

Date: January 27, 2021
W.I.: 1512
Referred By: PAC
Revised: 09/28/22-C 09/27/23-C
03/27/24-C 04/24/24-C
11/20/24-C

ABSTRACT

Resolution No. 4444, Revised

This resolution approves the process and establishes the criteria for programming:

- Federal Transit Administration (FTA) Sections 5307 Urbanized Area Formula, 5337 State of Good Repair, and 5339 Bus & Bus Facilities formula funds apportioned to the San Francisco Bay Area starting in FY 2020-21
- Federal Highway Administration STP and CMAQ funds dedicated to Transit Capital Rehabilitation and Transit Priorities projects by the One Bay Area Grant Program, and
- Bridge tolls and other regional revenues dedicated to transit capital projects by the Core Capacity Challenge Grant Program (MTC Resolution 4123), and
- Proceeds of financing required to advance future FTA or STP/CMAQ revenues to fund annual TCP or CCCGP programs of projects.

This resolution includes the following attachment:

Attachment A - San Francisco Bay Area Transit Capital Priorities Process and Criteria for Development of the FY2020-21 and Future Transit Capital Priorities Project Lists

Attachment A of this resolution was revised on September 28, 2022 to add process and criteria information for the Zero Emission Bus Infrastructure Set-Aside program and update Fixed Guideway caps as directed by the Commission.

Attachment A of this resolution was revised on September 27, 2023 to clarify debt service project scoring and proportional reduction guidance, as well as to update the document throughout to reference both the FAST Act and the BIL.

ABSTRACT

MTC Resolution No. 4444

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Attachment A of this resolution was revised on March 27, 2024 to update UZA eligibility based on 2020 Census Data, update fixed guideway cap totals and the fixed guideway spend-down timeline, add a new timely obligation of funds policy, and incorporate an interim bus/van pricelist policy to address rising vehicle prices.

Attachment A of this resolution was revised on April 24, 2024 to update ADA formulas based on 2020 Census Data and 2022 National Transit Database data.

Attachment A of this resolution was revised on November 20, 2024 to update the bus/van pricelist, fixed guideway cap amounts, preventive maintenance policy, and the Zero Emission Bus Infrastructure Set-Aside program policy.

Further discussion of the Transit Capital Priorities Policy is contained in the MTC Programming and Allocations Committee Summary Sheets dated January 13, 2021, September 14, 2022, September 13, 2023, March 13, 2024, April 10, 2024, and November 13, 2024.

Date: January 27, 2021
W.I.: 1512
Referred By: PAC

RE: San Francisco Bay Area Transit Capital Priorities Process and Criteria for Fiscal Years Starting FY2020-21

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4444

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 (TCP) 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, 5337 and 5339 funds or any successor programs for fiscal years starting in FY2020-21, Federal Highway Administration STP and CMAQ funds dedicated to Transit Capital Rehabilitation and Transit Priorities projects by the One Bay Area Grant Program, bridge tolls and other regional revenues dedicated to transit capital projects by the Core Capacity Challenge Grant Program (MTC Resolution 4123), and proceeds of financing required to advance future FTA or STP/CMAQ revenues to fund annual TCP programs of projects to finance transit 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 the Federal Transit Administration (FTA), and such agencies as may be appropriate.

METROPOLITAN TRANSPORTATION COMMISSION

Scott Haggerty, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in San Francisco, California and at other remote locations, on January 27, 2021.

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11/20/24-C

Attachment A
Resolution No. 4444
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San Francisco Bay Area Transit Capital Priorities Process and Criteria

**For Development of the FY2020-21 and Future
Transit Capital Priorities Project Lists**

Metropolitan Transportation Commission
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105

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I. BACKGROUND

The Transit Capital Priorities (TCP) Process and Criteria applies to the programming of:

- Federal Transit Administration (FTA) Sections 5307 Urbanized Area Formula, 5337 State of Good Repair, and 5339 Bus & Bus Facilities formula funds apportioned to the San Francisco Bay Area in FY2020-21 and beyond, until Commission passes a successor resolution,
- Federal Highway Administration STP and CMAQ funds dedicated to Transit Capital Rehabilitation and Transit Priorities projects by the One Bay Area Grant Program, and
- Bridge tolls and other regional revenues dedicated to transit capital projects by the Core Capacity Challenge Grant Program (MTC Resolution No. 4123), and
- Financing required to advance future FTA or STP/CMAQ revenues to fund annual TCP or CCCGP programs of projects.

The 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 (UZAs) of San Francisco/Oakland, San Jose, Concord, Santa Rosa, and Antioch; and the small urbanized areas of Vallejo, Fairfield, Vacaville, Napa, Livermore, Gilroy-Morgan Hill, and Petaluma.

On December 4, 2015, President Obama signed the Fixing America's Surface Transportation (FAST) Act into law. The FAST Act provides funding authorizations for FY2016 through FY2020. The Act maintains the same FTA formula programs as the previous authorization, Moving Ahead for Progress in the 21st Century (MAP-21). The FAST Act includes few modifications to FTA programs or policies. These modifications have been included in the TCP Criteria as appropriate. On November 15, 2021, President Biden signed the Bipartisan Infrastructure Law (BIL), increasing available formula funding in the 5307 and 5337 programs for Fiscal Years 2022 through 2026. The BIL includes no modifications to FTA programs or policies.

In December 2013, MTC adopted Resolution No. 4123 for the Transit Core Capacity Challenge Grant Program (CCCGP), which establishes a policy commitment of approximately \$7.4 billion in federal, state, regional and local funds to high-priority transit capital projects that will improve the capacity and state of good repair of transit services in the urban core of the region. The CCCGP will determine the TCP program amounts for certain projects and sponsors. A more detailed description of the CCCGP is provided on Page 39 of Attachment A to this resolution

II. GOALS AND OBJECTIVES

The goal of the TCP Process and Criteria is to fund transit projects that are most essential to the region and consistent with Plan Bay Area 2040, the region's current long-range Regional Transportation Plan (RTP), and Plan Bay Area 2050, the updated RTP currently under development. The TCP Process and Criteria also implements elements of the Transit Sustainability Project recommendation (MTC Resolution No. 4060). Among the region's objectives for the TCP Process and Criteria are to:

Fund basic capital requirements: All eligible projects are to be considered in TCP Process and Criteria 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 information provided by the transit operators in response to a call for projects, or on information provided through the CCCGP. Operator-proposed projects should be based on Short Range Transit Plan (SRTP) service objectives or other board-approved capital plans. Requests for replacement/rehabilitation of assets should be consistent with FTA-required Transit Asset Management (TAM) plans. All projects not identified as candidates for the TCP Program are assumed to be funded by other fund sources and are so identified in operators' SRTPs or capital plans.

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 are also eligible for funding under these federal and state programs. Development of the TCP Program of Projects ("TCP Program") 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.

III. FTA FORMULA FUNDS

A. TCP Application Process

The Transit Finance Working Group (TFWG) serves as the forum for discussing the TCP Process and Criteria, the TCP Program of Projects, 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 major policy revisions and 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 Program and any other transit-related funding programs after the TFWG and PTAC has reviewed them.

Capital Program Submittal

For the purposes of programming, project sponsors will submit requests for funding in accordance with detailed 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 FY2020-21 programming should be submitted by March 10, 2021, the planned date when the Programming and Allocations Committee will consider the proposed program. If a board resolution cannot be provided by this date due to board meeting schedule constraints, applicants should indicate in a cover memo with their application when the board resolution will be adopted. 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, 5337, 5339, and/or STP/CMAQ 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 in 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 that have passed the screening process. Based on the score assignment provided in Table 6, 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 passing screening and scoring criteria will be considered for programming in the TCP Program 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. Project fund sources will be assigned by MTC staff and will be based on project eligibility and the results of the Multi-County Agreement model.

FTA Public Involvement Process and the TIP

FTA Public Involvement Process: To receive an FTA grant, a grant applicant must meet certain public participation requirements in development of the FTA programs. As provided for in FTA Circular 9030.1E (revised January 16, 2014), FTA considers a grantee to have met the public participation requirements associated with the annual development of the Program of Projects when the grantee follows the public involvement process outlined in the FHWA/FTA planning regulations for the TIP. In lieu of a separate public involvement process, MTC will follow the public involvement process 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 four-year programming document, listing federally funded transportation projects, projects requiring a federal action, and projects deemed regionally significant. 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.

Changes to the Transit Capital Priorities Program

Each year after FTA releases apportionments for its formula funding programs, the preliminary TCP Program for the year will be revised if necessary to fit within the available revenues. The annual program revisions and corresponding amendment to the TIP is referred to as the Program of Projects (POP) Amendment, and finalizes the program for the year.

As part of the POP amendment, project sponsors may also request discretionary amendments to the preliminary program that conform to the TCP Process and Criteria

programming policies. Discretionary amendments may be allowed only in certain circumstances. The following general principles govern 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.

Following the FY2020-21 program, project sponsors will be able to make revisions to their requests for future years.

Funding Shortfalls

If final apportionments for the FTA formula 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 project 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, before making reductions to programming. As a final option for closing any shortfalls, for projects score-16 and below, staff may institute an across-the-board reduction in programming within the financially constrained score level, proportionally allocated within each affected urbanized area. Score-17 debt service programming will be programmed first, and will not be affected by proportional reductions.

Project Review

Each operator is expected to complete their own Federal grant application using FTA's Transit Award Management System (TrAMS). MTC staff will review grant applications and submit concurrence letters to FTA on behalf of project sponsors as needed.

Program Period

The TCP Criteria will be used to develop a program of projects for FY2020-21, aligned with the FAST Act continuing resolution in place at time of adoption. The policy remains

aligned with the BIL, which covers FYs 2021-22 through 2025-26. Staff will endeavor to align future updates with multi-year programming under any new surface transportation authorization in order to help operators with multi-year capital budgeting, and to help the region take a longer-term view of capital replacement needs.

B. Project Eligibility

Federal Requirements and Eligibility

Federal and State Legislation

Projects selected will conform to the requirements of the FAST Act, the Bipartisan Infrastructure Law (BIL), Clean Air Act Amendments of 1990 (CAAA), the California Clean Air Act (CCAA), and the Americans with Disabilities Act (ADA). Project sponsors shall agree to comply with federal law, including all applicable requirements of the FAST Act, the Bipartisan Infrastructure Law, CAAA, ADA, Section 504 of the Rehabilitation Act, and Title VI of the Civil Rights Act of 1964, in implementing their Projects.

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://mtc.ca.gov/our-work/operate-coordinate/intelligent-transportation-systems-its>.

1% Security Policy

Project sponsors are also required to meet the FTA 1% security set-aside provisions as established in the FY2004-05 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. An updated circular (FTA Circular 9030.1E - January 16, 2014) includes additional certification requirement by designated recipients at the urbanized area level. As the designated recipient, MTC will review the grant applications for each appropriations year for compliance and certification to FTA. The security programming may not apply to all eligible operators in a UA, depending on need for security projects. Refer to the applicable FTA circulars for additional information.

Program Eligibility

Program eligibility is based on the statutory eligibility for the FTA Section 5307, 5337 and 5339 programs. Following are the program eligibility for each of the three funding programs authorized by the FAST Act and the BIL. If revisions to eligibility for these programs are adopted as part of reauthorizing legislation of FTA circulars or other guidance issued by FTA, the region will consider conforming amendments to the TCP Process and Criteria.

FTA Section 5307 Urbanized Area Federally Defined Program Eligibility (Statutory Reference: 49USC5307): Capital projects; planning; job access and reverse commute projects; and operating costs of equipment and facilities for use in public transportation in urbanized areas with a population of fewer than 200,000, and, in certain circumstances, in urbanized areas with a population greater than 200,000. Eligible capital projects include—

- (A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;
- (B) rehabilitating a bus;
- (C) remanufacturing a bus;
- (D) overhauling rail rolling stock;
- (E) preventive maintenance;
- (F) leasing equipment or a facility for use in public transportation
- (G) a joint development improvement that meet specified requirements
- (H) the introduction of new technology, through innovative and improved products, into public transportation;
- (I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), under specified circumstances;
- (J) establishing a debt service reserve to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project
- (K) mobility management; and
- (L) associated capital maintenance.

FTA Section 5337 State of Good Repair Federally Defined Program Eligibility (Statutory Reference: 49USC5337): Capital projects to maintain fixed guideway and high intensity motorbus public transportation systems in a state of good repair, including projects to replace and rehabilitate—

- (A) rolling stock;
- (B) track;
- (C) line equipment and structures;
- (D) signals and communications;

- (E) power equipment and substations;
- (F) passenger stations and terminals;
- (G) security equipment and systems;
- (H) maintenance facilities and equipment;
- (I) operational support equipment, including computer hardware and software;
and
- (J) development and implementation of a transit asset management plan.

The term 'fixed guideway' means a public transportation facility:

- (A) using and occupying a separate right-of-way for the exclusive use of public transportation;
- (B) using rail;
- (C) using a fixed catenary system;
- (D) for a passenger ferry system; or
- (E) for a bus rapid transit system.

The term 'high intensity motorbus' means public transportation that is provided on a facility with access for other high-occupancy vehicles.

FTA Section 5339 Bus and Bus Facilities Federally Defined Program Eligibility (Statutory Reference: 49USC5339): Capital projects—

- (1) to replace, rehabilitate, and purchase buses and related equipment; and
- (2) to construct bus-related facilities.

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 partially determine the amounts of FTA Section 5307, 5337 and 5339 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

Urbanized Area	Eligible Transit Operators
San Francisco-Oakland	AC Transit, ACE, BART, Caltrain, GGBHTD, Marin County Transit District, SFMTA, SamTrans, SMART, Union City Transit, Water Emergency Transportation Authority, WestCAT
San Jose	ACE, Caltrain, VTA
Concord-Walnut Creek	BART, CCCTA, LAVTA
Antioch	BART, ECCTA
Livermore-Pleasanton-Dublin	ACE, BART, LAVTA
Santa Rosa	GGBHTD, Santa Rosa City Bus, SMART, Sonoma County Transit
Vallejo	Napa Vine on behalf of American Canyon, Solano County Transit
Fairfield	FAST (formerly Fairfield-Suisun Transit)
Vacaville	Vacaville Transit
Napa	Napa VINE
Gilroy-Morgan Hill	Caltrain, VTA
Petaluma	GGBHTD, Petaluma Transit, Sonoma County Transit

- (i) Altamont Commuter Express (ACE) is eligible to claim funds in three 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 UZA, which prevents ACE from claiming funds in that UZA. 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 Livermore-Pleasanton-Dublin UZAs will be assessed for eligibility upon review of the ACE and Union Pacific agreement.
- (ii) Santa Rosa City Bus, Sonoma County Transit, and SMART will apportion Santa Rosa urbanized area funding in accordance with an agreement between the three agencies, which first incorporated SMART in FY2020, updating the previous agreement between the bus operators.
- (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 UZA at this time. However, should it become advantageous to the region for GGBHTD to report revenue miles in the Santa Rosa UZA and thereby claim funds in that UZA, agreements between the operators will be re-evaluated. Golden Gate is an eligible claimant for funds in the Petaluma UZA, and in years where extensive capital needs in other urbanized areas in the region is high; Golden Gate’s projects could be funded in the Petaluma UZA.
- (iv) Funding agreements between operators in the San Jose and Gilroy-Morgan Hill UZAs are subject to the conditions outlined in the Caltrain Joint Powers Board Agreement and any agreements negotiated between the Board and MTC.

Eligibility for New Operators

New operators will be required to meet the following criteria before becoming eligible for TCP funding:

- The operator provides public transit services in the San Francisco Bay Area that are compatible with the region's Regional Transportation Plan.
- The operator is an FTA grantee.
- The operator has filed NTD reports for at least two years prior to the first year of programming, e.g., has filed an NTD report for 2019 services and intends to file a report for 2020 to be eligible for FY 2020-21 TCP funding.
- The operator has executed a Cooperative Planning Agreement with MTC.
- The operator has submitted a current SRTP or other board-approved capital plan to MTC.

Screening Criteria

A project must conform to the following threshold requirements before the project can be scored and ranked in the TCP Program's project list. Screening criteria envelopes 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.

The proposed project must be consistent with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866.

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 or other board-approved capital plan, or 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). Requests for replacement/rehabilitation of assets should be consistent with Transit Asset Management (TAM) plans required by the FTA TAM rule and regional TAM performance metrics.

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. Examples of projects include:

- Replacement/rehab of one revenue vehicle sub-fleet or ferry vessel; a sub-fleet is defined as the same bus size, manufacturer, and year; or any portion of a train set that reaches the end of its useful life at a common time.
- Train control or traction power replacement/rehab needs for a given year.
- Fixed guideway replacement/rehab needs for a given year (e.g., track replacement and related fixed guideway costs, ferry fixed guideway connectors).

All projects must be well justified, and have a clear need directly addressed by the project. All assets that would be replaced or rehabilitated must be included in the Regional Transit Capital Inventory (RTCI), a database of all transit capital assets in the region. Vehicle replacement projects, in particular, must identify the specific vehicles being replaced as listed in the RTCI.

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

Heavy-Duty Buses, other than Over-the-Road-Coaches*	12 years (or 500,000 miles in service)
Over-the-Road-Coaches*	14 years (or 500,000 miles in service)
Medium-Duty Buses*	10 years (or 500,000 miles in service)
* (or an additional 5 years for buses rehabilitated with TCP funding)	
Van ¹	4, 5, or 7 years, depending on type
Light Rail Vehicle (LRV)	25 years
Electric Trolleybus	15 years
Heavy Railcar ²	25 years
(or an additional 20 years for railcars rehabilitated with TCP funding)	
Locomotive	25 years
(or an additional 20 years for locomotives rehabilitated with TCP funding)	
Heavy/Steel Hull Ferries	30 years
(or an additional 20 years for ferries rehabilitated with TCP funding)	
Lightweight/Aluminum Hull Ferries ³	25 years
Used Vehicles ⁴	Varies by type
Tools and Equipment	10 years
Service Vehicle	7 years
Non-Revenue Vehicle	7 years
Track	Varies by track type
Overhead Contact System/3 rd Rail	Varies by type of OCS/3 rd 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) *Lightweight 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).*

Early Replacement Programming Requests

Requests to program vehicle replacement funds one or two years prior to the first eligible year in order to advance procurements or to replace vehicles with higher than normal

maintenance costs will be considered if the proposal has minimal impacts on other operators and can be accommodated within the region's fiscal constraints.

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.

Compensation for Deferred Replacement (Bus Replacement beyond Minimum Useful Life)

Operators that voluntarily replace buses or vans beyond the minimum federally eligible useful life specified in Table 2 will be eligible for either of two financial compensations:

Option 1. Operators receive all of the savings, but need to apply the savings to capital replacement and rehab projects (Score 10-16).

Option 2. Operators receive half of the savings to the region created by later replacement of vehicles, which may be programmed to lower scoring eligible projects.

Savings to the region are calculated based on the pricelist cost and minimum useful life of the vehicle type. For example, if replacement of a bus with a 12-year useful life and a \$600,000 replacement cost (federal share) is deferred for two years, the savings to the region would be $2/12 \times \$600,000 = \$100,000$. Under Option 1, the operator would receive \$100,000 for eligible Score 10-16 capital projects. Under Option 2, the operator would receive \$50,000, which could be programmed for any eligible project. The region would retain the other \$50,000 in savings to be programmed to other needs in accordance with the TCP policy. Operators may choose between Option 1 and Option 2.

For operators that are proposing to take advantage of the bus replacement compensation, the vehicles being replaced must be older than the age requirements listed above. It is the operator's responsibility to ensure that vehicle replacement requests beyond the minimum useful life maintain a state of good repair for the assets. Requests to activate this policy option should be noted when transmitting project applications to MTC.

The Compensation for Deferred Replacement policy does not apply to bus procurements deferred under the interim bus/van pricelist policy.

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

all funding programs. If the cost of the vehicle procurement exceeds the annual cap, the difference will be programmed in subsequent years subject to availability of funds.

Fixed guideway replacement and rehabilitation projects in the aggregate cannot exceed the amounts specified for each fixed guideway (FG) operator in Table 3. The total amount of the caps is \$144 million, an approximately 20% increase from the cap prior to FY 2021-22 of \$120 million, due to the increased 5337 funding availability under the Bipartisan Infrastructure Law (BIL). Each operator’s cap is based on its share of the updated fixed guideway need projections included in the adopted Plan Bay Area 2040 RTP, with a floor applied so that no operator’s cap is reduced by more than 5% from their prior cap.

When developing the proposed TCP programs for FY2020-21 and beyond, the fixed guideway caps may be increased or decreased proportionally, depending on the aggregate demand for Score 16 projects compared to projected revenues. Operators have the option of submitting contingent fixed guideway programming requests equal to 20% of the operator’s cap, in addition to requests for programming the cap amount. The contingent requests will be programmed if the program’s fiscal balance allows the region to increase the caps. In UZAs where available Section 5337 funding remains after meeting Score 16 requests and fixed guideway cap amounts, additional fixed guideway programming will be recommended for eligible operators

Additionally, in an attempt to better align FG needs and FG cap programming, in the call for projects for a multi-year program, operators may request more than their annual cap in a particular year if the increase is offset by a lower request in another year (i.e. as long as the total requested for FG projects over a four-year program does not exceed the annual cap times four). When developing the program, staff will attempt to program FG caps as requested. However, in order to balance needs across operators within each UZA, programming may be adjusted to match available funds and project needs.

Table 3. Fixed Guideway Caps

FG Operator	Project Category	Fixed Guideway Cap
ACE	All Eligible FG Categories	\$1,802,017
BART	All Eligible FG Categories	66,847,732
Caltrain	All Eligible FG Categories	15,457,327
GGBHTD	All Eligible FG Categories	6,048,175
SFMTA	All Eligible FG Categories	37,672,782
SMART	All Eligible FG Categories	1,893,589
VTA	All Eligible FG Categories	9,160,442
WETA	All Eligible FG Categories	7,133,455

The cap amount may be programmed to any projects that are eligible for FTA Section 5337 funding and that fall into one of the following categories:

- Track/Guideway Replacement/Rehabilitation
- Traction Power Systems Replacement/Rehabilitation
- Train Control/Signaling Replacement/Rehabilitation
- Dredging
- Ferry Fixed Guideway Connectors Replacement/Rehabilitation
- Ferry Major Component Replacement/Rehabilitation
- Ferry Propulsion Replacement/Rehabilitation
- Cable Car Infrastructure Replacement/Rehabilitation
- Wayside or Onboard Fare Collection Equipment Replacement/Rehabilitation for Fixed Guideway vehicles

Programming for all projects that fall within these categories must be within the operator's cap amount with the exception of fixed guideway infrastructure projects included in the CCCGP program of projects. Such projects may be funded with a combination of fixed guideway cap funds and additional TCP funds above the operator's fixed guideway cap.

Operators may request a one-year waiver to use fixed guideway cap funds for other capital needs that are not included in one of the eligible project categories listed above if the operator can demonstrate that the other capital needs can be addressed by the one-year waiver, or that the use of fixed guideway cap funds is part of a multi-year plan to address the other capital needs. The operator must also demonstrate that the waiver will have minimal impact on the operator's ability to meet its fixed guideway capital needs.

Emergency duration special protocols:

~~Staff will explicitly consider pandemic impacts on operating and fixed guideway capital needs when assessing these requests. Staff will prioritize FG cap funds when assessing any requests for PM/operating assistance from FG cap operators, pending FTA funding source eligibility, including applicable Emergency Relief provisions. Emergency relief requests and programming are subject to the Principles for Redirecting Funds to Transit Operators (Appendix 3).~~

Zero Emission Bus (ZEB) Infrastructure set-aside projects within the San Francisco-Oakland, Concord-Walnut Creek, Antioch, and Livermore-Pleasanton-Dublin UZAs are exempt from the TCP scoring process, when funding is available, and are governed by the below principles. Commission action in March 2022 set aside an average of \$20 million annually specifically for bus operators as they transition to zero emission fleets. The CARB Innovative Clean Transit rule creates an extraordinary new funding demand to

deliver transit service, with the need for new infrastructure in addition to typical vehicle replacement needs.

Initially, MTC will use a formula distribution system based on relative transit fleet size, according to the Regional Transit Capital Inventory, which will be presented for review at the Transit Finance Working Group.

While bus infrastructure needs exceed FTA formula funding throughout the region, this set-aside is focused on the SF-O, Concord-Walnut Creek, Antioch, and Livermore-Pleasanton-Dublin UZAs, as the only UZAs in which bus operators compete for funding with each other or with fixed guideway operators with large Score-16 needs. Eligible operators are listed in the table below.

UZA	Eligible Bus Operators
San Francisco-Oakland (SF-O)	SFMTA, AC Transit, SamTrans, GGBHTD, Marin Transit, Union City, WestCAT
Concord-Walnut Creek (CON)	LAVTA, CCCTA
Antioch (ANT)	ECCTA
Livermore-Pleasanton-Dublin (LIV)	LAVTA

The set-aside will be in place in these competitive UZAs when funding allows, but not in project years / programming blocks (i.e. FYs 25 and 26, programmed jointly) where maintaining the set-aside would prevent the programming of score-16 needs. In these instances, a partial set-aside (i.e. the amounts identified via formula for operators outside the oversubscribed UZA in question) could be programmed only for UZAs without score-16 oversubscription in a given year. The availability of funds in any given fiscal year will be determined at the discretion of MTC staff, taking into account out-year needs.

Eligible Projects: The ZEB Infrastructure Set-Aside Program prioritizes the non-vehicle needs that will be required to transition the region to a zero-emission fleet. This includes additional infrastructure for battery charging, hydrogen fueling, and associated elements. Requests for operating assistance or vehicle purchases should remain part of the main TCP and not the set-aside. The following are the major project categories the ZEB Infrastructure Program will fund:

1. Purchase and installation or construction of electric charging or hydrogen fueling equipment and infrastructure
2. Rehabilitation of existing zero-emission charging or fueling infrastructure
3. Any 5307-eligible capital project phase, including planning, environmental clearance, design, and construction

4. Workforce training and development related to maintenance and operation of zero-emission charging and fueling systems.

Other replacement projects cannot exceed \$5 million. This cap applies to non-vehicle and non-fixed guideway Score 16 projects, including communications systems, bus fare collection equipment (fixed guideway wayside fare collection equipment is covered under the fixed guideway caps), and bus emission reduction devices; and lower scoring replacement projects. Vehicle rehabilitation projects that are treated as Score 16 because the life of the asset is being extended (see Asset Useful Life above) are also subject to this cap. Exceptions to this cap include those projects included in the CCCGP. Replacement of Clipper® fare collection equipment that is centralized under MTC will be treated as a separate project for each operator whose Clipper® equipment is being replaced, including MTC for the replacement of back-end equipment and systems, for the purposes of applying this project funding cap. If project costs exceed the cap, the difference will not automatically be programmed in subsequent years; the region will assess its ability to program additional funding year-by-year based on projected revenues and demand for other Score 16 needs.

Expansion or enhancement projects cannot exceed \$3.75 million.

Vanpool Support Program programming cannot exceed the amount of apportionments per UA generated by vanpool reporting to the NTD.

As part of the development of the program, project caps may be increased or decreased on an annual basis in order to better match programming to available revenues, subject to negotiation and agreement among operators and MTC.

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

Bus-Van Pricelist

Requests for funding for buses and vans cannot exceed the prices in the Regional Bus-Van Pricelist for each year of the TCP program as shown in Tables 4 through 7. If an operator elects to replace vehicles with vehicles of a different fuel type, the price listed for the new fuel type vehicle applies, e.g., if an operator is replacing diesel buses with diesel-electric hybrid buses, the operator may request funds up to the amount listed for hybrid buses.

The pricelist was developed through a subcommittee of the TFWG and based on a survey of prices paid by operators in the Bay Area. Price escalation rate by year is noted in the tables.

Note that the bus prices do not include allowances for radios and fareboxes; they will be considered a separate project under the TCP policy. The price of electronic fareboxes varies approximately between \$10,000 and \$14,000 whereas the price of radios varies from \$1,000 to \$5,000. Requests for funding radios and fareboxes should be within the price range mentioned above. Requests above these ranges will require additional justification. Fareboxes for/on fixed guideway vehicles will be funded out of the operators' fixed guideway cap amounts (see Table 3). Operators are expected to include Clipper® wiring and brackets in all new buses, so the buses are Clipper®-ready without requiring additional expenses.

Compensation for Cost Effective Bus Purchases

Under this element of the TCP policy, operators that request less than the full pricelist amount for vehicle replacements would be eligible for either of two financial compensations:

Option 1* Operators receive all of the savings, but need to apply the savings to capital replacement and rehab projects (Score 10-16).

Option 2* Operators receive half of the savings to the region created by cost effective vehicle purchases, which may be programmed to lower scoring (below score 10) eligible projects, including preventive maintenance.

The intent of this policy element is to ensure that the region's limited funds can cover more of the region's capital needs while targeting funding to the vehicles most in need of replacement.

*If the amount of federal apportionments received does not allow us to fully program all Score 16 projects, MTC reserves the right to reduce the percentage of savings that would go back to the operator.

Interim Bus/Van Pricelist Policy

Until the Commission removes them, the following special protocols are in effect with regard to the bus/van pricelist. Operators may, as needed, fund vehicles above the pricelist amount in two different ways:

Option 1*: Operators may add up to 20% additional TCP funding to each bus, more closely reflecting an 80% FTA funding level for the true cost of buses today.

Option 2: Operators may work within their existing programming to have an up to 20% higher TCP contribution per bus, and defer up to 20% of their planned bus purchases. Deferral of buses will be voluntary, and deferred replacements will be treated equally with all other score-16 project requests in the desired year of programming (e.g., replace 80 of 100 planned replacements now at the

increased cost, and program remaining 20 buses in a later programming year subject to policies in place at that time, including that year's pricelist amount). The compensation for deferred replacement policy will not apply.

*If sufficient funding is available in unprogrammed balances.

Table 4: Regional Bus-Van Pricelist, FY2020-21

Vehicle Type	Total	Federal/MTC	Local	Federal/MTC %	Local %
Minivan Under 22'	71,000	56,800	14,200	80%	20%
Cut-Away/Van, 4 or 5-Year, Gas	101,000	80,800	20,200	80%	20%
Cut-Away/Van, 4 or 5-Year, Diesel	114,000	91,200	22,800	80%	20%
Cut-Away/Van, 4 or 5-Year, CNG	131,000	104,800	26,200	80%	20%
Cut-Away/Van, 7-Year, Gas	114,000	91,200	22,800	80%	20%
Cut-Away/Van, 7-Year, Diesel	161,000	128,800	32,200	80%	20%
Cut-Away/Van, 7-Year, CNG	214,000	171,200	42,800	80%	20%
Transit Bus 30' Diesel	523,000	418,400	104,600	80%	20%
Transit Bus 30' CNG	597,000	477,600	119,400	80%	20%
Transit Bus 30' Hybrid	782,000	625,600	156,400	80%	20%
Transit Bus 30' Battery	900,000	720,000	180,000	80%	20%
Transit Bus 35' Diesel	578,000	462,400	115,600	80%	20%
Transit Bus 35' CNG	686,000	548,800	137,200	80%	20%
Transit Bus 35' Hybrid	835,000	668,000	167,000	80%	20%
Transit Bus 35' Battery	912,000	729,600	182,400	80%	20%
Transit Bus 40' Diesel	554,000	443,200	110,800	80%	20%
Transit Bus 40' CNG	611,000	488,800	122,200	80%	20%
Transit Bus 40' Hybrid	847,000	677,600	169,400	80%	20%
Transit Bus 40' Battery	1,088,000	870,400	217,600	80%	20%
Transit Bus 40' Fuel-Cell	1,218,000	974,400	243,600	80%	20%
Over-the-Road 45' Diesel	659,000	527,200	131,800	80%	20%
Over-the-Road 45' CNG	866,000	692,800	173,200	80%	20%
Over-the-Road 45' Battery	1,145,000	916,000	229,000	80%	20%
Articulated 60' Diesel	888,000	710,400	177,600	80%	20%
Articulated 60' Hybrid	1,265,000	1,012,000	253,000	80%	20%
Articulated 60' Battery	1,363,000	1,090,400	272,600	80%	20%
Articulated 60' Fuel-Cell	1,543,000	1,234,400	308,600	80%	20%
Double-Decker Diesel	1,049,000	839,200	209,800	80%	20%
Notes:					
1. Prices escalated 1.887% over FY2019-20 Pricelist Survey responses, rounded to the nearest \$1,000. If survey responses were not available for a given Vehicle Type, the adopted FY20 Pricelist Total was used as the baseline.					
2. For buses with dual-side doors, add \$50,000 to the total (\$40,000 Federal, \$10,000 Local).					
3. For vehicle procurements over 20, 5% of the cost of the buses can be added to the pricelist amounts to account for soft costs.					

Table 5: Regional Bus-Van Pricelist, FY2021-22

Vehicle Type	Total	Federal/MTC	Local	Federal/MTC %	Local %
Minivan Under 22'	72,000	57,600	14,400	80%	20%
Cut-Away/Van, 4 or 5-Year, Gas	103,000	82,400	20,600	80%	20%
Cut-Away/Van, 4 or 5-Year, Diesel	116,000	92,800	23,200	80%	20%
Cut-Away/Van, 4 or 5-Year, CNG	133,000	106,400	26,600	80%	20%
Cut-Away/Van, 7-Year, Gas	116,000	92,800	23,200	80%	20%
Cut-Away/Van, 7-Year, Diesel	164,000	131,200	32,800	80%	20%
Cut-Away/Van, 7-Year, CNG	218,000	174,400	43,600	80%	20%
Transit Bus 30' Diesel	533,000	426,400	106,600	80%	20%
Transit Bus 30' CNG	608,000	486,400	121,600	80%	20%
Transit Bus 30' Hybrid	797,000	637,600	159,400	80%	20%
Transit Bus 30' Battery	917,000	733,600	183,400	80%	20%
Transit Bus 35' Diesel	589,000	471,200	117,800	80%	20%
Transit Bus 35' CNG	699,000	559,200	139,800	80%	20%
Transit Bus 35' Hybrid	851,000	680,800	170,200	80%	20%
Transit Bus 35' Battery	929,000	743,200	185,800	80%	20%
Transit Bus 40' Diesel	564,000	451,200	112,800	80%	20%
Transit Bus 40' CNG	623,000	498,400	124,600	80%	20%
Transit Bus 40' Hybrid	863,000	690,400	172,600	80%	20%
Transit Bus 40' Battery	1,109,000	887,200	221,800	80%	20%
Transit Bus 40' Fuel-Cell	1,241,000	992,800	248,200	80%	20%
Over-the-Road 45' Diesel	671,000	536,800	134,200	80%	20%
Over-the-Road 45' CNG	882,000	705,600	176,400	80%	20%
Over-the-Road 45' Battery	1,167,000	933,600	233,400	80%	20%
Articulated 60' Diesel	905,000	724,000	181,000	80%	20%
Articulated 60' Hybrid	1,289,000	1,031,200	257,800	80%	20%
Articulated 60' Battery	1,389,000	1,111,200	277,800	80%	20%
Articulated 60' Fuel-Cell	1,572,000	1,257,600	314,400	80%	20%
Double-Decker Diesel	1,069,000	855,200	213,800	80%	20%
Notes:					
1. Prices escalated 1.887% over FY2020-21 Pricelist Survey responses, rounded to the nearest \$1,000. If survey responses were not available for a given Vehicle Type, the adopted FY20 Pricelist Total was used as the baseline.					
2. For buses with dual-side doors, add \$50,000 to the total (\$40,000 Federal, \$10,000 Local).					
3. For vehicle procurements over 20, 5% of the cost of the buses can be added to the pricelist amounts to account for soft costs.					

Table 6: Regional Bus-Van Pricelist, FY2022-23

Vehicle Type	Total	Federal/MTC	Local	Federal/MTC %	Local %
Minivan Under 22'	73,000	58,400	14,600	80%	20%
Cut-Away/Van, 4 or 5-Year, Gas	105,000	84,000	21,000	80%	20%
Cut-Away/Van, 4 or 5-Year, Diesel	118,000	94,400	23,600	80%	20%
Cut-Away/Van, 4 or 5-Year, CNG	136,000	108,800	27,200	80%	20%
Cut-Away/Van, 7-Year, Gas	118,000	94,400	23,600	80%	20%
Cut-Away/Van, 7-Year, Diesel	167,000	133,600	33,400	80%	20%
Cut-Away/Van, 7-Year, CNG	222,000	177,600	44,400	80%	20%
Transit Bus 30' Diesel	543,000	434,400	108,600	80%	20%
Transit Bus 30' CNG	619,000	495,200	123,800	80%	20%
Transit Bus 30' Hybrid	812,000	649,600	162,400	80%	20%
Transit Bus 30' Battery	934,000	747,200	186,800	80%	20%
Transit Bus 35' Diesel	600,000	480,000	120,000	80%	20%
Transit Bus 35' CNG	712,000	569,600	142,400	80%	20%
Transit Bus 35' Hybrid	867,000	693,600	173,400	80%	20%
Transit Bus 35' Battery	947,000	757,600	189,400	80%	20%
Transit Bus 40' Diesel	575,000	460,000	115,000	80%	20%
Transit Bus 40' CNG	635,000	508,000	127,000	80%	20%
Transit Bus 40' Hybrid	879,000	703,200	175,800	80%	20%
Transit Bus 40' Battery	1,130,000	904,000	226,000	80%	20%
Transit Bus 40' Fuel-Cell	1,264,000	1,011,200	252,800	80%	20%
Over-the-Road 45' Diesel	684,000	547,200	136,800	80%	20%
Over-the-Road 45' CNG	899,000	719,200	179,800	80%	20%
Over-the-Road 45' Battery	1,189,000	951,200	237,800	80%	20%
Articulated 60' Diesel	922,000	737,600	184,400	80%	20%
Articulated 60' Hybrid	1,313,000	1,050,400	262,600	80%	20%
Articulated 60' Battery	1,415,000	1,132,000	283,000	80%	20%
Articulated 60' Fuel-Cell	1,602,000	1,281,600	320,400	80%	20%
Double-Decker Diesel	1,089,000	871,200	217,800	80%	20%
Notes:					
1. Prices escalated 1.887% over FY2021-22 Pricelist Survey responses, rounded to the nearest \$1,000. If survey responses were not available for a given Vehicle Type, the adopted FY20 Pricelist Total was used as the baseline.					
2. For buses with dual-side doors, add \$50,000 to the total (\$40,000 Federal, \$10,000 Local).					
3. For vehicle procurements over 20, 5% of the cost of the buses can be added to the pricelist amounts to account for soft costs.					

Table 7: Regional Bus-Van Pricelist, FY2023-24

Vehicle Type	Total	Federal/MTC	Local	Federal/MTC %	Local %
Minivan Under 22'	74,000	59,200	14,800	80%	20%
Cut-Away/Van, 4 or 5-Year, Gas	107,000	85,600	21,400	80%	20%
Cut-Away/Van, 4 or 5-Year, Diesel	120,000	96,000	24,000	80%	20%
Cut-Away/Van, 4 or 5-Year, CNG	139,000	111,200	27,800	80%	20%
Cut-Away/Van, 7-Year, Gas	120,000	96,000	24,000	80%	20%
Cut-Away/Van, 7-Year, Diesel	170,000	136,000	34,000	80%	20%
Cut-Away/Van, 7-Year, CNG	226,000	180,800	45,200	80%	20%
Transit Bus 30' Diesel	553,000	442,400	110,600	80%	20%
Transit Bus 30' CNG	631,000	504,800	126,200	80%	20%
Transit Bus 30' Hybrid	827,000	661,600	165,400	80%	20%
Transit Bus 30' Battery	952,000	761,600	190,400	80%	20%
Transit Bus 35' Diesel	611,000	488,800	122,200	80%	20%
Transit Bus 35' CNG	725,000	580,000	145,000	80%	20%
Transit Bus 35' Hybrid	883,000	706,400	176,600	80%	20%
Transit Bus 35' Battery	965,000	772,000	193,000	80%	20%
Transit Bus 40' Diesel	586,000	468,800	117,200	80%	20%
Transit Bus 40' CNG	647,000	517,600	129,400	80%	20%
Transit Bus 40' Hybrid	896,000	716,800	179,200	80%	20%
Transit Bus 40' Battery	1,151,000	920,800	230,200	80%	20%
Transit Bus 40' Fuel-Cell	1,288,000	1,030,400	257,600	80%	20%
Over-the-Road 45' Diesel	697,000	557,600	139,400	80%	20%
Over-the-Road 45' CNG	916,000	732,800	183,200	80%	20%
Over-the-Road 45' Battery	1,211,000	968,800	242,200	80%	20%
Articulated 60' Diesel	939,000	751,200	187,800	80%	20%
Articulated 60' Hybrid	1,338,000	1,070,400	267,600	80%	20%
Articulated 60' Battery	1,442,000	1,153,600	288,400	80%	20%
Articulated 60' Fuel-Cell	1,632,000	1,305,600	326,400	80%	20%
Double-Decker Diesel	1,110,000	888,000	222,000	80%	20%
Notes:					
1. Prices escalated 1.887% over FY2022-23 Pricelist Survey responses, rounded to the nearest \$1,000. If survey responses were not available for a given Vehicle Type, the adopted FY20 Pricelist Total was used as the baseline.					
2. For buses with dual-side doors, add \$50,000 to the total (\$40,000 Federal, \$10,000 Local).					
3. For vehicle procurements over 20, 5% of the cost of the buses can be added to the pricelist amounts to account for soft costs.					

Table 7B: Regional Bus-Van Pricelist, FY2024-25

Vehicle Type	Total	Federal/MTC	Local	Federal/MTC %	Local %
Minivan Under 22'	90,000	72,000	18,000	80%	20%
Cut-Away/Van, 4 or 5-Year, Gas	130,800	104,640	26,160	80%	20%
Cut-Away/Van, 4 or 5-Year, Diesel	146,400	117,120	29,280	80%	20%
Cut-Away/Van, 4 or 5-Year, CNG	170,400	136,320	34,080	80%	20%
Cut-Away/Van, 4 or 5-Year, Battery	214,500	171,600	42,900	80%	20%
Cut-Away/Van, 7-Year, Gas	146,400	117,120	29,280	80%	20%
Cut-Away/Van, 7-Year, Diesel	207,600	166,080	41,520	80%	20%
Cut-Away/Van, 7-Year, CNG	276,000	220,800	55,200	80%	20%
Transit Bus 30' Diesel	675,600	540,480	135,120	80%	20%
Transit Bus 30' CNG	771,600	617,280	154,320	80%	20%
Transit Bus 30' Hybrid	1,011,600	809,280	202,320	80%	20%
Transit Bus 30' Battery	1,164,000	931,200	232,800	80%	20%
Transit Bus 35' Diesel	747,600	598,080	149,520	80%	20%
Transit Bus 35' CNG	886,800	709,440	177,360	80%	20%
Transit Bus 35' Hybrid	1,080,000	864,000	216,000	80%	20%
Transit Bus 35' Battery	1,179,600	943,680	235,920	80%	20%
Transit Bus 40' Diesel	716,400	573,120	143,280	80%	20%
Transit Bus 40' CNG	790,800	632,640	158,160	80%	20%
Transit Bus 40' Hybrid	1,095,600	876,480	219,120	80%	20%
Transit Bus 40' Battery	1,407,600	1,126,080	281,520	80%	20%
Transit Bus 40' Fuel-Cell	1,574,400	1,259,520	314,880	80%	20%
Over-the-Road 45' Diesel	852,000	681,600	170,400	80%	20%
Over-the-Road 45' CNG	1,119,600	895,680	223,920	80%	20%
Over-the-Road 45' Battery	1,480,800	1,184,640	296,160	80%	20%
Articulated 60' Diesel	1,148,400	918,720	229,680	80%	20%
Articulated 60' Hybrid	1,635,600	1,308,480	327,120	80%	20%
Articulated 60' Battery	1,762,800	1,410,240	352,560	80%	20%
Articulated 60' Fuel-Cell	1,995,600	1,596,480	399,120	80%	20%
Double-Decker Diesel	1,357,200	1,085,760	271,440	80%	20%
Notes:					
1. Prices escalated 20% over adopted FY2024-25 Pricelist, rounded to the nearest \$1,000.					
2. For buses with dual-side doors, add \$50,000 to the total (\$40,000 Federal, \$10,000 Local).					
3. For vehicle procurements over 20, 5% of the cost of the buses can be added to the pricelist amounts to account for soft costs.					

Table 7B: Regional Bus-Van Pricelist, FY2025-26

Vehicle Type	Total	Federal/MTC	Local	Federal/MTC %	Local %
Minivan Under 22'	92,000	73,600	18,400	80%	20%
Cut-Away/Van, 4 or 5-Year, Gas	134,000	107,200	26,800	80%	20%
Cut-Away/Van, 4 or 5-Year, Diesel	150,000	120,000	30,000	80%	20%
Cut-Away/Van, 4 or 5-Year, CNG	175,000	140,000	35,000	80%	20%
Cut-Away/Van, 4 or 5-Year, Battery	220,000	176,000	44,000	80%	20%
Cut-Away/Van, 7-Year, Gas	150,000	120,000	30,000	80%	20%
Cut-Away/Van, 7-Year, Diesel	213,000	170,400	42,600	80%	20%
Cut-Away/Van, 7-Year, CNG	283,000	226,400	56,600	80%	20%
Transit Bus 30' Diesel	694,000	555,200	138,800	80%	20%
Transit Bus 30' CNG	792,000	633,600	158,400	80%	20%
Transit Bus 30' Hybrid	1,039,000	831,200	207,800	80%	20%
Transit Bus 30' Battery	1,195,000	956,000	239,000	80%	20%
Transit Bus 35' Diesel	768,000	614,400	153,600	80%	20%
Transit Bus 35' CNG	911,000	728,800	182,200	80%	20%
Transit Bus 35' Hybrid	1,109,000	887,200	221,800	80%	20%
Transit Bus 35' Battery	1,211,000	968,800	242,200	80%	20%
Transit Bus 40' Diesel	736,000	588,800	147,200	80%	20%
Transit Bus 40' CNG	812,000	649,600	162,400	80%	20%
Transit Bus 40' Hybrid	1,125,000	900,000	225,000	80%	20%
Transit Bus 40' Battery	1,446,000	1,156,800	289,200	80%	20%
Transit Bus 40' Fuel-Cell	1,617,000	1,293,600	323,400	80%	20%
Over-the-Road 45' Diesel	875,000	700,000	175,000	80%	20%
Over-the-Road 45' CNG	1,150,000	920,000	230,000	80%	20%
Over-the-Road 45' Battery	1,521,000	1,216,800	304,200	80%	20%
Articulated 60' Diesel	1,179,000	943,200	235,800	80%	20%
Articulated 60' Hybrid	1,680,000	1,344,000	336,000	80%	20%
Articulated 60' Battery	1,810,000	1,448,000	362,000	80%	20%
Articulated 60' Fuel-Cell	2,049,000	1,639,200	409,800	80%	20%
Double-Decker Diesel	1,394,000	1,115,200	278,800	80%	20%
Notes:					
1. Prices escalated 2.7% over FY2024-25 pricelist, per Plan Bay Area 2050+ inflation projections, rounded to the nearest \$1,000.					
2. For buses with dual-side doors, add \$50,000 to the total (\$40,000 Federal, \$10,000 Local).					
3. For vehicle procurements over 20, 5% of the cost of the buses can be added to the pricelist amounts to account for soft costs.					

Project Definition and Scoring

Project Scoring

All projects submitted to MTC for TCP programming consideration that have passed the screening process will be assigned scores by project category as indicated in Table 8.

Table 8. Project Scores

<u>Project Category/Description</u>	<u>Project Score</u>
Debt Service	17
Debt service – repayment of financing issued against future FTA revenues. Debt service, including principal and interest payments, for any financing required to advance future FTA or STP revenues to fund annual TCP or CCCGP programs of projects will be treated as score 17.	
Revenue Vehicle Replacement	16
Vehicle Replacement - replacement of a revenue vehicle at the end of its useful life (see Asset Useful Life above). 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 or larger buses (above or below a 5’ size differential), 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 it 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.	
Revenue Vehicle Rehabilitation	16
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 locomotives, +20 years for heavy hull ferries). Rehabilitation of historic railcars, which have, by definition, extended useful lives, is included in this category.	
Core Capacity Challenge Grant Program Projects	16
Projects proposed for TCP funding in the CCCGP (MTC Resolution No. 4123) that are not otherwise Score 16.	
Used Vehicle Replacement	16
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 th of the allowable programming for the project).	
Fixed Guideway Replacement / Rehabilitation	16
Rehabilitation/Replacement Fixed Guideway - projects replacing or rehabilitating fixed guideway equipment at the end of its useful life, including rail, guideway, bridges, traction power systems, wayside train control systems, overhead wires, cable car infrastructure, and computer/communications systems with a primary purpose of communicating with or controlling fixed guideway equipment. Projects in this category are subject to fixed guideway project caps.	

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. Projects in this category are subject to fixed guideway project caps.	
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. Projects in this category are subject to fixed guideway project caps.	
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. Projects in this category are subject to fixed guideway project caps.	
Revenue Vehicle Communication Equipment	16
Communication Equipment – Includes on-board radios, radio base stations, and computer/communications systems with a primary purpose of communicating with and/or location/navigation of revenue vehicles, such as GPS/AVL systems.	
Non-Clipper® 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, Project Funding Caps, providing the fare equipment is not replaced prior to the 12-year replacement cycle for buses. Fare equipment must be compatible with the Clipper® fare collection system.	
Clipper®	16
Clipper® - replacement of Clipper® fare collection equipment and systems.	
Bus Diesel Emission Reduction Devices	16
Bus diesel emission reduction devices or device components required to meet or exceed California Air Resources Board requirements, including first-time retrofits, upgrades, replacements and spares. Devices or components must be installed on buses that will remain in service for at least five (5) years following year programming in order to be treated as Score 16. Only spares up to 10% of the operator’s current device inventory will be treated as Score 16. Bus diesel emission device projects treated as Score 16 require a 50% local match. Devices or components installed on buses scheduled to be replaced within five (5) years of programming, and spares in excess of 10% of the operator’s inventory, will be treated as Preventive Maintenance (Score 9). See Section V. Programming Policies, Bus Diesel Emission Reduction Device Funding Program.	
Vanpool Support Program	16
Turnkey vanpool services contracted by MTC. This program is subject to funding cap at levels no greater than the projected apportionments generated by vanpool reporting in the urbanized area.	
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. Includes computer/communications systems with a primary purpose of communicating with/controlling safety systems, including ventilation fans, fire suppression, fire alarm, intruder detection, CCTV cameras, and emergency “blue light” phones. 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. Projects that contribute to a 1% security requirement will be considered Score 16.	

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. Includes computer/communications systems with a primary purpose of communicating with/controlling escalators or elevators, and public address or platform display systems at stations or platforms.	
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.	
Administrative Computer Systems and Office Equipment	9
Office Equipment - computers, copiers, fax machines, etc. Includes administrative - MIS, financial, HR, scheduling, transit asset management, and maintenance management systems.	
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. Preventive Maintenance may be treated as Score 16 under certain circumstances; see Section V. Programming Policies, Preventive Maintenance Funding.	
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. See Section V, Limited Use of FTA Funds for Operating Purposes.	
Expansion	8
Expansion - any project needed to support expanded service levels.	

C. 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% ADA set-aside amounts, the Lifeline set-aside amounts, and the Unanticipated Costs Reserve. The Regional Priority Model, as explained in paragraph (a), 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 (b) below. Eligible programming revenues are net of the 10% ADA set-aside discussed in paragraph (c) below, and the Vehicle Procurement Reserve, if any, described at the end of this section.

- a) *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 2010 Census did not result in any major changes to the region's urbanized areas.

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 UZA (e.g., LAVTA, Fairfield, etc.)
 - ii. Fund projects for operators that are restricted to receiving funds in one urbanized area (e.g., SFMTA, AC Transit, 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.
- b) *Multi-County Agreements*: For some operators, urbanized area (UZA) 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 Santa Rosa UZA 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 UZA and MTC.

- c) *10% ADA Paratransit Service Set-Aside*: The FAST Act and the BIL cap the share of each urbanized area's Section 5307 apportionment that can be programmed for ADA paratransit service operating costs at 10%. 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 UZA operators will not impact eligible programming amounts in large UZAs.

The formula for distributing the 10% ADA operating set-aside among the eligible operators in each UA is based on the following factors:

- (i) Annual Demand Response (DR) Operating Expenses (45%),
- (ii) Annual Demand Response (DR) Ridership (45%), and
- (iii) Annual Overall Ridership (10%)
- (iv) Operators with zero DR Operating Expenses and DR Ridership will not receive ADA set-aside.

Table 7 shows the percentages by operator and urbanized area (Data Source: NTD, Year: 2022). The table may be revised based on updated NTD data in future years.

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

10% ADA Operating Set-Aside Formula - FYs 24 and Later

Operator	Large UZAs						Small UZAs					
	San Francisco-Oakland	San Jose	Concord-Walnut Creek	Antioch	Santa Rosa	Livermore-Pleasanton-Dublin	Vallejo	Fairfield	Vacaville	Napa	Gilroy-Morgan Hill	Petaluma
AC Transit	37.8%											
BART	5.9%		23.3%	14.0%		19.5%						
CCCTA			76.7%									
FAST								100.0%				
GGBHTD	1.7%											
LAVTA						80.5%						
Marin County Transit	5.3%											
Napa VINE							26.6%		100.0%			
Petaluma Transit												61.7%
SFMTA	26.8%											
SamTrans	19.1%											
VTA		100.0%									100.0%	
SolTrans							73.4%					
SR City Bus					43.7%							
Sonoma Cty Transit					56.3%							38.3%
Tri-Delta				86.0%								
Union City	1.5%											
Vacaville								100.0%				
WestCat	1.9%											
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

- 1) For small UZAs of Fairfield, Vacaville, and Napa, ADA Paratransit Programming is optional, as funds may be otherwise programmed for other operating expenses.
- 2) Formula based on three weighted factors: a) Operator's Annual Demand Response Expenses (45%), b) Operator's Annual Demand Response Ridership (45%), and c) Operator's Overall Annual Systemwide Ridership (10%).
- 3) To calculate funding amounts, multiply 10% of related urbanized area revenue estimate against percentages shown for operators in that urbanized area.
- 4) ACE, Caltrain, SMART, and WETA do not report Demand Response service statistics to NTD, and are therefore ineligible for an ADA Set-Aside share.
- 5) Percent shares are based on the 2022 NTD Report. For operators bridging multiple UZAs, 511 stop data was utilized for proportions per UZA.

An operator may use its share of the FTA Section 5307 set-aside for other capital projects 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 Score 16 project(s), including those projects funded under FG caps. 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.

- d) *Lifeline Set-Aside*: MAP-21 eliminated the Job Access and Reverse Commute (JARC) program (Section 5316) and combined JARC functions and funding with the Urbanized Area Formula (Section 5307) and the Non-urbanized Area Formula (Section 5311) programs. JARC projects were made eligible for 5307 funding, and 3.07% of 5307 appropriations are apportioned by the JARC low-income formula. However, there are no minimum or maximum amounts that can be programmed for JARC projects.

The region has historically used JARC funds apportioned to large urbanized areas to support the Lifeline program. In recognition of the changes to the JARC program and the continued need for funding for the Lifeline program:

- The first priority for 5307 funds apportioned by the JARC formula is the Lifeline program;
- Funds will be set aside for the Lifeline program based on an analysis of the amount of apportionments in each UZA that is apportioned by the low-income formula;
- Section 5307 funds programmed for JARC projects shall be subject to the Lifeline Program guidelines in effect for that year of programming, rather than to the TCP Policies, provided such projects are consistent with federal laws and regulations related to Section 5307.

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.

MAP-21 provided new eligibility for small and medium-sized bus operators in large urbanized areas to use Section 5307 funds for operating assistance. For operators with up to 75 buses, 75% of the urbanized area's apportionment attributable to the operator (as measured by vehicle revenue hours) may be programmed for operating assistance. For operators with 76 to 100 buses, 50% of the urbanized area's apportionment attributable to the operator (as measured by vehicle revenue hours) may be programmed for operating assistance. Eligible operators may request operating assistance up to the maximum eligible amount, but operating assistance will be programmed only after higher scoring projects in the urbanized area are funded. Operating assistance requests will be treated at Score 8 in the programming process (see Table 6 Project Scores above).

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 SRTP or other board-approved capital plan, and in accordance with goals outlined in the RTP for maintaining the region's capital plant (maintenance of effort).

Associated Transit Improvements

The FAST act eliminated the requirement that 1% of the FTA section 5307 apportionments in large urbanized areas be programmed for Associated Transit Improvements (formerly referred to as transit enhancements). However, designated recipients must still submit an annual report listing projects carried out in the preceding year with these funds as part of the Federal fiscal year's final quarterly progress report in TrAMS. The report should include the following elements:

- (A) Grantee name;
- (B) UZA name and number;
- (C) FTA project number;
- (D) Associated transit improvement category;
- (E) Brief description of improvement and progress towards project implementation;
- (F) activity line item code from the approved budget; and
- (G) Amount awarded by FTA for the project. The list of associated transit improvement categories and activity line item (ALI) codes may be found in the table of Scope and ALI codes in TrAMS. To assist MTC staff in preparing this report, grantees should continue to identify associated transit improvement projects that will receive funding from the Urbanized Area Formula Program.

Preventive Maintenance Funding

Preventive maintenance will be considered a Score 9 funding priority in Transit Capital Priorities, unless the conditions for one of the following four policy elements are met, in which case preventive maintenance will be treated as Score 16. 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. It is the intent of this policy that funding for preventive maintenance will not increase the region's transit capital shortfall.

- a) *Funding Exchange*: Operators who wish to exchange a capital project for preventive maintenance funding in order to use their local or state 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. The Funding Exchange element can be applied to lower scoring capital projects as well as preventive maintenance. Operators using the Funding Exchange element must certify in writing that the assets will be replaced with non-federal funds.

- b) *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. Operators using the Capital Exchange element will be limited to two years preventive maintenance funding within a 12-year period.
- c) *Negotiated Agreement within an Urbanized Area*: In the third 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.
- d) *Budgetary Shortfalls*: Requests for preventive maintenance to meet budgetary shortfalls will be considered on a case-by-case basis if a fiscal need can be demonstrated 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 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 will be limited to two years preventive maintenance funding within a 12-year period.

The requesting operator will enter into an MOU with MTC or other formal agreement or action, such as Board approvals, and if applicable, with other transit properties affected by the preventive maintenance agreement. The agreement or actions will embody the four eligibility requirements outlined above as well as any other relevant terms and conditions of the agreement.

~~e) Emergency duration special protocols:~~

~~Until the Commission removes them, the following special protocols are in effect for this section due to the Covid-19 pandemic.~~

~~Operating funding is eligible in addition to preventive maintenance funding, for those operators eligible under FTA rules, including applicable Emergency Relief provisions enacted by FTA.~~

~~Under declaration of fiscal need:~~

~~Operator demonstration of implementation of reasonable cost control and revenue generation strategies may take into account special pandemic factors such as stopping fare collection for public safety, service levels that allow for physical distancing by passengers, and avoidance of deep service and labor cuts in anticipation of recovery.~~

~~Operator demonstration that shortfall not being addressed would result in significant service reduction may likewise take into account pandemic factors, such as already-reduced schedules and transition schedules planned for a return to full service.~~

~~Under operator requirements for eligibility:~~

~~Bridging strategy does not need to be approved by operator's board. However, it should still be prepared at the staff level, and will be summarized for the Commission as part of any program recommendations.~~

~~The provision limiting two years of preventive maintenance/operations funding within a 12-year period will not apply during this emergency period.~~

~~The MOU requirement listed above in subsection (d) is waived.~~

~~Emergency relief requests and programming are subject to the Principles for Redirecting Funds to Transit Operators (Appendix 3).~~

With the direction of the Commission, emergency operating assistance and/or preventive maintenance funds may be programmed following the principles of MTC-developed frameworks (e.g. the November 2024 Senate Bill 125 State or Regional Contribution commitment of regional funding, including FTA federal formula funds, for one-time operations support – see MTC Resolution No. 4619) and such frameworks shall supersede the TCP scoring process at or below score 16 (score 17 commitments will not be affected – see “Funding Shortfalls” under section 3a of this document).

Vehicle Procurement Reserves

The TCP Program may reserve funds for future programming for major vehicle replacement/procurement projects (e.g. BART, SFMTA, Caltrain). The programming of such reserves will be based on the cash-flow needs of the projects and available revenue streams.

Grant Spend-down Policy

This policy conditions new programming on the expenditure of prior year grants in order to direct the region’s limited funds to the projects most in need of additional resources and accelerate the delivery of TCP projects.

The focus of this policy is on fixed guideway (FG) projects, as vehicle procurement projects are generally completed in a timely manner. Each year, MTC staff will calculate the balance of older FG grants from TrAMS data in consultation with each operator. The goal amounts will be compared against TrAMS grant balances for the appropriate grants in September of each year to determine if the goals have been met. The policy establishes a target for spending a specified percentage of the grant balance each year. Table 9 below explains the spend-down goals for each program year.

If the goals for each operator are met, the full FG cap amounts specified for that operator in the relevant section above will be programmed, subject to funding availability. However, if the target is not met, staff will defer the FG funding for those operators not meeting their goals proportionate to the percentage of the prior-year grants unexpended. If the goal is then met in subsequent years, the full FG cap would be programmed, subject to funding availability. Additionally, operators will have the opportunity to request deferred FG cap amounts in later years, subject to meeting their

grant spend-down goals and availability of funding. Programming of these deferred caps will be treated as a lower priority than other Score 16 projects.

Restoration of Deferred Fixed Guideway Caps:

- Voluntarily-deferred caps: the deferred amount will be programmed in the year of the operator’s choosing, programmed as a prior-year commitment.
- Involuntarily-deferred caps: in years when additional funding is available, after meeting Debt Service payment requirements, a subcommittee of the FG operators will be called to evaluate proposals to restore prior-year involuntarily deferred caps. The recommendations of this subcommittee will be considered for programming recommendations to the Commission.
- Restoration of any deferred caps to an operator, whether voluntary or involuntary, would be rescinded if the operator does not meet their spend-down target in the same year.
- Operators who do not meet their spend-down target in the year of a proposed restoration or the immediately-prior year would not be eligible for cap restoration.

Fixed guideway programming for FY2020-21 will be based on an analysis of grant spending through September of 2020. Future programming will include the full cap amounts, but will be conditioned on meeting the grant spend-down goals in the appropriate year. Should an operator not meet its target in a given year, the FG cap amount in the preliminary program would be reduced accordingly in that year’s POP amendment.

Table 9: FY2024-25 to FY 2028-29 Program Grant Spend-Down Policy

Program Year	Basis for Balance	Spend-Down Target	Spend-Down Period
FY2024-25	Undisbursed balance of FG grants awarded FFY2017-18 or earlier, as of 9/2020	Remaining balance, as of 9/2023	9/2023 to 9/2024
FY2025-26	Undisbursed balance of FG grants awarded FFY2021-22 or earlier, as of 9/2024	1/4 of balance, as of 9/2024	9/2024 to 9/2025
FY2026-27		1/3 of remaining balance, as of 9/2025	9/2025 to 9/2026
FY2027-28		1/2 of remaining balance, as of 9/2026	9/2026 to 9/2027
FY2028-29		Remaining balance, as of 9/2027	9/2027 to 9/2028

Timely Obligation of Funds

Operators must, by January 31 of the year funds will lapse, indicate their intention to: obligate programmed funds; signal that the operator will obligate by September 30; or request a voluntary deferral of those funds. MTC Staff will prepare reports on un-

obligated funds and inform operators of the necessity to either obligate or defer. Voluntary deferrals will be programmed in the year of the operator’s choosing, programmed as a prior-year commitment.

Table 10: FY2024-25 to FY2029-30 Program Timely Obligation of Funds Policy

Program Year	Lapsing Funds Program Year	Deadline to Obligate or Defer	Funds Lapse
FY2024-25	FFY 2019-20 – 5307 FFY 2021-22 – 5337/5339	1/2025	9/30/2025
FY2025-26	FFY 2020-21 – 5307 FFY 2022-23 – 5337/5339	1/2026	9/30/2026
FY2026-27	FFY 2021-22 – 5307 FFY 2023-24 – 5337/5339	1/2027	9/30/2027
FY2027-28	FFY 2022-23 – 5307 FFY 2024-25 – 5337/5339	1/2028	9/30/2028
FY2028-29	FFY 2023-24 – 5307 FFY 2025-26 – 5337/5339	1/2029	9/30/2029
FY2029-30	FFY 2024-25 – 5307 FFY 2026-27 – 5337/5339	1/2030	9/30/2030

Joint Procurements

In recognition of the policy direction of the Transit Sustainability Project Resolution No. 4060, before TCP funds are programmed for revenue vehicles, non-revenue vehicles, communications and vehicle location systems, fare collection equipment, bus emission reduction devices, computer systems, including management information systems and maintenance/asset management systems, or other equipment, operators must evaluate and pursue, as appropriate, opportunities for joint procurements and integrated operations with other operators. The “Compensation for Cost Effective Bus Purchases” that was introduced into the TCP Policy with the prior update will provide operators an extra incentive to pursue joint procurement opportunities. MTC will coordinate discussions if requested.

Transit Asset Management

FTA issued a final rule related to transit asset management and NTD reporting for transit providers in July, 2016; the effective date of the rule is October 1, 2016. The rule establishes a National Transit Asset Management (TAM) System in accordance with the Moving Ahead for Progress in the 21st Century Act (MAP-21). The National TAM System elements include the definition of “state of good repair”, a requirement that providers develop and carry out a TAM plan, performance measures and targets for capital assets, reporting requirements, and the application of analytical processes and decision support tools.

Implementation Timeline & Rule Compliance

TAM Plans

A provider's initial TAM plan must be completed no later than two years after the effective date of the final rule i.e. by September 2018. A TAM Plan must cover a horizon period of at least four (4) years and must be updated at least once every four years. The Plan update should coincide with the planning cycle for the relevant Transportation Improvement Program or Statewide Transportation Improvement Program.

TAM Plan Requirements

TAM Plan Requirements apply to all direct recipients and sub-recipients of Federal financial assistance under 49 U.S.C. Chapter 53 that own, operate, or manage capital assets used for providing public transportation. The TAM Plan requirements also vary based on whether the provider is a Tier 1, or Tier 2 provider:

- Tier 1 Providers – All rail transit providers and all recipients that own, operate or manage 101 or more vehicles in revenue service during peak regular service across all fixed route modes or in any one non-fixed route mode. Tier 1 providers must develop TAM plans including elements 1 – 9 listed below.
- Tier 2 Providers – A recipient that owns, operates, or manages 100 or fewer vehicles in revenue service during peak regular service across all non-rail fixed route modes or in any one non-fixed route mode, or is a sub-recipient under the 5311 Rural Area Formula Program. Tier 2 operators may develop their own TAM plan or participate in a group TAM plan and need only include elements 1 – 4 as listed below. A sponsor must develop a group TAM plan for its Tier 2 sub-recipients, except those sub-recipients that are also direct recipients under 49 U.S.C. 5307.

TAM Plan Elements

- i. An inventory of the number and type of capital assets owned by the provider except equipment with an acquisition value under \$50,000 that is not a service vehicle. The inventory must include third-party owned or jointly procured exclusive-use maintenance facilities, administrative facilities, rolling stock, and guideway infrastructure used by a provider in the provision of public transportation. The asset inventory must be organized at a level of detail commensurate with the level of detail in the provider's program of capital projects.
- ii. A condition assessment of those inventoried assets for which a provider has direct capital responsibility.
- iii. A description of the analytical processes or decision-support tools that a provider uses to estimate capital investment needs over time and develop its investment prioritization.
- iv. A provider's project-based prioritization of investments
- v. A provider's TAM and SGR policy

- vi. A provider's TAM plan implementation strategy
- vii. A description of key TAM activities that a provider intends to engage in over the TAM plan horizon period
- viii. A summary or list of the resources, including personnel, that a provider needs to develop and carry out the TAM plan; and
- ix. An outline of how a provider will monitor, update, and evaluate, as needed, its TAM plan and related business practices to ensure continuous improvement of TAM practices

MTC is proposing that the region take a coordinated approach in complying with the rule, in order to maximize the potential for region-wide benefits, including, but not limited to, the development of a group plan for Tier 2 operators.

Performance Targets

Additionally, recipients need to report on the condition of their system and performance targets. The final rule establishes SGR standards and four SGR performance measures. Targets for the following fiscal year must be set, for each applicable asset class, each year. To the extent practicable, a provider must coordinate with the States and MPOs in the selection of State and MPO performance targets. In addition, MTC will need to set regional performance targets for transit asset condition.

The individual operator targets will also serve as the basis of the regional performance targets. To facilitate the translation of operator to regional performance targets, MTC is proposing some parameters for operators to follow in the setting of their agency TAM targets, including:

- Consistency with Plan Bay Area and Transit Capital Priorities (TCP) Policies – With a goal of establishing a nexus between performance targets and MTC's programming and planning policies, transit operator performance targets should be as consistent as possible with Plan Bay Area investments and current programming policies.
- Limited/Consistent Asset Classes – Since targets are required to be set for each relevant asset class, MTC is proposing to limit or consolidate the number of motor bus asset classes that have associated targets to be consistent with the bus/van price list used in the TCP process and guidance from the FTA on target-setting by asset class for facilities. Without some standardization of asset classes, the variations of asset classes among operators would result in an unwieldy number of targets.

MTC, as a designated recipient, is required to report to the Department of Transportation on the condition of its recipients' public transportation systems and performance targets. Therefore, all operators are required to report their targets to MTC prior to the end of each calendar year.

Transit Core Capacity Challenge Grant Program: Resolution No. 4123

The Transit Core Capacity Challenge Grant program (CCCGP) makes a policy commitment of approximately \$7.4 billion in federal, state, regional and local funds over the FY2014-15 to FY2029-30 period to high-priority transit capital projects that will improve the capacity and state of good repair of transit services in the urban core of the region.

The \$7.4 billion Core Capacity Challenge Grant program:

- * Focuses on the SFMTA, BART, and AC Transit – the three transit operators that carry 80% of the region’s passengers as well as more than three-quarters of the minority and low-income passengers.
- * Leverages regional discretionary funds and local contributions, including proposed Cap and Trade revenue.
- * Accelerates and solidifies funding for fleet replacement projects, and identifies new funding for key enhancement projects.
- * Requires that the participating operators meet the performance objectives of the Transit Sustainability Project.

TCP programming for all projects identified in the CCCGP will be consistent with the funding amounts, local match requirements and other terms and conditions specified in MTC Resolution No. 4123.

All projects proposed for TCP funding in the CCCGP that are not otherwise Score 16 will be treated as Score 16. CCCGP fixed guideway infrastructure projects included in the CCCGP program of projects may be funded with a combination of fixed guideway cap funds and additional TCP funds above the operator’s fixed guideway cap. Programming for CCCGP projects is based on cash flow needs, funding availability, and other policy elements.

In order to meet cash flow needs of the CCCGP and other TCP projects in years in which project funding needs exceed the region’s annual FTA apportionments, financing may be required to advance future FTA/STP revenues. Debt service, including principal and interest payments, for any such financing will be treated as Score 17.

Financing

MTC staff, working with financial and legal advisors, and transit operator staff through the Partnership's Transit Finance Working Group, has been developing plans to finance one or more transit capital projects by borrowing against future Federal Transit Administration (FTA) formula funds. The projects would be funded all or in part with proceeds of the financing, rather than annual FTA apportionments programmed through the Transit Capital Priorities (TCP) program. A portion of the region's apportionments would be used to make debt service payments. The objective of financing is to accelerate the funding and delivery of critical capital projects by advancing FTA funds from future years when annual apportionments are projected to exceed high-priority needs, to the next four-year TCP programming cycle, when needs are projected to exceed annual apportionments.

The need for financing was anticipated when MTC adopted the Core Capacity Challenge Grant Program (Resolution 4123) in 2013, which established a \$7.5 billion, 16-year funding framework for a set of key projects designed to increase capacity and improve the state of good repair of transit service in the urban core of the region, including fleet replacement and expansion for BART, SFMTA and AC Transit, and related infrastructure projects. The Core Capacity funding plan includes \$3.5 billion in FTA and other federal funds, of which a portion would be advanced through financing to accelerate completion of the projects.

The specific terms of any financing would be subject to agreements between the operator and MTC, MTC, the operator, and FTA, and MTC and bondholders. Debt service, including principal and interest payments, will have the highest priority among programming needs and will receive a Score 17 in developing the program. Debt service will be paid from apportionments in the same urbanized area(s) in which the operator whose project(s) are being financed is eligible. It is expected that any debt would be repaid over a 10-15 year period.

Vanpool Reporting & Programming

MTC's vanpool subsidy program began November 1, 2018. MTC began reporting vanpool data to NTD in 2019 for FY2018-19. Staff may propose to include in the TCP program, starting with the FY2020-21 program, 5307 funds for the Vanpool Support Program.

The amount proposed for programming from each urbanized area will not exceed the projected apportionments generated by vanpool reporting in the urbanized area. Any apportionments that are generated by vanpool reporting but are not programmed for the Vanpool Support Program will be available for programming to transit operator projects following the TCP programming guidelines. Staff anticipates submitting its own 5307 grants to FTA to request funds programmed for the Vanpool Support Program, but may elect to ask one or more transit operators to request the funds on MTC's behalf, and enter into a pass-through agreement with MTC.

IV. ONE BAY AREA GRANT PROGRAM TRANSIT CAPITAL PROGRAM

The Commission's One Bay Area Grant Program Second Round (OBAG 2) Project Selection Criteria and Programming Policy for FY2017-18 through FY 2021-22, MTC Resolution No. 4202, Revised, includes \$189 million in STP/CMAQ funding for transit priorities, including BART car replacement and expansion, replacement of Clipper equipment and development of Clipper 2.0, and the TPI Program. Specific projects are included in Attachment B-1 to MTC Resolution No. 4202, Revised.

The Commission is expected to adopt the Cycle 3 / One Bay Area Grant Program (OBAG 3) Program Project Selection Criteria and Programming Policy for FY2022-23 through FY 2026-27 in calendar year 2021.

This section specifies the programming policies for OBAG 2 funds for TCP projects, and will be updated to the extent that OBAG 3 includes funding for transit capital needs.

Transit Capital Priorities

Certain OBAG 2 funds are programmed for transit capital replacement and rehabilitation projects to supplement the FTA funds in the Transit Capital Priorities program. OBAG 2 funds for TCP projects will be programmed using the same policies and procedures as used for the FTA formula funds, as specified in Section III. FTA Formula Funds, with priority given to Score 16 projects that meet the eligibility criteria for STP or CMAQ, and that cannot be fully funded with FTA funds within the program's fiscal constraints.

APPENDIX 1 – BOARD RESOLUTION

***Sample Resolution of Board Support
FTA Section 5307, 5337, and 5339, and Surface Transportation Program Project Application***

Resolution No. _____

**AUTHORIZING THE FILING OF AN APPLICATION FOR FTA FORMULA PROGRAM 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, Infrastructure Investment and Jobs Act, or the Bipartisan Infrastructure Law (BIL, Public Law 117-58) continues and establishes new Federal Transit Administration formula programs (23 U.S.C. §53) and continues the Surface Transportation Program (23 U.S.C. § 133); and

WHEREAS, pursuant to BIL, and the regulations promulgated there under, eligible project sponsors wishing to receive Federal Transit Administration (FTA) Section 5307 Urbanized Area, Section 5337 State of Good Repair, or Section 5339 Bus and Bus Facilities (collectively, FTA Formula Program) grants or Surface Transportation Program (STP) 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 Formula Program or STP funds; and

WHEREAS, (applicant) wishes to submit a grant application to MTC for funds from the FY2020-21 FTA Formula Program or STP funds, for the following project(s):
(project description) .

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

- 1) the commitment of necessary local matching funds (18-50% for FTA Formula Program funds, depending on project type, and 11.47% for STP funds); and

- 2) that the sponsor understands that the FTA Formula Program and STP funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded from FTA Formula Program or STP 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 Formula Program funds must be obligated within three years of programming and STP funds must be obligated by January 31 of the year that the project is programmed for in the TIP, or the project may be removed from the program.

NOW, THEREFORE, BE IT RESOLVED by (governing board name) that (applicant) is authorized to execute and file an application for funding under the FTA Formula Program and/or Surface Transportation Program 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 Formula Program 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 Formula Program 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 January 31 of the year the project is programmed for in the TIP; and
- 5) (applicant) will comply with FTA requirements and all other applicable Federal, State and Local laws and regulations with respect to the proposed project; and

BE IT FURTHER RESOLVED*, that (agency name) is an eligible sponsor of projects in the program for FTA Formula Program and STP funds; and

BE IT FURTHER RESOLVED*, that (agency name) is authorized to submit an application for FTA Formula Program and STP funds for (project name); and

BE IT FURTHER RESOLVED*, that there is no legal impediment to (agency name) making applications for FTA Formula Program 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 RESOLVED, that (agency name) agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866; and

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to the MTC prior to MTC programming the FTA Formula Program or Surface Transportation Program funded projects 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.

*** Not required if opinion of counsel is provided instead.**

APPENDIX 2 – OPINION OF COUNSEL

Sample Opinion of Legal Counsel
FTA Section 5307, 5337, 5339 and STP Project Application

(Date)

To: Metropolitan Transportation Commission
Fr: (Applicant)
Re: Eligibility for FTA Section 5307 Program, FTA 5337 State of Good Repair Program, FTA 5339 Bus and Bus Facilities 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, 5337 or 5339 programs, or STP, made available pursuant to the Fixing America's Surface Transportation federal transportation authorization (FAST, Public Law 114-94), the Infrastructure Investment and Jobs Act, or the Bipartisan Infrastructure Law (BIL, Public Law 117-58) or successor legislation.

1. (Applicant) is an eligible sponsor of projects for the FTA Section 5307, 5337 or 5339 programs, or the STP program.
2. (Applicant) is authorized to submit an application for FTA Section 5307, 5337 or 5339 funding, or 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, 5337 or 5339 program funds, or STP 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 Formula Program and STP Programs; and be it further

Resolved, that (agency name) is authorized to submit an application for FTA Formula Program and STP funds for (project name); and be it further

Resolved, that there is no legal impediment to (agency name) making applications for FTA Formula Program 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 (Appendix 2).

APPENDIX 3 – PRINCIPLES FOR REDIRECTING FUNDS TO TRANSIT OPERATIONS

(As approved by Commission on December 16, 2020)

These principles apply to fund sources that are under the direct authority of the Metropolitan Transportation Commission to program, allocate, distribute or otherwise control; and that such fund sources allow flexibility to direct to transit operations within existing statutory authorities.

1. Use funding to smooth the transition to a transit system based on service demand and available resources. – A re-direction of funding for transit operations would be intended as temporary relief, not an ongoing subsidy. The Commission seeks to aggressively pursue new funding at the federal and state levels to help catalyze a financial recovery for public transit that approaches its status prior to the COVID-19 pandemic and its devastating impacts on ridership. Until which time such aid and recovery are realized, these investment principles and any attendant actions are designed to ease the disruption.

To ease the disruption to agency labor forces and the public, funding should provide a “glide path” to an optimized system, once the availability of future operating resources and the demand for service are better understood. An expected federal funding relief package, a proposed vaccine roll-out plan, or other similar information could be important factors to right-size the system and establish a transition glide path.

2. The benefits of redirecting funds to transit operations should outweigh the disbenefits. – The opportunity costs or trade-offs involved with re-directing funds from their intended usage to transit operations can include, but are not limited to:
 - Capital job losses
 - Safety and reliability concerns if fund source is normally directed to state of good repair purposes
 - Other pandemic recovery strategies including bicycle/pedestrian, mobility, and regional programs and projects
 - Inability to implement Plan Bay Area /Sustainable Communities Strategy goals, priorities and climate objectives, and meet multiple federal performance requirements
 - Inability to fund county priorities including congestion relief and multi-modal improvements; including loss of leveraged state and federal competitive funds
 - The ability of transit service benefitting from redirected funds to address the needs of those most dependent on its preservation, and for whom mobility options present undue burdens

Further, the degree of impact that a redirection of a specific funding source might have, given the scale of operations funding need, should be considered. An analysis of the relevant costs and benefits should be conducted prior to the redirection of funding.

3. Specific to the federal transit formula funds programmed within the Transit Capital Priorities (TCP) process, the distribution of funds redirected from transit capital priorities to transit operations or preventive maintenance should promote fairness and balance of need across Bay Area operators. – Funds normally used to improve the state of repair of transit capital assets in the region are distributed based on capital rehabilitation and replacement need, limitations posed by federal Urbanized Area (UA) eligibility, and negotiated agreements related to the distribution of formula funds among eligible operators within UAs. Funding redirected from transit capital priorities to transit operations for any particular operator, should be treated as an advance against future funding shares for that operator.

4. Any transit operator utilizing funding subject to these principles to preserve or otherwise enable transit service during the COVID-19 recovery, commits to providing that service consistent with the Transformational Transit Action Plan emerging from the Commission’s Blue Ribbon Transit Recovery Task Force. Such investment is intended not as a discrete and singular act, but as part of a suite of actions underway to stabilize transit service overall during the current pandemic crisis, and position that foundation to build a strategic recovery that better addresses the needs of Bay Area transit customers into the future.