include: historic preservation, rehabilitation, and operation of historic mass transportation buildings, structures, and facilities, bus shelters, landscaping and other scenic beautification, public art, pedestrian access and walkways, bicycle access, including bicycle storage facilities, transit connections to parks, signage, and enhanced access for persons with disabilities to mass transportation.

Due to the overwhelming needs to sustain the current transit capital plant, funded score 16 or 17 projects which can be identified as eligible transit enhancement project candidates would count against the 1% set-aside for transit enhancements, including, but not limited to, rehabilitation of cable cars and historic cars, and bike racks to be procured as part of a bus purchase. Any remaining balance will be put into a reserve for funding eligible projects in subsequent years.

### **Preventive Maintenance Funding for Operating Purposes**

Preventive maintenance will be considered a score 9 funding priority in Transit Capital Priorities, unless a fiscal need exists and can be demonstrated accordingly by the requesting operator based on the guidelines outlined below. MTC must declare that a fiscal need exists to fund preventive maintenance where such action would displace higher scoring capital projects ready to move forward in a given fiscal year. A fiscal need can be declared if the following conditions exist:

- An operator can demonstrate in a board-approved budget or budget assumption that a shortfall exists; this budget or budget assumption must consider MTC's latest adopted fund estimate and/or Short-Range Transit Plan forecasts for transit-specific revenues.
- An operator must demonstrate that all reasonable cost control and revenue generation strategies have been implemented and that a residual shortfall remains.
- An operator can demonstrate that the shortfall; if not addressed, would result in a significant service reduction.

The Commission will consider the severity of the shortfall and the scope and impact of the service cuts in determining whether fiscal need exists. Operators establishing a fiscal need must also adhere to the following four requirements in order to be eligible to receive funding for preventive maintenance:

- i. Operators must successfully show a board approved bridging strategy that will sustain financial recovery beyond the year for which preventive maintenance is requested.
- ii. The bridging strategy should not rely on future preventive maintenance funding to achieve a balanced budget. In other words, should a service adjustment be required to balance the budget over the long run, preventive maintenance should not be invoked as a stopgap to inevitable service reductions.
- iii. Funds programmed to preventive maintenance should not be considered as a mechanism to sustain or replenish operating reserves.
- iv. Operators requesting FTA formula funds to meet operating shortfalls will be limited to two years preventive maintenance funding within a 12-year period.

Concepts for Preventive Maintenance Allowance – For an individual operator to make use of preventive maintenance funding, other operators in the region must be able to move forward with planned capital replacement. The following two mechanisms will ensure both protection of capital replacement and flexibility for preventive maintenance:

- Capital Exchange – In this option, an operator could elect to remove an eligible capital project from TCP funding consideration for the useful life of the asset in exchange for preventive maintenance funding. The funding is limited to the amount of capital funding an operator would have received under the current TCP policy in a normal economic climate. If an operator elects to replace the asset - removed from regional competition for funding under these provisions – earlier than the timeline established for its useful life, the replacement will be considered an expansion project.
- Negotiated Agreement within an Urbanized Area – In the second option, an operator may negotiate with the other operators in the affected urbanized areas to receive an amount of preventive maintenance funding, providing that a firewall is established between the affected urbanized area(s) and all other urbanized areas. This will ensure that other operators' high-scoring capital replacement projects are not jeopardized.

The requesting operator will enter into an MOU with MTC and, if applicable, other transit properties affected by the preventive maintenance agreement. The agreement will embody the four eligibility requirements outlined above as well as any other terms and conditions of the agreement. It is the intent of this policy that funding for preventive maintenance will not increase the region's transit capital shortfall.

**Zero Emission Bus Set-Aside for FY 2008-09**

The regional Zero Emission Bus Advanced Demonstration Project, which is required by California Air Resources Board regulations, is being implemented by AC Transit and VTA, in conjunction with Golden Gate Transit, SamTrans and SFMTA. MTC staff originally proposed to devote \$10 million of the region's Proposition 1B transit funds to the project, but in the final plan adopted by the Commission, this commitment was shifted to the FTA Section 5307 program. In addition, \$942,000 of the Partnership's original \$15 million commitment to the project remains to be programmed. Accordingly, the FY 2008-09 program will include a one-time \$10.9 million set-aside from the SFO and SJ urbanized areas, which will be programmed to AC Transit and VTA for the ZEB project.

**APPENDIX 1 – BOARD RESOLUTION**

***Sample Resolution of Board Support  
FTA Section 5307 and 5309 Fixed Guideway (FG) Project and Surface Transportation  
Program Application***

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

**AUTHORIZING THE FILING OF AN APPLICATION FOR FTA SECTION 5307 AND  
5309 FIXED GUIDEWAY(FG) AND SURFACE TRANSPORTATION PROGRAMS  
FUNDING FOR (project name) AND COMMITTING THE NECESSARY LOCAL  
MATCH FOR THE PROJECT(S) AND STATING THE ASSURANCE OF (name of  
jurisdiction) TO COMPLETE THE PROJECT**

**WHEREAS**, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Public Law Public Law 109-59, August 10, 2005) continues the Federal Transit Administration Formula Programs (23 U.S.C. §53) and Surface Transportation Program (23 U.S.C. § 133); and

**WHEREAS**, pursuant to SAFETEA-LU, and the regulations promulgated there under, eligible project sponsors wishing to receive Federal Transit Administration (FTA) Section 5307 and Section 5309 Fixed Guideway (FG) Formula or Surface Transportation Program grants for a project shall submit an application first with the appropriate metropolitan transportation planning organization (MPO), for review and inclusion in the MPO's Transportation Improvement Program (TIP); and

**WHEREAS**, the Metropolitan Transportation Commission is the MPO for the San Francisco Bay region; and

**WHEREAS**, (applicant) is an eligible project sponsor for FTA Section 5307, FTA 5309 FG, or Surface Transportation Program funds; and

**WHEREAS**, (applicant) wishes to submit a grant application to MTC for funds from the FY 2008-09 FTA Section 5307 and FTA 5309 FG, or Surface Transportation Program funds for the following project:

(project description) .

**WHEREAS**, MTC requires, as part of the application, a resolution stating the following:

- 1) the commitment of necessary local matching funds of at least of 20% for FTA Section 5307 and FTA Section 5309 FG and 11.47% for Surface Transportation Program funds; and
- 2) that the sponsor understands that the FTA Section 5307, FTA Section 5309 FG and Surface Transportation Programs funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded FTA Section 5307, FTA Section 5309 FG and Surface Transportation Programs funds; and
- 3) the assurance of the sponsor to complete the project as described in the application, and if approved, as programmed in MTC's TIP; and
- 4) that the sponsor understands that FTA funds must be obligated within three years of programming and the Surface Transportation Program funds must be obligated by September 30 of the year that the project is programmed for in the TIP, or the project may be removed from the program.

*Resolved, that (agency name) is an eligible sponsor of projects in the FTA Sections 5307 and 5309 FG and STP Programs; and be it further*

*Resolved, that (agency name) is authorized to submit an application for FTA Sections 5307 and 5309 FG and STP funds for (project name); and be it further*

*Resolved, that there is no legal impediment to (agency name) making applications for FTA Sections 5307 and 5309 FG and STP funds; and be it further*

*Resolved, that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of (agency name) to deliver such project; and be it further*

**NOW, THEREFORE, BE IT RESOLVED** by (governing board name) that (applicant) is authorized to execute and file an application for funding under the FTA Section 5307, FTA Section 5309 FG, and/or Surface Transportation Program of SAFETEA-LU in the amount of (\$request) for (project description); and

**BE IT FURTHER RESOLVED** that (governing board) by adopting this resolution does hereby state that:

- 1) (applicant) will provide (\$ match amount) in local matching funds; and
- 2) (applicant) understands that the FTA Sections 5307 and 5309 FG and STP funding for the project is fixed at ( \$ actual amount), and that any cost increases must be funded by the (applicant) from local matching funds, and that (applicant) does not expect any cost

increases to be funded with FTA Sections 5307 and 5309 FG and Surface Transportation Program funds; and

- 3) (project name) will be built as described in this resolution and, if approved, for the amount shown in the Metropolitan Transportation Commission (MTC) Transportation Improvement Program (TIP) with obligation occurring within the timeframe established below; and
- 4) The program funds are expected to be obligated by September 30 of the year the project is programmed for in the TIP.

**BE IT FURTHER RESOLVED** that a copy of this resolution will be transmitted to the MTC in prior to MTC programming the FTA Section 5307 and 5309 FG or Surface Transportation Program funded project in the Transportation Improvement Program (TIP); and

**BE IT FURTHER RESOLVED** that the MTC is requested to support the application for the project described in the resolution and to program the project, if approved, in MTC's TIP.

**APPENDIX 2 – OPINION OF COUNSEL**

***Sample Opinion of Legal Counsel  
FTA Section 5307, FTA Section 5309 FG, and STP Project Application***

(Date)

To: Metropolitan Transportation Commission  
Fr: (Applicant)  
Re: Eligibility for FTA Section 5307 Program, FTA 5309 Fixed Guideway (FG) Program, and Surface Transportation Program (STP)

This communication will serve as the requisite opinion of counsel in connection with the application of (Applicant) \_\_\_\_\_ for funding from the FTA Section 5307 and 5309 FG, and STP Programs made available pursuant to the Reauthorization of TEA 21 Legislation.

1. (Applicant) \_\_\_\_\_ is an eligible sponsor of projects for the FTA Section 5307, FTA Section 5309 FG, and STP Programs.
2. (Applicant) \_\_\_\_\_ is authorized to submit an application for FTA Section 5307, FTA Section 5309 FG, and STP funding for (project) \_\_\_\_\_
3. I have reviewed the pertinent state laws and I am of the opinion that there is no legal impediment to (Applicant) \_\_\_\_\_ making applications FTA Section 5307, FTA Section 5309 FG, and STP Program funds. Furthermore, as a result of my examinations, I find that there is no pending or threatened litigation which might in any way adversely affect the proposed projects, or the ability of (Applicant) \_\_\_\_\_ to carry out such projects.

Sincerely,

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

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

***Optional Language to add to the Resolution for Local Support***

Project sponsors have the option of consolidating the 'Opinion of Legal Counsel' within the Resolution of Local Support, by incorporating the following statements into the Resolution of Local Support:

***Resolved, that (agency name) is an eligible sponsor of projects in the FTA Sections 5307 and 5309 FG and STP Programs; and be it further***

***Resolved, that (agency name) is authorized to submit an application for FTA Sections 5307 and 5309 FG and STP funds for (project name); and be it further***

***Resolved, that there is no legal impediment to (agency name) making applications for FTA Sections 5307 and 5309 FG and STP funds; and be it further***

***Resolved, that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of (agency name) to deliver such project; and be it further***

If the above language is not provided within the Resolution of Local Support, an Opinion of Legal Counsel is required as provided (Attachment 9, page 1).