



Bay Area Metro Center
375 Beale Street
San Francisco, CA 94105

Meeting Agenda

Clipper Executive Board

Robert Powers, Chair Carter Mau, Vice Chair
Members
Bill Churchill, Carolyn M. Gonot, Michael Hursh, Beth Kranda,
Therese W. McMillan, Denis Mulligan, and Jeffrey Tumlin

Monday, May 16, 2022

1:30 PM

REMOTE (In person option available)

The Clipper Executive Board is scheduled to meet at 1:30 p.m. or immediately following the 1:00 p.m. Fare Integration Task Force meeting. In light of Governor Newsom's State of Emergency declaration regarding COVID-19 and in accordance with the recently signed Assembly Bill 361 allowing remote meetings, this meeting will be accessible via webcast, teleconference, and Zoom for all participants.

A Zoom panelist link for meeting participants will be sent separately to Board Members.

Meeting attendees may opt to attend in person for public comment and observation at 375 Beale Street, Board Room (1st Floor). In-person attendees must adhere to posted public health protocols while in the building.

The meeting webcast will be available at <http://mtc.ca.gov/whats-happening/meetings>. Members of the public are encouraged to participate remotely via Zoom at the following link or phone number. Board Members and members of the public participating by Zoom wishing to speak should use the "raise hand" feature or dial *9. When called upon, unmute yourself or dial *6. In order to get the full Zoom experience, please make sure your application is up to date.

Attendee Link: <https://bayareametro.zoom.us/j/87586612058>

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<https://mtc.ca.gov/how-provide-public-comment-board-meeting-zoom>

Members of the public may participate by phone or Zoom or may submit comments by email at info@bayareametro.gov by 5:00 p.m. the day before the scheduled meeting date. Please include the committee or board meeting name and agenda item number in the subject line. Due to the current circumstances there may be limited opportunity to address comments during the meeting. All comments received will be submitted into the record.

1. Call Meeting to Order / Roll Call / Confirm Quorum

Quorum: A quorum of this committee shall be a majority of its regular voting members (5).

2. Consent Calendar

- 2a. [22-0771](#) Minutes of the April 18, 2022 Meeting
- Action:** Board Approval
- Attachments:** [2a 2022-04-18 Clipper Executive Board Meeting Minutes Draft.pdf](#)
- 2b. [22-0867](#) Clipper® Purchase Order - Network Services: AT&T (\$400,000)
- Action:** Board Approval
- Presenter:** Sarah Doggett
- Attachments:** [2b CEB Memo for Purchase Order AT&T Network.pdf](#)

3. Approval

- 3a. [22-0868](#) Clipper In-Person Customer Service Centers Contract Actions:
- i. Contract Amendment - TTEC Government Solutions, LLC (\$485,000);
 - ii. Contract Amendment - Nematode Holdings, LLC (\$300,000); and
 - iii. Funding Agreement Amendment - Alameda-Contra Costa Transit District (\$250,000)
- Approval of contract actions for Clipper in-person customer service centers: TTEC Government Solutions, LLC (\$485,000), Nematode Holdings, LLC (\$300,000) and Alameda-Contra Costa Transit District (\$250,000).
- Action:** Board Approval
- Presenter:** Kelley Jackson
- Attachments:** [3a Clipper IPCSC FY23 Amds CEB.pdf](#)

4. Information

- 4a. [22-0773](#) Clipper® Schedule and Implementation Update
- Update on key developments related to the implementation of the current and Next Generation Clipper system.
- Action:** Information
- Presenter:** Jason Weinstein
- Attachments:** [4a Clipper Schedule and Implementation Update Summary sheet and attach](#)
[4aii PowerPoint Clipper Next Generation Equipment Pilot Installation Pictures.](#)

- 4b.** [22-0772](#) Current Clipper® Operations and Performance Update
- Update on current Clipper system operations and performance; Clipper staff last updated the Clipper Executive Board (CEB) on the ongoing work and projects related to the current Clipper system at the April 2022 meeting.
- Action:** Information
- Presenter:** Jason Weinstein
- Attachments:** [4b Clipper Operations and Performance Update Summary sheet.pdf](#)
[4bi PowerPoint May Clipper Data Clipper Executive Board 20220516.pdf](#)
- 4c.** [22-0869](#) Proposed Clipper® Amended and Restated Memorandum of Understanding (MOU)
- MTC is preparing a draft of a new Clipper 2022 MOU to capture changes required to support the operation of the Next Generation Clipper System, including cost-sharing agreements for the System Integrator, Customer Service Center, Payment Services, and Fare Media Fulfillment Contracts.
- Action:** Information
- Presenter:** Edward Meng
- Attachments:** [4c Proposed Clipper® Memorandum of Understanding Summary Sheet and](#)
[4ci PowerPoint Proposed Clipper® Memorandum of Understanding Slides.pdf](#)
- 4d.** [22-0870](#) Draft Clipper® Two Year Budget and Work Plan
- The Clipper budget and work plan for Fiscal Years (FYs) 2022-23 and 2023-24 for the Executive Board’s review and discussion.
- Action:** Information
- Presenter:** Edward Meng
- Attachments:** [4d Clipper Two Year Budget.pdf](#)

5. Executive Director’s Report – Kuester

6. Public Comment / Other Business

*Board Members and members of the public participating by Zoom wishing to speak should use the “raise hand” feature or dial *9. When called upon, unmute yourself or dial *6.*

7. Adjournment / Next Meeting

The next meeting of the Clipper® Executive Board will be held Monday, June 20, 2022, at 1:30 p.m. Any changes to the schedule will be duly noticed to the public.

Public Comment: The public is encouraged to comment on agenda items at Committee meetings by completing a request-to-speak card (available from staff) and passing it to the Committee secretary. Public comment may be limited by any of the procedures set forth in Section 3.09 of MTC's Procedures Manual (Resolution No. 1058, Revised) if, in the chair's judgment, it is necessary to maintain the orderly flow of business.

Meeting Conduct: If this meeting is willfully interrupted or disrupted by one or more persons rendering orderly conduct of the meeting unfeasible, the Chair may order the removal of individuals who are willfully disrupting the meeting. Such individuals may be arrested. If order cannot be restored by such removal, the members of the Committee may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue.

Record of Meeting: Committee meetings are recorded. Copies of recordings are available at a nominal charge, or recordings may be listened to at MTC offices by appointment. Audiocasts are maintained on MTC's Web site (mtc.ca.gov) for public review for at least one year.

Accessibility and Title VI: MTC provides services/accommodations upon request to persons with disabilities and individuals who are limited-English proficient who wish to address Commission matters. For accommodations or translations assistance, please call 415.778.6757 or 415.778.6769 for TDD/TTY. We require three working days' notice to accommodate your request.

可及性和法令第六章: MTC 根據要求向希望來委員會討論有關事宜的殘疾人士及英語有限者提供服務/方便。需要便利設施或翻譯協助者，請致電 415.778.6757 或 415.778.6769 TDD / TTY。我們要求您在三個工作日前告知，以滿足您的要求。

Acceso y el Titulo VI: La MTC puede proveer asistencia/facilitar la comunicación a las personas discapacitadas y los individuos con conocimiento limitado del inglés quienes quieran dirigirse a la Comisión. Para solicitar asistencia, por favor llame al número 415.778.6757 o al 415.778.6769 para TDD/TTY. Requerimos que solicite asistencia con tres días hábiles de anticipación para poderle proveer asistencia.

Attachments are sent to Committee members, key staff and others as appropriate. Copies will be available at the meeting.

All items on the agenda are subject to action and/or change by the Committee. Actions recommended by staff are subject to change by the Committee.



Meeting Minutes - Draft

Clipper Executive Board

Robert Powers, Chair Carter Mau, Vice Chair
Members

*Bill Churchill, Carolyn M. Gonot, Michael Hursh, Beth Kranda,
Therese W. McMillan, Denis Mulligan, and Jeffrey Tumlin*

Monday, April 18, 2022

1:30 PM

REMOTE (In person option available)

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Attendee Link: <https://bayareametro.zoom.us/j/88693679032>

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1. Call Meeting to Order / Roll Call / Confirm Quorum

- Present:** 7 - Board Member Mulligan, Board Member Hursh, Board Member McMillan, Chair Powers, Board Member Tumlin, Board Member Kranda, and Board Member Churchill
- Absent:** 2 - Vice Chair Mau, and Board Member Gonot

April Chan acted as a delegate and voting member of the Board in place of Carter Mau. Actions noted below as "Mau" were taken by Chan.

Greg Richardson acted as a delegate and voting member of the Board in place of Carolyn Gonot. Actions noted below as "Gonot" were taken by Richardson.

2. Consent Calendar

Upon the motion by Board Member McMillan and second by Board Member Mulligan, the Consent Calendar was approved. The motion carried by the following vote:

- Aye:** 9 - Board Member Mulligan, Board Member Hursh, Board Member McMillan, Chair Powers, Board Member Tumlin, Board Member Kranda, Vice Chair Mau, Board Member Gonot and Board Member Churchill

2a. [22-0601](#) Minutes of the March 21, 2022 Meeting

Action: Board Approval

Attachments: [2a 2022-03-21 Clipper Executive Board Meeting Minutes Draft.pdf](#)

2b. [22-0681](#) Next Generation Clipper® (C2) Contract - Credit Card Acceptance: American Express Travel Related Services Company, Inc. (Amex) (\$75,000)

Action: Board Approval

Presenter: David Weir

Attachments: [2b American Express subscription agreement.pdf](#)

3. Approval

- 3a. [22-0654](#) Next Generation Clipper® (“C2”) System Integrator Contract Change Order - Revised Account-Based System Delivery Approach: Cubic Transportation Systems, Inc. (Cubic)

Change Order to the C2 System Integrator Contract (“Contract”) to revise the approach and schedule for delivery of the account-based Clipper system.

Action: Board Approval

Presenter: Jason Weinstein

Attachments: [3a Next Generation Clipper System Integrator Contract Change Order.pdf](#)

Upon the motion by Board Member Hursh and second by Board Member Kranda, the Next Generation Clipper® System Integrator Contract Change Order - Revised Account-Based System Delivery Approach: Cubic Transportation Systems, Inc. was approved. The motion carried by the following vote:

Aye: 9 - Board Member Mulligan, Board Member Hursh, Board Member McMillan, Chair Powers, Board Member Tumlin, Board Member Kranda, Vice Chair Mau, Board Member Gonot and Board Member Churchill

- 3b. [22-0682](#) Clipper® Customer Education Contract, MIG, Inc. (\$2,100,000)

Contract with MIG, Inc. in the amount of \$2,100,000 to provide customer education services.

Action: Board Approval

Presenter: Lysa Hale

Attachments: [3b Contract with MIG Inc-FY 2022-23.pdf](#)

Aleta Dupree was called to speak.

Upon the motion by Board Member Mulligan and second by Board Member McMillan, the Clipper® Customer Education Contract, MIG, Inc. (\$2,100,000) was approved. The motion carried by the following vote:

Aye: 9 - Board Member Mulligan, Board Member Hursh, Board Member McMillan, Chair Powers, Board Member Tumlin, Board Member Kranda, Vice Chair Mau, Board Member Gonot and Board Member Churchill

4. Information

4a. [22-0602](#) Current Clipper® Operations and Performance Update

Update on current Clipper system operations and performance. Clipper staff last updated this Board on the ongoing work and projects related to the current Clipper system at the March 2022 meeting.

Action: Information

Presenter: Jason Weinstein

Attachments: [4a_Clipper Operations and Performance Update.pdf](#)

Aleta Dupree was called to speak.

4b. [22-0603](#) Clipper® Implementation Update

Update on key developments related to the implementation of the current and Next Generation Clipper system.

Action: Information

Presenter: Jason Weinstein

Attachments: [4b_Clipper Implementation Update.pdf](#)

4c. [22-0683](#) Regional Transit Connection (RTC) Program and Account-based Cost-Sharing Update

Update on the RTC Program and Account-based Cost-Sharing regional discussions between MTC and transit operators.

Action: Information

Presenter: Edward Meng

Attachments: [4c_RTC Program and Account-based Cost-Sharing Update.pdf](#)

Aleta Dupree was called to speak.

5. Executive Director's Report – Kuester

6. Public Comment / Other Business

Aleta Dupree spoke on this item.

7. Adjournment / Next Meeting

The next meeting of the Clipper® Executive Board will be held Monday, May 16, 2022, at 1:30 p.m. remotely and by webcast as appropriate. Any changes to the schedule will be duly noticed to the public.

Clipper® Executive Board

May 16, 2022

Agenda Item 2b

Clipper® Purchase Order – Network Services: AT&T (\$400,000)

Subject:

Request for approval of a Purchase Order for Clipper Network Services for Fiscal Year 2022-2023: AT&T (\$400,000).

Background:

AT&T provides network services for the Clipper system that enable connections between card readers, other Clipper devices, data servers, and the Clipper Central System. Per the Clipper Memorandum of Understanding, approximately 95% of this cost is reimbursed by Clipper transit agencies. This Purchase Order would cover network operations during Fiscal Year 2022-2023.

Issues:

None identified.

Recommendation:

Staff recommends that the Clipper Executive Board approve a Purchase Order with AT&T in an amount not to exceed \$400,000 for the services described above.

Attachments:

None.



Carol Kuester

Request for Board Approval

Summary of Proposed Purchase Order

Contractor (or “Consultant”): AT&T
Carol Stream, IL

Work Project Title: Clipper® Network Services

Purpose of Project: To provide network services for the Clipper system during FY 2022-2023

Brief Scope of Work: Provision of network services and operations to allow telecommunications connections between Clipper devices, data servers and the central system.

Project Cost Not to Exceed: \$400,000

Funding Source: Participating Operator funds, STP, CMAQ, STA, STP Exchange, Regional Measure 2 Operating funds, CARES Act funds, Inactive Card funds, Float Account Interest

Fiscal Impact: Approximately 95% of the funding will be provided by the participating transit operators. Additional funding is included in the MTC Fiscal Year 2022-23 budget.

Motion by Board: That a Purchase Order with AT&T for the purposes described above and in the Clipper Executive Director’s summary sheet dated May 16, 2022 is hereby approved by the Clipper Executive Board.

Clipper Executive Board:

Robert Powers, Chair

Approved: May 16, 2022

Clipper[®] Executive Board

May 16, 2022

Agenda Item 3a

Clipper In-Person Customer Service Centers Contract Actions:

- i. **Contract Amendment – TTEC Government Solutions, LLC (\$485,000);**
 - ii. **Contract Amendment – Nematode Holdings, LLC (\$300,000); and**
 - iii. **Funding Agreement Amendment – Alameda-Contra Costa Transit District (\$250,000)**
-

Subject:

Approval of contract actions for Clipper in-person customer service centers: TTEC Government Solutions, LLC (\$485,000), Nematode Holdings, LLC (\$300,000) and Alameda-Contra Costa Transit District (\$250,000).

Background:

The Clipper program funds in-person customer service centers at two San Francisco locations and the Alameda-Contra Costa Transit District (AC Transit) Oakland headquarters. In addition to issuing new cards and selling value, these service centers replace lost, stolen and damaged cards, accept cash payment for card replacement fees and distribute Clipper START materials. They also are trained to provide information about obtaining and using Clipper mobile cards. These locations are a convenient option for transit riders to obtain Youth and Senior Clipper cards so they have immediate access to the fare discounts and benefits, such as balance protection, that are available to Clipper customers.

These contract and funding agreement actions are included in the Two-Year Clipper Budget and Work Plan. Staff recommends that the Board approve the following contract actions.

Contract Amendment – Clipper Customer Service Center Operations at Embarcadero Station: TTEC Government Solutions, LLC (TTEC) (\$485,000)

In March 2017, this Board approved the recommendation to award Faneuil, Inc. a contract to operate the Clipper Customer Service Center at the Embarcadero BART/Muni Metro station following a competitive procurement. The terms of the procurement were for a two-year operating period with an option to extend annually for up to five years (through FY 2023-24).

The contract was reassigned to TTEC Government Solutions, LLC effective April 1, 2022, according to the terms of an asset purchase agreement with Faneuil, Inc. While Faneuil's original procurement proposal was for annual compensation of \$438,000 in Extension Year 4 (FY 2022-23), staff has negotiated with TTEC to increase the compensation by \$47,000 after TTEC made a compelling business case for wage increases for staff to facilitate the hiring and retention of qualified customer service representatives. Staff believes the proposed wage increases are reasonable due to increases in San Francisco minimum wage rates tied to the Cost Price Index and the hiring wages for comparable retail work in the area. The current contract amount is \$2,085,350; the amendment would add \$485,000 and extend operations through June 30, 2023.

Contract Amendment – Clipper Customer Service Center Operations at San Francisco Ferry Building (Bay Crossings): Nematode Holdings, LLC (Nematode) (\$300,000)

MTC first executed a sole source contract with Nematode Holdings in December 2010 to offer Clipper services due to Nematode's Bay Crossing store being the only vendor in the San Francisco Bay Ferry Building with experience providing transportation information and selling fare media. In July 2020, MTC executed a new sole source contract with Nematode to continue offering Clipper services with an expanded scope of work to prepare for the transition to the next-generation Clipper system. The current contract amount is \$629,140; the amendment would add \$300,000 and extend operations through June 30, 2023.

Funding Agreement Amendment – Clipper Customer Service Center Operations at Alameda-Contra Costa Transit District (AC Transit) Headquarters: AC Transit (\$250,000)

In April 2012, MTC executed a funding agreement with AC Transit to provide expanded Clipper customer services at AC Transit's headquarters in downtown Oakland, walkable to several bus lines and BART's 12th Street and 19th Street stations. The current funding agreement amount is \$2,544,600; the amendment would add \$250,000, funding these ongoing activities through June 30, 2023.

Issues:

None identified.

Recommendation:

Staff recommends that the Board approve a contract amendment with TTEC in an amount not to exceed \$485,000, a contract amendment with Nematode in an amount not to exceed \$300,000, and a funding agreement amendment with AC Transit in an amount not to exceed \$250,000, to provide in-person Clipper customer services as described above.

Attachments:

None.



Carol Kuester

Request for Board Approval

Summary of Proposed Contract Amendment

Contractor: TTEC Government Solutions, LLC
Eaglewood, CO

Work Project Title: Clipper Customer Service Center Operations at Embarcadero Station

Purpose of Project: Provide Clipper in-person customer services, including issuance of new and replacement cards

Brief Scope of Work: Contractor shall provide trained staff to support a range of Clipper customer services

Project Cost Not to Exceed: \$485,000 (this amendment)
Total Contract value including amendments before this amendment is \$2,085,350
Total Contract amount with this amendment is \$2,570,350

Funding Source: Regional Measure 2 Marketing and Operations, STA, STP

Fiscal Impact: Funds dependent on approval of the FY 2022-23 MTC agency budget

Motion by Board: That a contract amendment with TTEC Government Solutions, LLC for the purposes described above and in the Clipper Executive Director's summary sheet dated May 16, 2022 is hereby approved by the Clipper Executive Board.

Clipper Executive Board: _____
Robert Powers, Chair

Approved: May 16, 2022

Request for Board Approval

Summary of Proposed Contract Amendment

Contractor: Nematode Holdings, LLC
San Francisco, CA

Work Project Title: Clipper Customer Service Center Operations at San Francisco Ferry Building (Bay Crossings)

Purpose of Project: Provide Clipper in-person customer services, including issuance of new and replacement cards; and maintain ferry schedule flap sign display

Brief Scope of Work: Contractor shall provide trained staff to support a range of Clipper customer services and the maintenance of the ferry schedule display

Project Cost Not to Exceed: \$300,000 (this amendment)
Total Contract value including amendments before this amendment is \$629,140
Total Contract amount with this amendment is \$929,140

Funding Source: Regional Measure 2 Marketing and Operations, STA, STP

Fiscal Impact: Funds dependent on approval of the FY 2022-23 MTC agency budget

Motion by Board: That a contract amendment with Nematode Holdings, LLC for the purposes described above and in the Clipper Executive Director's summary sheet dated May 16, 2022 is hereby approved by the Clipper Executive Board.

Clipper Executive Board:

Robert Powers, Chair

Approved: May 16, 2022

Request for Board Approval

Summary of Proposed Funding Agreement Amendment

Contractor: Alameda-Contra Costa Transit District (AC Transit)
Oakland, CA

Work Project Title: Clipper Customer Service Center Operations at AC Transit
Headquarters

Purpose of Project: Provide Clipper in-person customer services, including issuance of
replacement cards in the East Bay

Brief Scope of Work: Operate Clipper in-person customer service center

Project Cost Not to Exceed: \$250,000 (this amendment)
Total Funding Agreement value including amendments before this
amendment is \$2,544,600
Total Contract amount with this amendment is \$2,794,600

Funding Source: Regional Measure 2 Marketing and Operations, STA, STP

Fiscal Impact: Funds dependent on approval of the FY 2022-23 MTC agency budget

Motion by Board: That a funding agreement amendment with Alameda-Contra Costa
Transit District for the purposes described above and in the Clipper
Executive Director's summary sheet dated May 16, 2022 is hereby
approved by the Clipper Executive Board.

Clipper Executive Board: _____
Robert Powers, Chair

Approved: May 16, 2022

Clipper® Executive Board

May 16, 2022

Agenda Item 4a

Clipper® Schedule and Implementation Update

Subject:

Update on key developments related to the implementation of the current and Next Generation Clipper system.

Background:

Next Generation Project Schedule

The current schedule is consistent with the Change Order approved at the April 18, 2022 Clipper Executive Board (CEB) meeting. The following table shows key milestones from the schedule and their expected completion date:

Milestone	Expected Completion Date
Approval of Final Design Documents	May 2022
Approval of System Demonstration Test and System Integration Test Results	November 2022
Approval of Pilot Test Results	January 2023
Guarantee for Revenue Ready	January 2023

First installation of Clipper readers continues at the downtown San Rafael Sonoma-Marín Area Rail Transit (SMART) rail station, San Francisco Bay Area Water Emergency Transportation Authority (WETA) ferry terminals in Alameda and Oakland, and on new San Francisco Municipal Transportation Agency (SFMTA) light rail vehicles.

Next Generation Implementation

Included as Attachment A to this memorandum is a summary of recently completed activities related to delivering the Next Generation Clipper program (C2); upcoming activities and deliverables for MTC, Cubic Transportation Services, and the transit operators; and noteworthy items that the project team is managing.

Issues:

None identified.

Recommendations:

Information

Attachments:

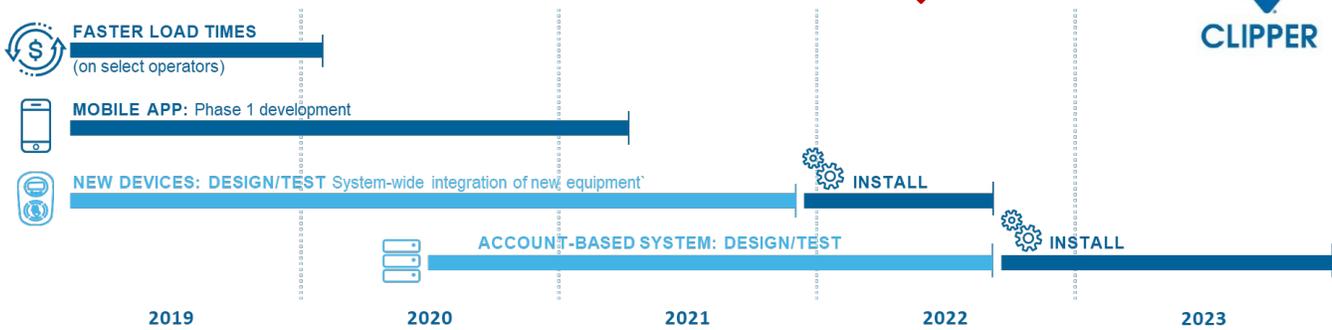
- Attachment A: Next Generation Clipper Program Executive Summary Status Report
- Attachment B: Clipper Next Generation Equipment Pilot Installation Pictures



Carol Kuester

Next-Generation Clipper Program

Executive Summary Status Report – May 16, 2022



Summary

- Pilot testing for new devices ongoing; System Integration Testing (SIT) for onboard validator integration options continues.
- Final Design Review (FDR) of account-based system documentation nearing completion. Review of Account-based system Factory Acceptance Test (FAT), System Demonstration Test (SDT), and User Acceptance Test (UAT) procedures continues.
- Technical and planning discussions continue with operators on various topics, including CAD/AVL integration, paratransit/third-party integration, BART and Muni equipment, and new device installation.
- Joint coordination meetings ongoing between MTC and C2 Contractors Cubic (System Integrator), WSP (Customer Service Center), and Fiserv (Payment Services). Fare Media Supplier re-procurement underway.

Recently Completed Activities

	MTC/IBI	Cubic	Operators	Date
• New Devices:				
o SIT for onboard equipment (cont'd.)	●	●	●	May 4–5
• Account-Based System Final Design Review:				
o FDR Part 1 resubmittal by Cubic		●		May (expected)
• Account-Based System Testing:				
o Comments on test procedures to Cubic	●		●	Apr–May

Upcoming Activities/Deliverables

	MTC/IBI	Cubic	Operators	Date
• New Devices:				
o SIT for onboard equipment (cont'd.)	●	●	●	May
o Pilot installation/testing (cont'd.)	●	●	●	May–Aug
o Regionwide installation begins	●	●	●	May
• Account-Based System Final Design Review:				
o FDR approval	●		●	May/June
• Account-Based System Testing:				
o FAT for Customer Service Terminal and Fare Inspection & Mobile Payment Solution	●	●	●	May
• Account-Based Implementation Plans:				
o Initial submittal by Cubic (Package 9)		●		May/June
• Clipper Executive Board Meeting	●		●	June 20



Clipper® Next Generation Equipment Pilot Installation Pictures

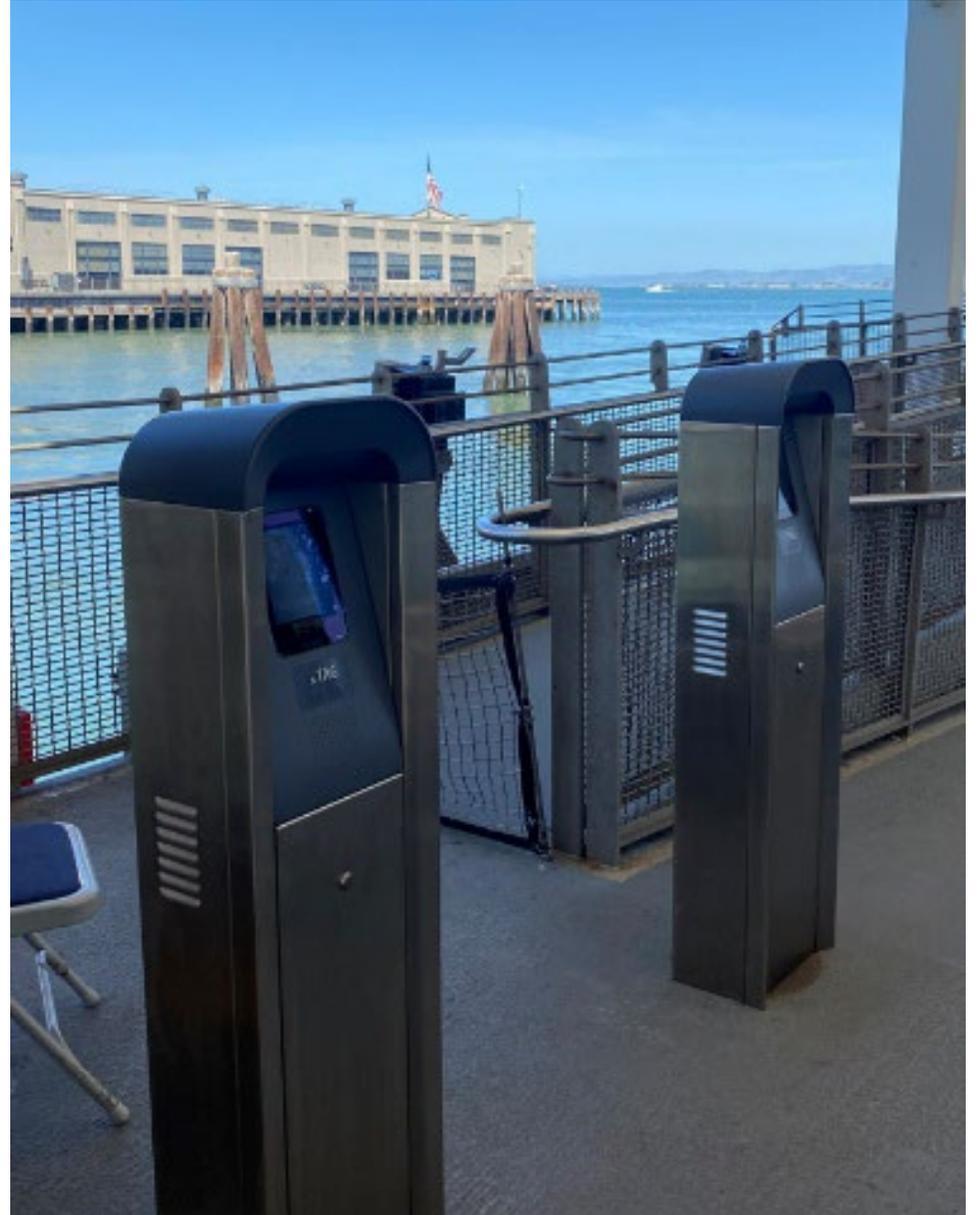
Clipper Executive Board

May 16, 2022

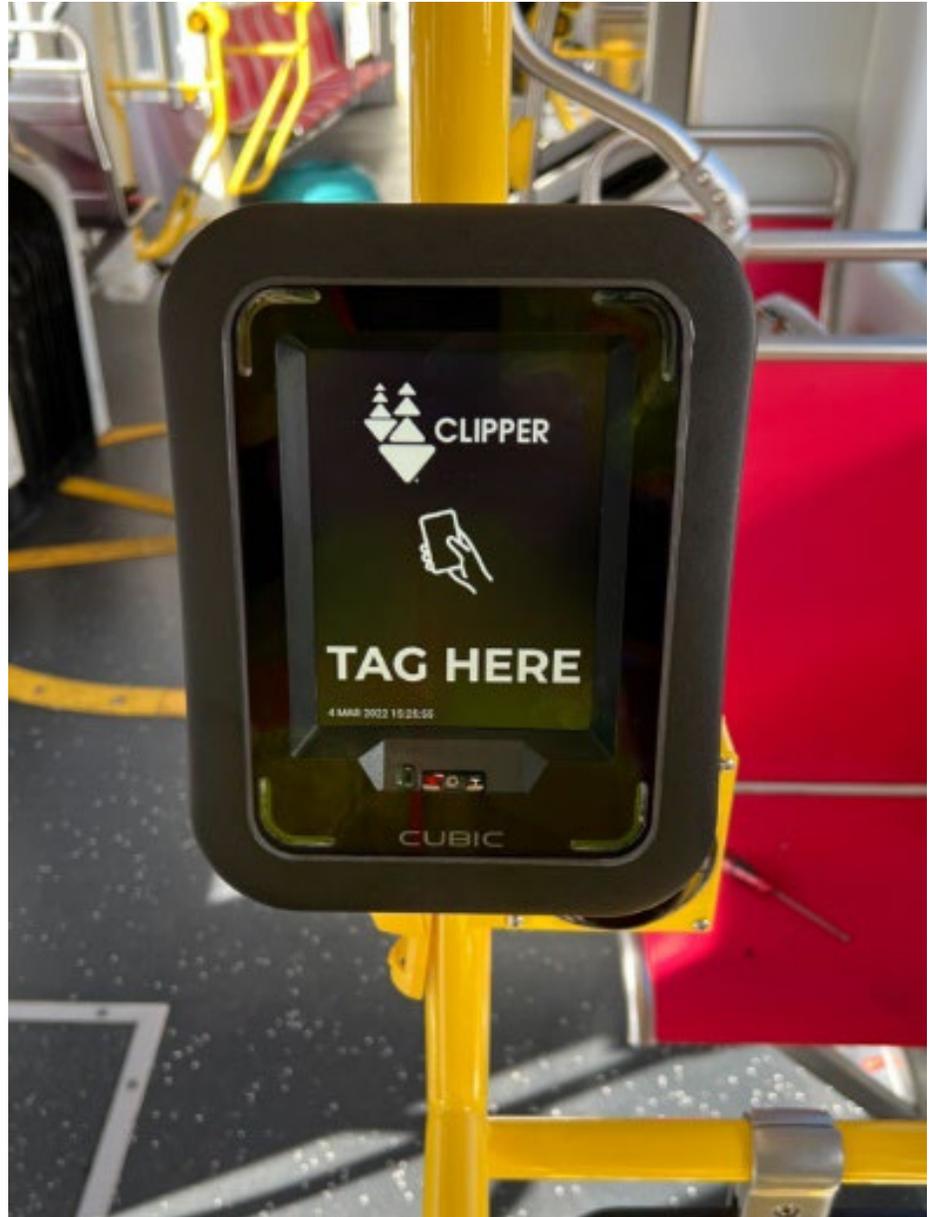
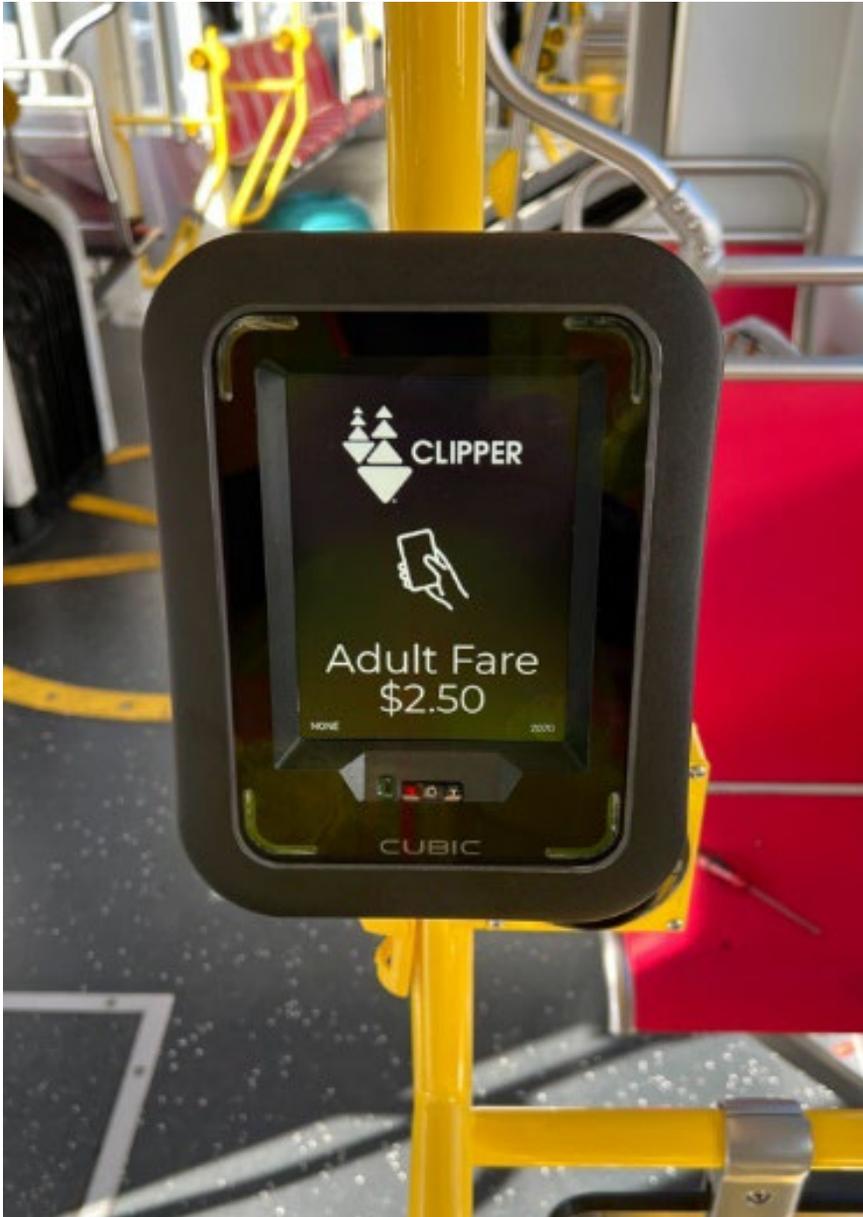
AC Transit Standalone Reader Decals – San Leandro, Uptown



WETA and Golden Gate Ferry Standalone Readers



SFMTA LRV4 Installation – Onboard Validators



Clipper[®] Executive Board

May 16, 2022

Agenda Item 4b

Current Clipper[®] Operations and Performance Update

Subject:

Update on current Clipper system operations and performance; Clipper staff last updated the Clipper Executive Board (CEB) on the ongoing work and projects related to the current Clipper system at the April 2022 meeting.

Background:

Transaction and Sales

In April 2022, Clipper processed over 10 million transactions and settled \$22.1 million in revenue. Vacaville continued to offer fare-free travel due to COVID-19.

Mobile App Performance and Usage

Regarding Clipper mobile app and ridership with the use of mobile cards:

- Nearly 246,000 plastic cards have been transferred to mobile wallets, and over 337,000 new mobile cards have been created.
- Customers have now taken approximately 10 million trips using Clipper mobile cards. This represents over 11% of the total trips taken with Clipper since mid-April 2021. This percentage continues to increase, and, for the month of April 2022 alone, over 16% of Clipper trips were taken using a mobile card.

Mobile Card Fee Update

- The \$3 fee for mobile Clipper cards was successfully removed on March 24, 2022, the start of the second 6-month pilot. Clipper staff secured an informal agreement from the Federation of Tax Administrators (FTA) to extend the original pilot, and we are waiting to receive a formal response to our request to continue to extend the original pilot.
- Clipper staff has engaged ARC Alternatives and has met with them and transit operator staff to gather more data and information for conducting a Title VI analysis and identifying any disparate impacts that the physical and mobile card fees have for different transit rider populations. Further details will be discussed at a future CEB meeting.

Quarterly Fare Change Deadline

- As discussed during the November 15, 2021, CEB meeting, Cubic has requested fare changes occur on a quarterly schedule to limit demands on development and testing resources as work continues porting first generation Clipper business rules to the new devices and developing the next-generation account-based system.
- For October 1, 2022 fare changes, Cubic has set a deadline of Friday, July 1, 2022 for receiving any fare change requests.

Issues:

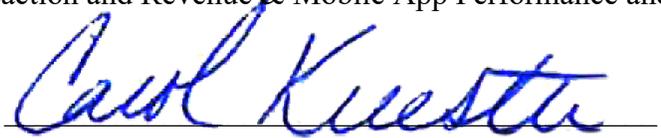
None identified.

Recommendations:

Information.

Attachments:

- Attachment A: Clipper System Transaction and Revenue & Mobile App Performance and Usage Charts and Figures



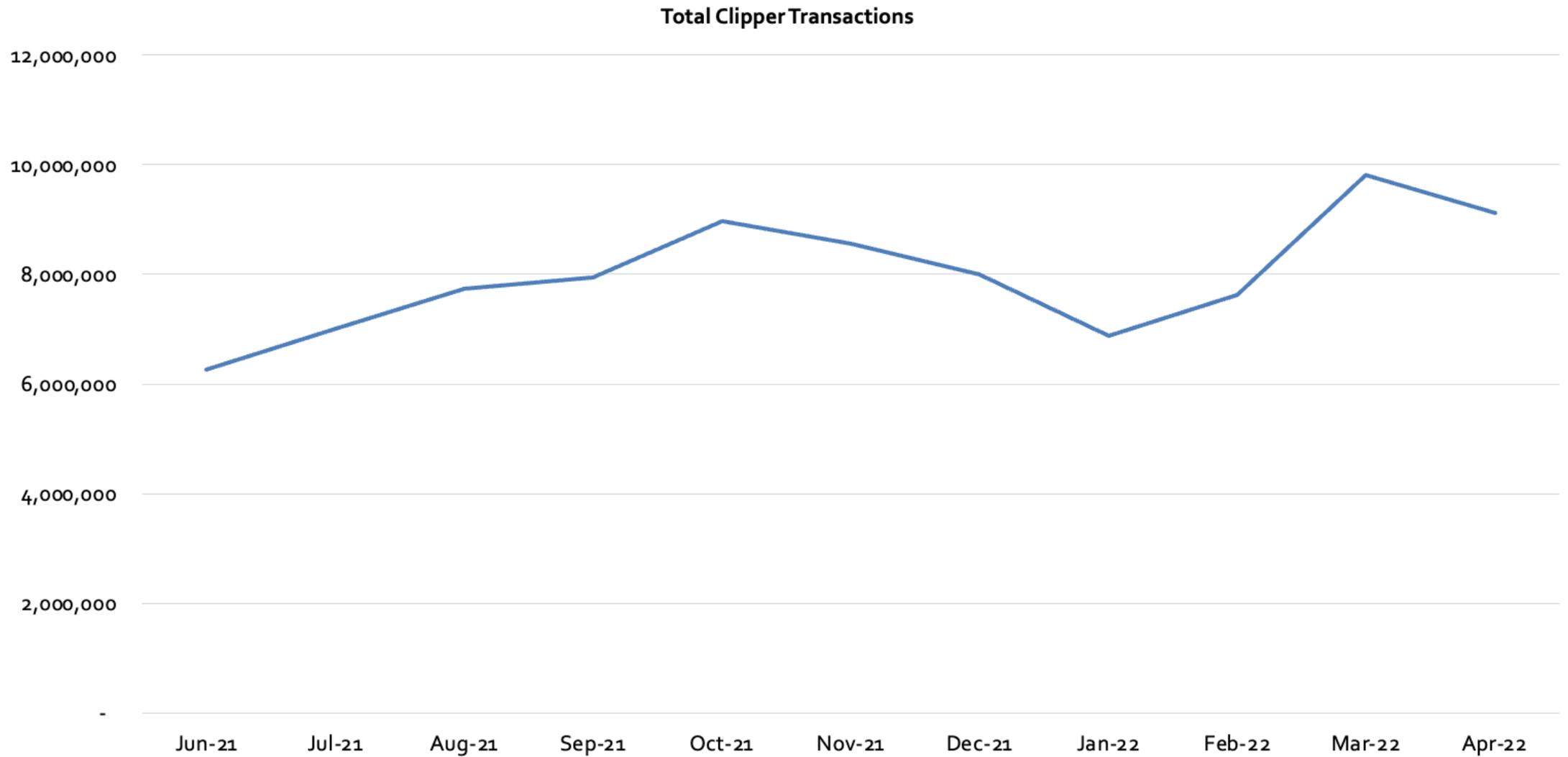
Carol Kuester



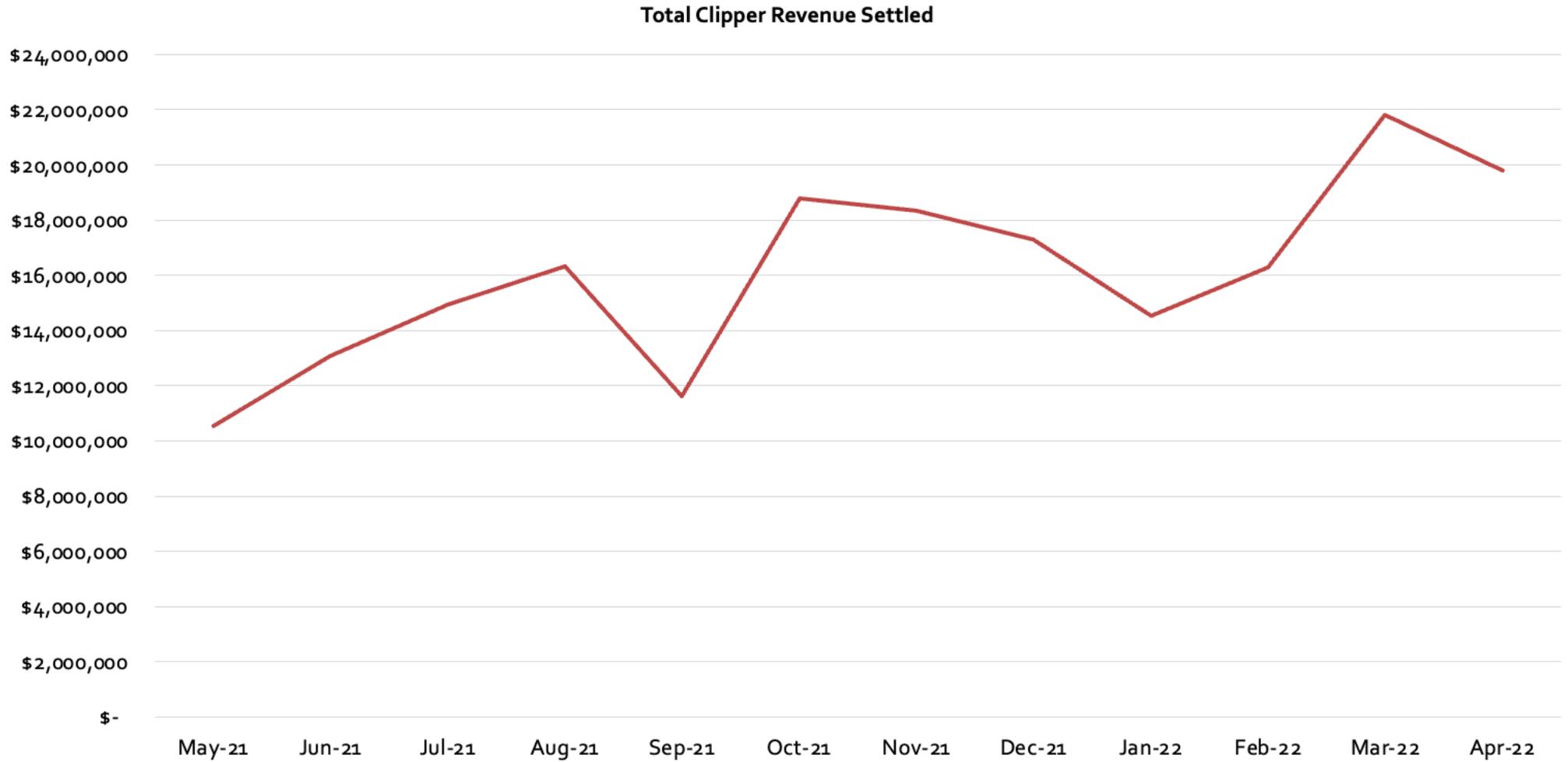
Clipper® System Transaction and Revenue & Mobile App Performance and Usage

Charts and Figures
Clipper Executive Board
May 16, 2022

Total Clipper Transactions



Total Clipper Revenue Settled



Number of Mobile Cards Provisioned by Year, Month, and Transaction Type

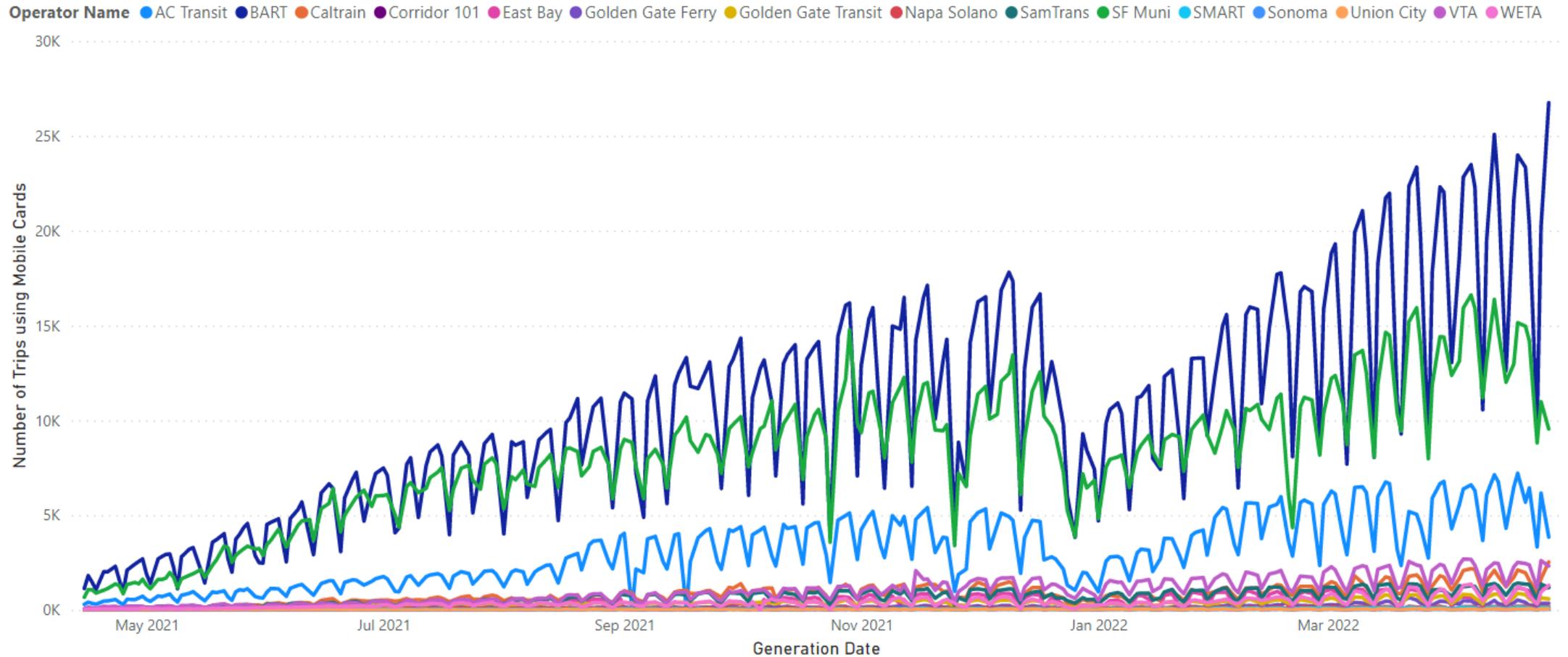
Number of Cards Provisioned by Year, Month and Transaction Type

Transaction Type ● New Card Issue ● Physical to Mobile Migration



Number of Trips Made with Mobile Cards by Generation Date and Operator Name

Number of Trips made with Mobile Cards by Generation Date and Operator Name



Number of Trips Using Mobile Cards, Number of Clipper Trips, and Percent Mobile Card Trips for each operator since April 2021 as well as just for the month of April 2022

Since April 2021 Launch

Operator Name	Number of Trips using Mobile Cards	Number of Clipper Trips	Percent Mobile Card Trips
AC Transit	1,167,031	11,286,723	10.34%
BART	3,971,464	31,570,876	12.58%
Caltrain	318,479	1,559,511	20.42%
Corridor 101	13,319	87,084	15.29%
East Bay	148,383	1,403,853	10.57%
Golden Gate Ferry	62,706	434,487	14.43%
Golden Gate Transit	131,865	766,024	17.21%
Napa Solano	29,995	253,542	11.83%
SamTrans	259,150	2,990,856	8.66%
SF Muni	3,096,379	28,043,290	11.04%
SMART	18,565	203,824	9.11%
Sonoma	4,441	27,172	16.34%
Union City	8,716	102,970	8.46%
VTA	388,810	5,935,987	6.55%
WETA	146,765	645,872	22.72%
Total	9,766,068	85,312,071	11.45%

Just April 2022

Operator Name	Number of Trips using Mobile Cards	Number of Clipper Trips	Percent Mobile Card Trips
AC Transit	150,431	1,022,003	14.72%
BART	521,947	3,052,461	17.10%
Caltrain	45,526	171,937	26.48%
Corridor 101	1,304	7,801	16.72%
East Bay	20,153	136,450	14.77%
Golden Gate Ferry	10,093	59,241	17.04%
Golden Gate Transit	16,831	72,818	23.11%
Napa Solano	3,770	21,948	17.18%
SamTrans	30,271	248,275	12.19%
SF Muni	362,316	2,321,216	15.61%
SMART	2,684	21,005	12.78%
Sonoma	513	2,394	21.43%
Union City	1,184	9,706	12.20%
VTA	56,892	558,139	10.19%
WETA	24,004	81,234	29.55%
Total	1,247,919	7,786,628	16.03%



Clipper® Executive Board

May 16, 2022

Agenda Item 4c

Proposed Clipper® Amended and Restated Memorandum of Understanding (MOU)

Subject:

MTC is preparing a draft of a new Clipper 2022 MOU to capture changes required to support the operation of the Next Generation Clipper System, including cost-sharing agreements for the System Integrator, Customer Service Center, Payment Services, and Fare Media Fulfillment Contracts.

Background:

Staff presented proposed Clipper MOU and Cost Sharing updates at the Clipper Executive Board meeting on April 18, 2022. The Board then requested that staff present the draft MOU in its May 2022 meeting as an information item and then at its June meeting as an approval item.

This memo and the attached presentation summarize the proposed changes and cost-sharing agreements to be incorporated into a new Clipper 2022 MOU. The draft 2022 MOU is attached to familiarize transit operator staff with the planned content and structure of the new MOU, with the caveat that this document is still in draft form. This 2022 MOU builds on the core agreements of the 2016 MOU and includes:

- General clean-up and clarifications;
- References to the additional contracts needed to support the Next Generation Clipper System;
- Incorporation of Amendment 3 of the 2016 MOU with updated Regional Transit Connection (RTC) Program cost-sharing agreements (Appendix B-2); and
- Added language in the Program Goals and Performance Measures (Appendix C) to document operator commitments to document operator commitment encouraging transit rider preference of Clipper as the region's primary fare payment system.

MTC Clipper staff's goal is to support full execution of the new MOU by September 2022 because Next Generation Clipper operations and maintenance invoices will start being issued at that time. The MOU, including new details regarding cost-sharing, needs to be finalized in order to begin paying the Next Generation Clipper operations and maintenance invoices. Staff will incorporate the final cost-sharing agreements into Appendix B-3 of the MOU and return to this Board in June with a recommendation for approval of the MOU so that circulation for review and execution by the 23 signatory agencies can begin.

Issues:

None identified.

Recommendations:

Information

Attachments:

- Attachment A: Proposed Clipper Memorandum of Understanding (MOU) Slides
- Attachment B: Draft 2022 MOU



Carol Kuester

2022 AMENDED AND RESTATED CLIPPER® MEMORANDUM OF UNDERSTANDING

This 2022 Amended and Restated Clipper® Memorandum of Understanding (the "MOU") is entered into as of the ____ day of ____, 2022 (the "Effective Date"), by and among the Metropolitan Transportation Commission ("MTC") and the following transit operators participating in the Clipper® Program (referred to herein individually as an "Operator" or collectively as the "Operators"):

Alameda-Contra Costa Transit District ("AC Transit"); Golden Gate Bridge Highway and Transportation District ("GGBHTD"); the San Francisco Bay Area Rapid Transit District ("BART"); the City and County of San Francisco, acting by and through its Municipal Transportation Agency ("SFMTA"); the San Mateo County Transit District ("SamTrans"); the Santa Clara Valley Transportation Authority ("VTA"); the Peninsula Corridor Joint Powers Board ("Caltrain"); Central Contra Costa Transit Authority; City of Fairfield, as the operator of Fairfield and Suisun Transit; City of Petaluma; Eastern Contra Costa Transit Authority; Livermore/Amador Valley Transit Authority; Marin County Transit District; Napa Valley Transportation Authority; Solano County Transit; Sonoma County Transit; Sonoma-Marin Area Rail Transit; Vacaville City Coach; Western Contra Costa Transit Authority; San Francisco Bay Area Water Emergency Transportation Authority; City of Santa Rosa; and City of Union City; *and any other New Operator Participants in accordance with Article VI.A of the MOU.*

MTC and the Operators are referred to herein collectively as the "Parties" or individually as a "Party".

Recitals

1. On July 2, 2009, MTC entered into a contract (the "Clipper Contract") with Cubic Transportation Systems, Inc. to implement, operate and maintain the Clipper fare payment system on behalf of the Operators ("Clipper Program") through November 2, 2019, which contract was extended on June 30, 2017 for a period of up to five years (November 2, 2024).
2. On February 19, 2016, MTC and the Operators entered into an Amended and Restated Clipper Memorandum of Understanding, replacing a previous MOU that delineated the MTC and Operator responsibilities for the Clipper Program, which was subsequently amended on April 17, 2017; October 1, 2020; and September 1, 2021 ("2016 MOU").
3. On September 26, 2018, MTC, as Contracting Agency under the 2016 MOU, entered into a contract (the "Next Generation Clipper Contract") with Cubic Transportation Systems, Inc. (the "Clipper Contractor") to act as system integrator for the Next Generation Clipper system, including system design, development and testing, installation and transition, operations and maintenance, and end of term transition. The Next Generation Clipper system will implement an account-based payment system.
4. Effective September 1, 2021, the 2016 MOU transferred responsibility for management and oversight of the Regional Transit Connection Discount Card Program ("RTC Program"), which provides people with disabilities with discounted access to fixed-route transit, to the Clipper Executive Board and responsibility for the administration of the RTC Program to MTC, pending development and implementation of a new RTC Program database.
5. The Parties now wish to amend and restate the 2016 MOU to reflect changes to the Clipper program brought about by the implementation of the Next Generation Clipper system and the

expanded use of Clipper since 2016, including a revised cost-sharing formula applicable to the RTC Program and tailored to the Next Generation Clipper account-based fare payment system.

6. For purposes of this MOU, references to the Clipper Program, Clipper fare payment system, or Clipper refer collectively to the systems implemented under the Clipper Contract, the Next Generation Clipper Contract, and other contracts to be entered into to implement and operate the next generation Clipper system. The term Clipper Contractor refers to both the Clipper Contract and the Next Generation Clipper Contract, as appropriate.

ARTICLE I Operator Responsibilities

Each Operator agrees to:

- A. Implement and operate the Clipper fare payment system in accordance with the Clipper Operating Rules, as adopted and amended from time to time, consistent with the consultation and approval process set forth in Appendix A, Process for Amending Clipper Operating Rules, attached hereto and incorporated herein by this reference. The Clipper Operating Rules establish operating parameters and procedures for the consistent and efficient operation of Clipper throughout the region. The current version of the Clipper Operating Rules is available on MTC's website at <http://clipper.mtc.ca.gov>
- B. Pay its share of Clipper costs, including costs of the salary of additional Clipper staff necessary to support the Executive Board, according to Appendix B, Clipper® Cost and Revenue Allocation, as amended, attached hereto and incorporated herein by this reference. Changes to Appendix B require an amendment to the MOU in accordance with Article XI.A.
- C. Make its facilities and staff available for implementation and operation of Clipper. Any Operator and the Contracting Agency may agree to an Operator-specific implementation plan, setting forth specific requirements regarding implementation and operation of Clipper for such Operator.
- D. Make determinations regarding the placement of Clipper equipment on the Operator's facilities and equipment; perform necessary site preparation; attend Clipper Contractor training on the use of the Clipper equipment; and provide training to employees using the equipment.
- E. Participate in as-needed reviews of the cost and revenue allocation formula in Appendix B, to support fairness among Operators and to accommodate changes in shared operation costs.
- F. *Implement, operate and promote Clipper as its primary fare payment system, including the primary mobile payment system, and refrain from establishing other fare payment systems or fare policies that could deter or discourage frequent transit riders' preference to use Clipper. Each Operator agrees to set fares so that fares paid with Clipper are equivalent or lower than fares paid either with cash or other forms of payment. No new non-Clipper prepaid fare product, other than for promotional, special event or limited-audience—e.g., tourist—fares, shall be created by any Operator without consulting with and receiving prior approval from MTC.*

- G. *Provide appropriate training to employees who have Clipper-related operations responsibilities, so that those personnel are able to carry out the requirements placed upon Operators in this MOU, including, but not limited to, vehicle operators, station agents, conductors, customer service personnel, proof of payment officers, ticket sales staff and any other personnel responsible for interacting with customers concerning fare payment.*
- H. *Perform first-line maintenance upon Clipper equipment located on their facilities or vehicles, promptly notify the Clipper Contractor when second-line maintenance of Clipper equipment is needed, promptly notify the Contracting Agency and the Clipper Contractor of any issues affecting daily financial reconciliation or accuracy of system reports, issue all types (including, but not limited to, cards configured as senior or youth) of Clipper cards and add value to existing Clipper cards from all customer service terminals located at their business facilities, and provide at least the same level of front-line customer service to their patrons using Clipper as to patrons using other forms of fare payment.*
- I. *Take financial responsibility for the cost of replacement of equipment damaged in-service due to vandalism or any other cause for which the risk of loss is not with the Clipper Contractor pursuant to the Clipper Contract or Next Generation Clipper Contract or covered by warranty under the applicable Clipper contract.*
- J. *Provide General Transit Feed Specifications (GTFS) for the development, implementation, operation, and maintenance of the Clipper mobile application.*
- K. Support the Contracting Agency in its administration and operation of the RTC Program, as set forth in Article III.M, and pay its share of RTC Program costs, according to Appendix B, attached hereto and incorporated herein by this reference, as amended.

ARTICLE II MTC Responsibilities

MTC agrees to:

- A. Fund a portion of the Clipper operating and maintenance costs, including costs of the salary of additional Clipper staff necessary to support the Executive Board, as set forth in Appendix B. Subject to availability of necessary funds, inclusion of projects in the Regional Transportation Plan and Transportation Improvement Program where necessary, and receipt of all necessary Commission approvals, budget appropriations and allocations, MTC will continue to fund capital and Contracting Agency operating costs in the manner that it has funded capital and Contracting Agency operating costs to date through a dedicated allocation of federal, state and local funds, both discretionary and project designated. Recommended annual capital allocations will be identified in the work plan approved by the Executive Board. (See Article IV.C.4.)
- B. Retain all books, papers, records, documents, and other materials pertaining to its responsibilities under Appendix B (the "Materials") in accordance with federal grant and audit requirements and generally accepted accounting principles and make the Materials available to Parties upon request through reasonable means and at reasonable times. Parties may request that Materials be made available for the most recently closed fiscal

year during the term of this MOU and for up to one year thereafter; provided, however, that nothing in this Article II.B is intended to limit a Party's rights to obtain records under the California Public Records Act (Government Code Section 6250 *et seq.*).

- C. Continue to serve as the Contracting Agency (described in Article III), and continue to provide adequate staffing to support the Clipper program under the direction of the Clipper Executive Director (described in Article V), until such time as the Executive Board designates, and MTC's Commission approves, the assignment of MTC's duties as Contracting Agency to another Party pursuant to Article IV.D.
- D. Employ the Clipper Executive Director (described in Article V). MTC reserves the right to make decisions regarding hiring, promotion, termination, compensation, and removal of the initial Clipper Executive Director. Selection of a successor Executive Director shall be in accordance with Article III.I.
- E. Continue to create, maintain, and protect all copyrights and other intellectual property necessary or convenient for the operation of the Clipper fare payment system, including the Clipper brand, trademark and design, and provide any necessary licenses to use such intellectual property to the Contracting Agency, if other than MTC.
- F. Enter into supplemental agreements with new Operator Participants in accordance with Article VI.A.
- G. Enter into Affiliate Participant agreements in accordance with Article VI.B.

ARTICLE III

Contracting Agency Responsibilities

The Contracting Agency agrees to:

- A. On behalf of the Parties, procure, award, manage and carry out the duties and responsibilities of the Clipper Program counterparty under all contracts necessary for the expansion, modification, modernization, operation, maintenance, marketing and customer service of the Clipper fare payment system, including the Clipper Contract, *Next Generation Clipper Contract*, *contracts for the Next Generation customer service center*, *the payment gateway*, and *fare media contracts* ("Other Next Generation Clipper Contracts"), and any contracts for associated professional or technical services for the Clipper program as a whole.
- B. Establish, manage and implement Clipper Operating Rules in accordance with Appendix A.
- C. Provide regular updates (at least quarterly) on the Clipper Program to the Parties.
- D. Support the Parties with respect to Articles I.E and II.A by providing system data affecting the cost allocation formula.
- E. Own specified Clipper Program capital equipment, as may be required by grant or funding agency rules and regulations, and transfer ownership, to the greatest extent permitted under such rules and regulations, to any successor Contracting Agency.

- F. Hold and manage the Clipper bank accounts and act as an agency in trust for the benefit of the cardholders for funds deposited by the cardholders for the ultimate use on the services provided by the Operators, and for the benefit of the Operators for funds due to Operators until dispersed to such Operators.
- G. Conduct *an as-needed* contract compliance audit covering Clipper Program revenue collection and allocation and cost allocation responsibilities under the MOU and provide a copy of the complete audit report to all Parties upon conclusion of each such audit.
- H. Retain all books, papers, records, documents, and other materials pertaining to its responsibilities under Appendix B (the "Materials") in accordance with federal grant and audit requirements and generally accepted accounting principles and make the Materials available to Parties upon request through reasonable means and at reasonable times. Parties may request that Materials be made available for the most recently closed fiscal year during the term of this MOU and for up to one year thereafter; provided, however, that nothing in this Article III.H is intended to limit a Party's rights to obtain records under the California Public Records Act (Government Code Section 6250 *et seq.*), subject to the restrictions on the handling and confidentiality of personally identifiable information ("PII") set forth in California Streets and Highways Code Section 31490).
- I. Engage the Clipper Executive Director in accordance with Article V. The Contracting Agency reserves the right to make decisions regarding hiring, promotion, termination, compensation, and removal of the Clipper Executive Director provided that it shall not engage the successor to the initial and successor Executive Directors without the concurrence of the Executive Board. The Contracting Agency shall collaborate with the Executive Board in considering potential candidates for Executive Director.
- J. Provide adequate staffing (including program and legal staff) to support the Clipper program. The Contracting Agency reserves the right to make decisions regarding hiring, promotion, termination, compensation and removal of program staff.
- K. Provide necessary logistical and technological support to the Executive Board and any committees thereof, except as provided in Article IV.H.
- L. On behalf of the Parties and under the direction of the Clipper Executive Board, procure, award, and manage contracts and carry out the administrative and management duties and responsibilities necessary for the operation, maintenance, marketing and customer service of the RTC Program; provided that the Contracting Agency shall not assume administrative, operational (including customer service), or maintenance duties prior to its issuance of a notice to Operators that a new RTC database has been tested and deployed.

ARTICLE IV

Clipper Executive Board

- A. Role; Composition. The Parties agree that responsibility for the policy oversight and management of the Clipper Program and the RTC Program shall reside with a Clipper® Executive Board ("Executive Board"). The Executive Board's responsibilities shall be executed in a manner consistent with the Operator, MTC and Contracting Agency

responsibilities set forth in Articles I, II and III, respectively. The Executive Board shall be comprised of nine members: one representative each from SFMTA, BART, Caltrain/SamTrans, AC Transit, VTA, GGBHTD and MTC, and two representatives who are selected to represent all other Operators (the "Small Operators") in the sole discretion of the Small Operators. Each representative shall be at the General Manager or Senior Management level.

B. Principles. The Executive Board shall adhere to the following principles:

1. The Clipper Program shall continue as the primary electronic fare collection system for the Operators.
2. Each member of the Executive Board commits to actively advance the continued successful operation, maintenance and growth of the Clipper Program on a cost effective, operationally efficient, and coordinated basis.
3. Promote efforts to reduce the overall cost of the Clipper system, including operating costs, capital costs and consultant expense.
4. Promote regional efforts to simplify fare structures while protecting revenue levels.

C. Duties. The Executive Board shall undertake the following duties:

1. Meet in accordance with a regular meeting schedule established by the Executive Board, not less than quarterly.
2. Establish goals for the Clipper Program, including targets to increase market penetration and cost containment initiatives. The Program Goals and Performance Measures are attached as Appendix C, and may be amended by unanimous vote of the Executive Board from time to time.
3. Propose for review by MTC, Operators and other funding sources (collectively, the "Funding Agencies") a biennial capital and operating budget for the Clipper Program. Revise and adopt the proposed budget in accordance with the Clipper budgets adopted and/or allocations made by each of the Funding Agencies. The biennial budget will outline staffing requirements and resources needed to accomplish the work plan. The budget will define required funding, identify funding sources, and specify the amount of individual agency contributions.
4. Adopt a detailed biennial work plan to implement the established goals and budget.
5. Designate the Contracting Agency, as further described in and subject to Article IV.D, and provide policy oversight, advice, and direction to the Contracting Agency.
6. Evaluate the performance of the Clipper Executive Director on at least an annual basis. The Board will develop goals and objectives jointly with the Clipper Executive Director, which will form the basis for the annual evaluation.
7. Review and authorize Significant Business Matters as described in Article IV.E.

8. Establish such procedures as shall be necessary or desirable to facilitate compliance by the Executive Board with the Ralph M. Brown Act (Government Code Section 54950 *et seq.*) (the "Brown Act") and other applicable laws.
- D. Designation of a Contracting Agency. The Executive Board shall designate one of the Parties to serve as the "Contracting Agency" with the responsibilities defined in Article III. MTC shall serve as the initial Contracting Agency. The Executive Board shall review the designation of the Contracting Agency not more often than once every three (3) years and may designate any of the Parties as a new Contracting Agency no later than one year prior to the proposed assignment date, which designation may be subject to the approval of the governing board of the proposed new Contracting Agency. In the event of a new designation, the then-current Contracting Agency shall seek approval from its governing board to assign all outstanding contracts, funding agreements, licenses, and accounts to the newly designated Contracting Agency and, if it receives approval from its governing board for such assignment, take such other actions as may be necessary or convenient to effect the transition of the Contracting Agency role. In the event of a change from the role of MTC as the Contracting Agency, the Executive Board will work with MTC and the successor Contracting Agency to protect or minimize loss or degradation of jobs for Clipper support staff at MTC.
- E. Significant Business Matters. The Executive Board shall decide all Significant Business Matters by a majority vote. "Significant Business Matter" shall mean any matter that can reasonably be expected to have a substantial financial impact (defined as an impact of \$250,000 or more) or a substantial operating impact (defined as causing operations to fall below then-current annual operational goals) on Clipper or any of the Parties. Significant Business Matters, include, but are not limited to the following:
1. Approval of Clipper Program Contracts and Change Orders that exceed the maximum authority levels established by the Contracting Agency's procurement rules for its chief executive officer, or \$250,000, whichever is less, or that are not funded in the biennial budget. Contracting Agency governing board approval may also be required.
 2. Amendments to the Clipper Operating Rules, pursuant to Appendix A.
 3. Acceptance of new Parties to the Clipper Program. The Executive Board delegates to MTC the authority to sign supplemental agreements with new Parties accepted into the program, as provided in Article VI.
 4. Acceptance of Clipper Affiliate Participants, as described in Article VI.B, and implementation of new business ventures or opportunities for the Clipper Program.
 5. Assignment of the Next Generation Clipper Contracts. Contracting Agency approval shall also be required.
 6. Approval of expenses (administrative, operating and legal) incurred by the Contracting Agency if in excess of or not contemplated by the current approved budget.
 7. Decision whether any other matter, not expressly included or excluded as a Significant Business Matter in this list, is a Significant Business Matter in accordance with the definition above.

The foregoing definition of Significant Business Matters may be amended by unanimous vote of the Executive Board from time to time.

- F. Quorum. Five members of the Executive Board constitute a quorum. In the absence of a quorum, a smaller number of Executive Board members may secure the attendance of absent members by video conference, teleconference or other means compliant with the Brown Act to establish a quorum. Only eligible voting members shall be counted to establish a quorum.
- G. Voting. Each member of the Executive Board shall have one vote. A vote of a majority of the Executive Board is required for approval. Executive Board members may not abstain from voting on any matter before the Executive Board, except in cases of conflicts of interest.
- H. Board Chair; Committees. The Executive Board shall bi-annually elect a Chair and Vice Chair from its members. The Chair shall provide administrative staff support to the Executive Board, as needed as determined by the Chair and the Clipper Executive Director. The Chair may appoint advisory committees or working groups for specified projects of limited duration. The Executive Board may establish standing committees from time to time.
- I. Delegates. Executive Board members may appoint, in writing, delegates to vote on their behalf in the event of a member's absence from any Executive Board meeting, for up to four (4) meetings per calendar year. No voting rights are accorded to delegates, nor do delegates count toward a quorum of the Executive Board, when they are representing an Executive Board member for meetings after four (4) missed meetings in a calendar year.

ARTICLE V

Clipper Executive Director

The Clipper Executive Director shall be responsible for regional coordination of the Clipper program among the Parties, oversight of consultants and contractors retained for the design, operation and maintenance of the Clipper program, and effectuation of the goals and work plan adopted by the Executive Board in accordance with the budget. Clipper program support staff engaged by the Contracting Agency shall report to the Clipper Executive Director.

The Clipper Executive Director shall be selected and appointed by the Contracting Agency following consultation with the Executive Board to factor in any Executive Board concerns. The Contracting Agency will directly engage the Clipper Executive Director as its employee or independent contractor in accordance with any civil service or procurement rules applicable to the Contracting Agency. The Clipper Executive Director shall be Carol Kuester and shall be an employee of MTC, subject to Article III.I.

ARTICLE VI

New Operator and Affiliate Participants

- A. New Operator Participants. Any Bay Area transit operator not a Party to this Agreement must be approved by the Executive Board and agree to the terms of the MOU then in

effect as a condition of implementing Clipper, by entering into a supplemental agreement to this MOU accepting the then-current terms of this MOU. Signature by the other Parties to the MOU is not required. MTC shall not enter into a supplemental agreement with a New Operator Participant prior to the issuance of a Change Request to the Clipper Contractor covering all or a portion of the work required to accept such operator into the system. MTC shall provide the other Parties to the MOU with written notice of each supplemental agreement. “Bay Area transit operator”, for purposes of this Article VI means a transit operator with headquarters located within the nine counties within MTC’s jurisdiction.

- B. Affiliate Participants. The Executive Board must approve implementation of Clipper or use of the Clipper card, brand, or application on any transit operator with headquarters located outside the Bay Area or by a business that is not a transit operator (collectively, “Affiliate Participants”). Affiliate participants shall be required to enter into an agreement with the Contracting Agency accepting the then-current terms of the MOU and agreeing to additional terms and conditions for implementation of Clipper or use of the Clipper card, brand, or application. Any additional costs incurred by the Clipper Program shall be paid for in accordance with such agreements. In addition, the Contracting Agency shall include indemnification provisions in such agreements at least as stringent as those set forth in Article VII.

ARTICLE VII Indemnification

- A. Mutual Indemnification. No Party to this MOU (including any of its directors, commissioners, officers, agents or employees) shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by any other Party under or in connection with this Agreement. Pursuant to Government Code Section 895.4, each Party agrees to fully indemnify and hold other Parties harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by such indemnifying Party under or in connection with this Agreement and for which such indemnifying Party would otherwise be liable.
- B. Contracting Agency Indemnification of Other Parties. Notwithstanding the provisions of Subsection A above, the Contracting Agency shall indemnify, hold harmless, and defend the other Parties from any and all claims or liability resulting from any action or inaction on the part of Contracting Agency relating to the Clipper Contract and the RTC Program (except as provided in Subsection F below) or from its failure to carry out its responsibilities under Article III of this MOU. With respect only to MTC as Contracting Agency, this indemnification covers action or inaction on the part of MTC relating to the Clipper Contract prior to the Effective Date of this MOU. Except as stated in the previous sentence, this indemnification only covers action or inaction on the part of a Contracting Agency while it serves as Contracting Agency under this MOU.
- C. Other Parties' Indemnification of Contracting Agency. Notwithstanding the provisions of Subsection A above, each Party hereto that is not the Contracting Agency shall indemnify, hold harmless, and defend the Contracting Agency from

any and all claims or liability resulting from any action or inaction on the part of such Party relating to its responsibilities under Article I or II, as applicable, of this MOU.

- D. Operator Indemnification of MTC. Notwithstanding the provisions of Subsection A above and subject to Subsection F below, each Operator shall indemnify, hold harmless, and defend MTC from any and all claims or liability resulting from any action or inaction on the part of such Operator relating to its responsibilities under Article I of this MOU.
- E. MTC Indemnification of Operators. Notwithstanding the provisions of Subsection A above, MTC shall indemnify, hold harmless, and defend each Operator from any and all claims or liability resulting from any action or inaction on the part of MTC relating to its responsibilities under Article II of this MOU.
- F. Indemnification of MTC as RTC Discount Card Program Administrator. Notwithstanding the provisions of Subsections B and D above, *the Operators shall indemnify, defend, and hold harmless MTC as Contracting Agency* against any and all claims or liability related to the RTC Program resulting after its assumption of the responsibilities set forth in Article III.M as administrator and operator of the RTC Program to the extent that such claims or liability relate to actions or inactions taken by the Operators or their third party medical verifier contractor to administer, manage, and operate the RTC Program **prior to** MTC's assumption of such duties.

ARTICLE VIII

Term

The term of the MOU shall begin upon the Effective Date and *continue for a period of ten (10) years*, unless terminated by written agreement of the Parties.

ARTICLE IX

Dispute Resolution

The Parties agree to abide by the dispute resolution procedures in Appendix D, Dispute Resolution, attached hereto and incorporated herein by this reference to resolve disputes between or among Parties to the MOU. To invoke the dispute resolution process, two Executive Board members must request it.

ARTICLE X

Changed Circumstances

Any Party may initiate informal discussions among the Parties concerning the provisions of this MOU, based on its assessment that changes in technology or other factors external to the MOU or the Clipper Contract indicate that it would be in the best interests of one or more Parties to consider revisions to the MOU. If a majority of Parties agree, the Parties will then jointly evaluate the changed circumstances to determine what, if any, revisions to the MOU are necessary or desirable. Any agreed-upon changes shall require an amendment to the MOU approved and executed by all Parties.

ARTICLE XI General Provisions

- A. The entire Agreement between and among the Parties is contained herein, and no change in or modification, termination or discharge of this MOU shall be valid or enforceable unless it is approved by the Parties and made in writing and signed by the Parties.
- B. Headings in this MOU are for convenience only and not intended to define, interpret or limit the terms and conditions herein.
- C. This MOU may be executed in one or more counterparts, each of which shall be considered an original and all of which shall constitute a single instrument.
- D. This MOU is intended for the sole benefit of the Parties and is not intended to nor shall be construed to confer any benefit or create any right in any third party.
- E. Appendix E, Special Provisions for the City and County of San Francisco, attached hereto and incorporated herein by this reference, sets forth the terms and conditions required by the City and County of San Francisco in any expenditure contracts entered into by the City.
- F. If any provision of this MOU or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this MOU, or the application of such provision to persons, entities or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this MOU shall be valid and be enforceable to the fullest extent permitted by law.
- G. Notices provided under the MOU shall be provided to the individuals listed in Appendix F, Notices, attached hereto and incorporated herein by this reference. Each Party to the MOU is responsible for notifying other Parties of a change in the individual designated to receive notices in writing. Changes to Appendix F may be made by any Party without an amendment to this MOU. MTC will distribute to every other Party the notice information of new Parties to the MOU added pursuant to Article VI.
- H. This MOU supersedes, amends, and restates the 2016 MOU in its entirety.

ARTICLE XII Legal Representation and Conflict of Interest

The Parties recognize a mutuality of interest, and a need for joint cooperation in legal matters relating to Clipper. In furtherance of this common interest, any communications among Parties and counsel for any of the Parties shall be confidential and protected from disclosure to any third party by each and every privilege – including, but not limited to, the attorney-client privilege, the attorney work product privilege, and the pooled information privilege – notwithstanding the dissemination of the communications and work product among Parties by the counsel that made the information available in the first instance. If information covered by the privileges is requested by a third party pursuant to a subpoena or other discovery request, then counsel receiving the request shall notify in a timely fashion the counsel who disclosed the information so that the privileges against disclosure may be asserted.

Should any Party withdraw from or otherwise terminate its participation in the Clipper program, such withdrawal or termination shall not impair the privileges that protect any information that has

been shared prior to such action. Any Party that withdraws or terminates its participation in the Clipper program shall promptly return all privileged materials that the Party has received.

SIGNATURES ON SUBSEQUENT PAGES

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IN WITNESS WHEREOF, this Amendment has been duly authorized and executed by the Parties hereto on the dates specified below by their duly authorized representatives.

Metropolitan Transportation Commission

Approved as to form:
Kathleen Kane, General Counsel

Name: Therese W. McMillan
Title: Executive Director

Matthew Lavrinets, Senior Counsel

Date: _____

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Appendix A
Process for Amending Clipper Operating Rules

1. The Contracting Agency shall provide written notice to the other Parties at least ninety (90) days in advance of making any changes to the Operating Rules affecting Operator Roles and Responsibilities (Section 3 of the Clipper Operating Rules). Notice shall be provided by email to the contact named in Appendix F, or as subsequently revised or updated by the Parties, as provided in Article XI.G.
2. The Contracting Agency shall provide additional notice to the other Parties on possible changes to the Operating Rules affecting Operator Roles and Responsibilities in the regular Clipper program reports furnished under Article III.C.
3. The Contracting Agency's notices shall include enough information to enable the other Parties to determine the financial and other impacts of the proposed change.
4. If requested by any Party within 30 days of issuance of such notice, the Contracting Agency will consult with all affected Parties concerning the proposed change prior to its adoption.
5. Any Party that requires additional time in excess of the notice period specified by the Contracting Agency to implement a change may notify the Contracting Agency of the additional period of time required during the initial 30-day notice period. The Contracting Agency will then work with the Party(ies) during the consultation period to modify the effective date and/or content of the Operating Rules change, as necessary.
6. Following such consultation process, if any Party(ies) objects to the proposed change, as modified during the consultation process, such Party(ies) may initiate one or more of the dispute resolution processes described in Appendix D.
7. The Contracting Agency shall delay the implementation of the disputed change until the conclusion of the dispute resolution process.
8. All proposed changes to the Operating Rules shall be presented for approval to the Executive Board. The Contracting Agency agrees that it shall not implement changes to the Operating Rules that have not been approved by the Executive Board.

Appendix B

Clipper Cost and Revenue Allocation
[see applicable sub appendices on following pages]

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**Appendix B-1
Clipper Cost and Revenue Allocation for Clipper Contract**

This Appendix B-1 applies to cost and revenue allocation during the extended Operations & Maintenance (O/M) term of the Clipper Contract, which will extend through November 2, 2024, unless earlier terminated. The cost allocation formulas and principles in this Appendix B-1 were included in the 2016 MOU and apply only to the Clipper Contract.

1. Cost Allocation Among Operators

The allocation of Clipper operating costs to each Operator shall be tied to the cost driver of each category of operating expense outlined in Section 2.B. The percent allocation in each category will be based on actuals by Operator. "Percentage of Cards Used" by Operator will be used to assess operating fees for account-based, fixed or other costs not directly attributable to either transit transactions or revenue and will be based on the number of individual cards used at least once on an Operator's system. "Fee Generating Transit Transactions" shall mean any activity in which a Clipper card is used to receive service on or from an Operator's system that results in a charge pursuant to Attachment 2 to Part I of the contract between MTC and Cubic for the operation of Clipper. "Revenue Processed" shall mean the fee collected on behalf of each Operator by the Clipper clearinghouse (e.g., the price charged to ride on the Operator's transit system, the value of pass sales, the amount of parking fees paid).

The allocation of Clipper operating costs to each Operator while the current Clipper Contract line item pricing structure is applicable shall be based on the following formula:

MOU Section 2.B.i	Fee Category	Allocation Formula
a,b,c	9.0 Cardholder Support Services	Percentage of Cards Used
d,e,f	10.0 Third Party Load Service Fees	Percentage of Cards Used
g	11.0 Autoload Services	Percentage of Cards Used
h	13.22.45 Supplemental Operations	Percentage of Cards Used
i	13.31 Clipper Transaction Fee	Percentage of Fee Generating Transit Transactions
j,k,l,m	13.60-90 Incremental Credit/Debit Card Interchange Fees	Percentage of Revenue Processed
n	Reimbursement of Bank Fees/Direct Charges	Percentage of Revenue Processed
o	Network Communication Reimbursement	Direct Charge to Operator
p	Specialized Card Printing	Direct Charge to Operator
q,r	Operator Share of Staffing	Percentage of Cards Used
s	Add Value/TVM Debit Card Interchange Fees for Non-Clipper Gateways	Percentage of Revenue Processed

In addition to the Clipper operating costs allocated in accordance with Section 2.B(i) herein, each Operator shall be responsible for payment of:

- a. Clipper Data Server (CDS) Store operating costs specified below for any CDS Store

implemented on such Operator's site; and

- b. Incremental Clipper operating costs established by and/or resulting from Clipper Contract change orders requested and funded by an Operator for Operator's use and benefit shall be the responsibility of such Operator. This applies to costs or portions of costs that would otherwise be MTC's responsibility as described below.

2. Clipper Costs

A. MTC Operating and Maintenance Costs. MTC shall pay the following Clipper operating costs under the Clipper Contract's line item pricing structure:

- i. All fixed operating costs of the Clipper clearinghouse and equipment maintenance services costs as specified in the Clipper Contract's Price Schedule (Attachment 2 to the Clipper Contract) (the "Price Schedule"), including:
 - a. Item 3.20 Program Management – Operations and Maintenance
 - b. Item 3.30 Clipper Testbed Operations & Maintenance
 - c. Item 5.31 Operator Help Desk
 - d. Item 5.32 Reporting
 - e. Item 5.33 Asset Management
 - f. Item 6.0 Equipment Maintenance Services
 - g. Item 10.21(a) Location Acquisition
 - h. Item 10.22 Location Servicing and Support
 - i. Item 10.23 (a) Acquisition Payment for Third Party Location
 - j. Item 12.0 Network Management
 - k. Item 13.22 Basic Monthly Operations and Admin
- ii. Variable Clipper operating costs as specified in the Price Schedule (Attachment 2 to the Clipper Contract), specifically:
 - a. Item 7.10-2 Senior and Youth Card Mail-In Applications
 - b. Item 8.10(a-g) Card Distribution Services
 - c. Item 8.1.1 Card Distribution Services
 - d. Item 8.1.2 Card Distribution Services
 - e. Item 8.20 Cardholder Education
 - f. Item 8.31 Location Acquisition for Completion of Distribution Network
 - g. Item 8.32 Location Acquisition for Completion of Distribution Network
 - h. Item 8.41 Pass Through of Amounts Paid for Installation of Phone Lines
 - i. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
 - j. Item 9.5 Service Level Standard Incentives and Abatements
 - k. Item 13.100 Mobile Website Operations and Maintenance
- iii. All other lump sum and capital expense items specified in the Price Schedule not enumerated above or covered by Section 2.B.

B. Operator Operating Costs under the Clipper Contract's Line Item Pricing Structure.

- i. Operators shall pay the following listed Clipper operating costs in accordance with the cost sharing formula in Section I, reduced by any amounts payable by MTC pursuant to

Section 2.A. References to Item numbers refer to the corresponding prices payable to the Clipper Contractor under the Price Schedule, which are subject to annual price adjustment as specified in Article 13.6 of the Clipper Contract:

- a. Item 9.24 Balance Protection Services Registration
 - b. Item 9.25 Lock/unlock Clipper Application
 - c. Item 9.41 Fixed and Incremental Fees Per Active Card Account (50% of the invoiced amount)
 - d. Item 10.11 Clipper E-purse Load
 - e. Item 10.12 Pass/Stored Ride Load
 - f. Item 10.24 Employer Program Commission
 - g. Item 11.0 Autoload Services
 - h. Item 13.22.45 Supplemental Monthly Operations and Admin
 - i. Item 13.31 Clipper Transaction Fee
 - j. Item 13.60 Incremental Gateway Fees
 - k. Item 13.70 Incremental Debit Card Interchange Fees
 - l. Item 13.80 Incremental Credit Card Interchange Fees
 - m. Item 13.90 Pass Through Website Credit Card Processing Fees
 - n. Reimbursement of Contracting Agency bank fees and direct bank charges in connection with the Clipper bank account(s) in excess of the amounts reimbursed under Section 3.A below
 - o. Direct payment or reimbursement of Contracting Agency costs for network communication.
 - p. Direct payment or reimbursement of Contracting Agency costs for materials necessary for additional printing, e.g. secondary printing or personalization, on Clipper cards
 - q. Reimbursement of Contracting Agency costs for a portion of salary and benefits of any additional staffing as approved by the Executive Board to support the Clipper program.
 - r. Reimbursement of Contracting Agency costs for a portion (at least fifty percent) of the salary and benefits of the Clipper Executive Director as approved by the Executive Board.
 - s. Reimbursement of Operator costs for credit/debit interchange fees generated through an Operator-specific gateway associated with Clipper sales through ticket officed terminal devices and add value and ticket vending machines, as long as the total average fees do not substantially exceed the average Clipper fees.
- ii. Changes or Additions to Operator Operating Costs Items. Except as reserved for Executive Board approval in 2.B(i)(q, r, s), substantive changes or additions to the Operator-paid operating cost items set forth in Section 2.B(i) require an amendment to this Appendix B and approval of all Parties to the MOU as of the date of the change or addition.
 - iii. Contracting Agency shall invoice each Operator on a monthly basis for its share of the operating costs. The Operators shall pay Contracting Agency within fifteen (15) calendar days of receipt of such invoice.
3. Cost Allocation of Time and Materials Payments to Clipper Contractor during Clipper Contract O&M Extension Period

Any payments to the Clipper Contractor on a time and materials basis during the Clipper Contract O&M Extension Period, exclusive of pass-through fees, will be split equally (50%/50%) between MTC and the Operators. The Operators' share shall then be further allocated to each Operator based 50% on its Percentage of Cards Used and 50% on its percentage of Fee-Generating Transit Transactions.

Pass-through fees shall be allocated to Operators as set forth Sections 1 and 2 above.

4. Revenue Allocation

Revenues generated by Clipper during any period of time, including interest earnings on funds held by the clearinghouse and excluding fare revenues or parking fees collected on behalf of and distributed to Operators, shall be utilized as follows:

- A. To offset Contracting Agency's bank fees and direct bank charges related to the managing of the Clipper accounts;
- B. After deduction of Contracting Agency's bank fees and charges under Section 4.A above, To reduce the Operators' Clipper operating costs listed in Section 2.B(i) above or in Section 3 above; and
- C. After payment of Operators' Clipper operating costs listed in Section 2.B(i) or in Section 3 above, to be allocated to Operators by applying the percentage of cards used by Operator specified in Section I herein, unless otherwise authorized by the Executive Board.

Notwithstanding the above, fees charged cardholders for card acquisition, card replacement, balance restoration, failed Autoload funding recovery, card refund processing, and other card- related activities shall be reserved to pay for future card procurements; provided, however, that surcharges on limited use cards or other fare media imposed by an Operator to pay for the acquisition, implementation, administration and replacement of such fare media shall be distributed to and retained by such Operator. (For clarity, any surcharge imposed by an Operator as part of its fare structure shall be considered "fare revenue" and shall be distributed to and retained by such Operator.)

Appendix B-2

RTC Program Cost Allocation

1. RTC Program Cost Allocation Among Operators

"Percentage of RTC Cards Used" by Operator will be used to assess operating fees for account-based, fixed or other costs not directly attributable to either transit transactions or revenue and will be based on the number of individual RTC cards used at least once on an Operator's system. The allocation of RTC Program operating costs (as defined in Section 2 below) to Operators shall be based on both an equivalent 1% share of RTC Program Operating Costs for each Operator with the remaining costs allocated based on a Percentage of RTC Cards Used by Operator during the specified billing period.

2. RTC Program Operating Costs

Operators shall pay the following listed RTC Program Operating Costs to the Contracting Agency, in accordance with the cost sharing formula in Section 1 above:

- A. Reimbursement of the RTC Program medical verifier contract costs;
- B. Card Fees for RTC Clipper Card Customization, currently Clipper Contract Price Schedule Item 7.10-1, Per-Card Fee for RTC Clipper Card Customization (subject to annual price adjustment as specified in Article 13.6 of the Clipper Contract);
- C. Reimbursement of the Salesforce Operations & Maintenance costs and license fees;
- D. \$75,000 annually for staff time for administration of the RTC Program; and
- E. Reimbursement of claims against MTC, in accordance with the indemnification provision in Article VII, Indemnification, Subsection F, resulting from actions or inactions taken by the Operators or their third party medical verifier contractor to administer, manage, and operate the RTC program **prior to** MTC's assumption of such duties.

Appendix B-3
Next Generation Clipper Cost and Revenue Allocation

UNDER DEVELOPMENT

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Appendix C Program Goals and Performance Measures

The performance standards below are intended to guide the development and ongoing operations of Clipper, however, specific actions and targets may be constrained by legal, fiscal and system limitations.

Goal: Provide an intuitive, efficient, and familiar experience

- Electronic fare payment is the primary payment method for all transportation fares and fees
 - ✓ Mobile fare payment is integrated into and branded as Clipper
 - ✓ Parking at transit stations can be paid with Clipper
 - ✓ Bikeshare at transit stations can be paid with Clipper
 - ✓ Paratransit trips can be paid with Clipper
- Transit systems to move 100% to Clipper or incentivize use of Clipper, depending on mode
 - ✓ Heavy commuter rail and ferry systems accept only Clipper (extended and limited use)
 - ✓ Bus/light rail operators to adopt fare differentials to incentivize use of Clipper and transition remaining products to Clipper
- *Transit mobile payments are made only through the Clipper system once the account-based features are made available through the Clipper mobile app*
- *Acceptance of open payment is available only through the Clipper system*

Goal: Provide excellent, proactive customer service

- Customers can easily obtain and use Clipper
 - ✓ Media dispensing and reloading options are widely available
 - ✓ Clipper vending machines offering new cards and add-value are located at all heavy rail and ferry locations
 - ✓ Online transactions are immediately available for use
 - ✓ Third-party vendor locations are easily accessible in all service areas
 - ✓ Streamline process for refunds and replacements
 - ✓ Support payment for families, groups, institutional programs, and events

Goal: Create a transparent, consistent, inclusive and timely decision-making process

- Implement process for operator involvement in work plan development, field equipment procurement and change order process

Goal: Govern the program efficiently and cost-effectively

- Adopt standard fare categories and discount levels
 - ✓ Minimum \$0.50 discount for full-fare adult transfer customers to bus and light rail
 - ✓ Establish uniform youth discount for ages five to 18 and senior discount for ages 65 and older
 - ✓ *Establish uniform eligibility requirements for means-based discount program*
- *Enact recommendations of the Bay Area Transit Fare Coordination/Integration Study and implement actions of the Bay Area Transit Fare Policy Vision Statement through the Clipper system*
- Evaluate staffing plan to enhance internal program resources and reduce reliance on consultants

Goal: Ensure that accurate and complete data is available to support decision making at every level

- System integrates with vehicle on-board equipment to incorporate route, location and revenue information where necessary
- Clipper data is accessible to operators and the public to the full extent contemplated by the Clipper privacy policy

Goal: Ensure program flexibility and responsiveness

- System design and contract includes a streamlined process for common changes such as fare adjustments and route changes and additions

Goal: Ensure operational efficiency and reliability

- Ensure continued competitive equipment availability, automated status reporting and remote diagnostics
- Utilize open architecture

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Appendix D Dispute Resolution

The Parties agree to resolve disputes concerning this MOU between or among one or more Parties based on the following dispute resolution principles.

1. Informal Dispute Resolution

The Parties agree to attempt to resolve informally all disputes. In the event of a dispute among any Parties to the MOU, those Parties shall notify every other Party in writing about the substance of the dispute. The Parties to the dispute shall meet and confer by exchanging written positions on the dispute, and by meeting in person thereafter to discuss and resolve the dispute. If those representatives are unable to resolve the dispute, the chief executives of those Parties shall be informed of the substance of the dispute and provided all writings that have been exchanged regarding the dispute. The chief executives shall meet and confer in person or by telephone concerning the dispute, and may choose to exchange letters in preparation for the meet and confer.

2. Mediation

If the dispute is not resolved, the Parties may avail themselves by mutual consent to mediation, arbitration (binding or non-binding), or any other dispute resolution resource (collectively Alternate Dispute Resolution (ADR) processes"). All procedures and methodologies in ADR processes shall be by mutual consent of the Parties, including but not limited to the choice of the mediator or arbitrator, dates and times and timelines, whether documents are exchanged in preparation for the ADR session, etc. Fees and expenses of the mediator will be borne equally, unless otherwise agreed. The Parties to the dispute shall be represented by individuals of their choosing, except that the Parties must agree on the question of whether lawyers are present or not. The entire process shall be confidential and treated as a compromise negotiation for purposes of federal and state rules of evidence. If ADR processes are agreed on, the Parties shall agree on the identity of the mediator or arbitrator within 30 days of agreeing on the ADR process. The Parties shall not unreasonably withhold consent as to the choice of the mediator or arbitrator. Unless the schedule of the mediator or arbitrator does not permit, the Parties shall have their ADR process completed within 60 days after agreement on the choice of the mediator or arbitrator. Nothing in this MOU affects the rights or abilities of the Parties to avail themselves of all rights and remedies they have under the law of California or federal law, and to the state or federal courts to resolve their dispute.

3. Financial Obligations

A Party who disputes amounts claimed by the Contracting Agency to be due under the MOU agrees to pay the amount claimed pending dispute resolution.

Appendix E
Special Provisions for the City and County of San Francisco
(References to "City" in Paragraphs 1, 2 and 3 refer to the City and County of San Francisco)

1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

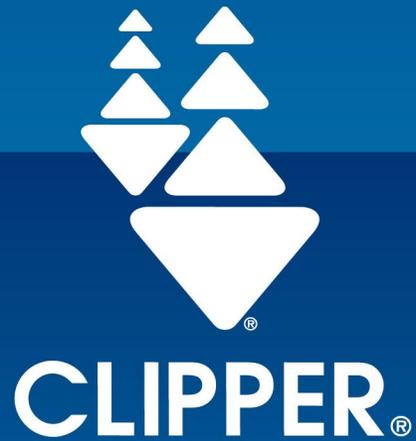
THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. Guaranteed Maximum Costs. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Commodities or Services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of the City are not authorized to offer or promise, nor is the City required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the Controller. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

3. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

Appendix F
Notices

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Proposed Clipper® Memorandum of Understanding (MOU)

Clipper Executive Board

May 16, 2022

RTC Program Cost Sharing Agreements | App B-2

Agency	Current RTC Share	Proposed RTC Share
SFMTA	24%	1% + share of unique cards used
AC Transit	24%	1% + share of unique cards used
VTA	18%	1% + share of unique cards used
BART	16%	1% + share of unique cards used
SamTrans	4%	1% + share of unique cards used
County Connection	4%	1% + share of unique cards used
Golden Gate Transit	2%	1% + share of unique cards used
Tri Delta Transit	2%	1% + share of unique cards used
LAVTA	1%	1% + share of unique cards used
Marin Transit	1%	1% + share of unique cards used
Petaluma Transit	1%	1% + share of unique cards used
Santa Rosa CityBus	1%	1% + share of unique cards used
SMART	1%	1% + share of unique cards used
Soltrans	1%	1% + share of unique cards used
All Others (9 agencies)	0%	1% + share of unique cards used
Total	100%	23% + share of unique cards used (77%) = 100%



Program Goals and Performance Measures | Appx. C

- Added language to document operator commitment to encourage Clipper as the Bay Area's primary fare payment system once customer transition has been achieved:
 - Transit mobile payments are made only through the Clipper system
 - Acceptance of open payments is available only through the Clipper system
 - Regional eligibility requirements for means-based discount program are standardized
 - Recommendations of the Bay Area Transit Fare Coordination/Integration Study are enacted and implemented through Clipper

Next Steps

- Account-Based cost and revenue allocation finalized
- Clipper Executive Board
 - June 2022: Draft MOU/Cost-sharing agreement (approval)
- MTC Operations Committee
 - July 2022: MOU/Cost-sharing agreement (approval)
- Each Operator signs new MOU
- New MOU must be fully executed September 2022



Clipper® Executive Board

May 16, 2022

Agenda Item 4d

Draft Clipper® Two Year Budget and Work Plan

Subject:

The Clipper budget and work plan for Fiscal Years (FYs) 2022-23 and 2023-24 for the Executive Board's review and discussion.

Background:

Under the Memorandum of Understanding, the Executive Board reviews and adopts a biennial Clipper budget. The budget is intended to provide an understanding of the scope and size of major expense categories, proposed funding plan, and overall summary of Clipper program work elements. The budget is updated annually and includes both current Clipper system and next-generation Clipper system costs, as well as costs to operate, maintain, and implement the overall Clipper program, including staffing, customer education and marketing, and estimated costs from other next-generation Clipper procurements.

Attached for your review are the budget and work plan for FYs 2022-23 and 2023-24. Included as attachments to this memo are the Clipper Draft Operating Budget and the Clipper Draft Capital Budget along with estimated projections of both the Operating and Capital Budget to FY 2026-27.

Details of the Clipper Two Year Operating and Capital Budget are listed below.

1. In both Operating and Capital Budgets, costs for the current Clipper system are expected to decrease, while resources are shifted to next-generation implementation, accelerated deployment, and transition efforts, until Clipper is fully transitioned to the next-generation system in FY 2024-25.
2. This Clipper Draft Operating Budget is balanced for both Fiscal Years (FYs) 2022-23 and 2023-24, with a projected deficit in the third year (FY 2024-25). Staff recognizes the need to offset that deficit, but has not yet identified fund sources or made assumptions about fund availability for the third year of the program.

3. Based on expected cost-sharing agreements and the need to operate two parallel systems until 2024, operational costs are expected to increase in FYs 2022-23 and 2023-24 for both MTC and the transit operators. Beginning in FY 2024-25, when the current Clipper system is entirely transitioned to the Next Generation account-based system, Operating expenses are expected to decrease and stabilize as the Next Generation system becomes fully functional.
4. The Clipper Projected Capital Budget is currently funded through the System Completion milestone in 2024. However, Clipper staff are planning additional capital work as well as additional procurement of equipment after System Completion, as capital needs are projected to remain even after the System Completion milestone is achieved. Funding has not yet been identified for these additional capital expenditures, but staff will continue working with MTC's Funding Policy and Project staff to identify potential future funding sources.
5. Availability of Regional Measure 3 (RM3) funds continue to be pending litigation outcomes, but new alternative funding sources such as OBAG3 have been identified to partially cover costs. If or when RM3 funds are available, these new alternative sources would be freed for other regional projects, as Clipper staff is not requesting alternative funds in addition to RM3 funds. Clipper staff have been following updates on the availability of RM3 funds and are working closely with MTC's Funding Policy and Programs staff to identify other fund sources in case they are needed.

MTC and transit operator staff will continue to work together to update the operating and capital budgets and plan to return to the Clipper Executive Board next month to obtain approval for the Clipper Two Year Budget and Work Plan. Staff will also plan to update the Board six months after the approval of the Clipper Budgets on how expected costs align with actual costs.

Issues:

None identified.

Recommendations:

Information

Attachments:

- Attachment A: Clipper Draft Operating Budget – April 26, 2022
- Attachment B: Clipper Draft Capital Budget – April 28, 2022



Carol Kuester

CLIPPER® DRAFT OPERATING BUDGET - APRIL 26, 2022

Item No.	Descriptions	Current FY 21/22 (\$M)	FY 22/23 (\$M)	FY 23/24 (\$M)	FY 24/25 (\$M)	FY 25/26 (\$M)	FY 26/27 (\$M)	Total FY 22/23 - FY 26/27
MTC Operating Costs								
1	MTC Staff - Current Clipper Operating	\$0.7	\$0.6	\$0.4	\$0.0	\$0.0	\$0.0	\$1.0
2	MTC Staff - Next Gen Clipper Operating	\$0.7	\$1.0	\$1.3	\$1.7	\$1.8	\$1.9	\$7.8
3	Current Clipper Operating Costs - MTC	\$11.3	\$10.5	\$6.0	\$0.3	\$0.0	\$0.0	\$16.8
4	Next Gen Clipper SI Operating Costs - MTC	\$0.8	\$2.6	\$7.2	\$9.3	\$9.9	\$10.1	\$39.1
5	Next Gen Clipper CSC Operating Costs - MTC	\$0.0	\$1.0	\$2.0	\$1.6	\$1.6	\$2.1	\$8.3
6	Next Gen Clipper Fare Media Operating Costs - MTC	\$0.0	\$0.2	\$1.2	\$1.2	\$1.3	\$1.3	\$5.2
7	Mobile App Fees - MTC	\$0.4	\$1.0	\$1.0	\$1.0	\$1.0	\$1.0	\$5.0
8	Clipper Operations - Misc.	\$0.3	\$0.3	\$0.3	\$0.4	\$0.4	\$0.4	\$1.8
9	In Person Customer Service Centers	\$1.1	\$1.1	\$1.2	\$1.2	\$1.3	\$1.3	\$6.1
10	Customer Education Program	\$1.7	\$2.1	\$1.8	\$1.9	\$2.0	\$2.1	\$9.8
11	<i>Subtotal MTC expenses</i>	\$17.0	\$20.4	\$22.4	\$18.6	\$19.2	\$20.2	\$100.8
Transit Agency Operating Costs								
12	Current Clipper Operating Costs - Transit Agencies	\$10.7	\$12.5	\$12.0	\$0.5	\$0.0	\$0.0	\$25.0
13	Next Gen Clipper SI Operating Costs - Transit Agencies	\$0.8	\$2.6	\$7.2	\$9.3	\$9.9	\$10.1	\$39.1
14	Next Gen Clipper CSC Operating Costs - Transit Agencies	\$0.0	\$1.0	\$2.0	\$1.6	\$1.6	\$2.1	\$8.3
15	Next Gen Clipper Payment Services Operating Costs - Transit Agencies	\$0.0	\$2.2	\$4.0	\$4.1	\$4.2	\$4.4	\$18.9
16	Retail Commissions	\$0.0	\$1.3	\$1.8	\$1.8	\$1.9	\$2.0	\$8.8
17	RTC Program	\$0.0	\$0.5	\$0.6	\$0.6	\$0.6	\$0.6	\$2.9
18	<i>Subtotal Transit Agency expenses</i>	\$11.5	\$20.1	\$27.6	\$17.9	\$18.2	\$19.2	\$103.0
19	Total Operating Costs (MTC+Transit)	\$28.5	\$40.5	\$50.0	\$36.5	\$37.5	\$39.4	\$203.8
MTC Operating Revenues								
15	Total STA Revenues	\$6.3	\$7.5	\$7.7	\$7.8	\$8.0	\$8.0	\$39.0
16	Total RM2 Marketing Revenue	\$1.1	\$1.1	\$1.1	\$1.1	\$1.1	\$1.1	\$5.5
17	Additional RM2 Marketing Revenue ³	\$1.7	\$1.7	\$1.7	\$1.7	\$1.7	\$1.7	\$8.5
18	Additional RM2 Operating Revenue ³	\$1.7	\$1.7	\$2.0	\$2.0	\$2.0	\$2.0	\$9.7
19	CARES Act	\$4.7	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
20	Additional RM2 (Reclassified)	\$0.0	\$1.0	\$0.0	\$0.0	\$0.0	\$0.0	\$1.0
21	STA Reserve	\$0.0	\$2.5	\$0.0	\$0.0	\$0.0	\$0.0	\$2.5
22	Card and Fare Media Fees	\$0.0	\$0.2	\$1.2	\$1.2	\$1.3	\$1.3	\$5.2
23	Unregistered Inactive Funds	\$0.0	\$0.0	\$3.4	\$0.0	\$0.0	\$0.0	\$3.4
24	Float Account Interest	\$0.0	\$0.0	\$1.2	\$1.2	\$1.2	\$1.2	\$4.8
25	State of Good Repair (SB1) ⁴	\$1.5	\$1.5	\$0.3	\$0.0	\$0.0	\$0.0	\$1.8
26	Total Transit Agency Revenue	\$11.5	\$20.1	\$27.6	\$17.9	\$18.2	\$19.2	\$103.0
27	Total Operating Revenue	\$28.5	\$37.3	\$46.2	\$33.0	\$33.5	\$34.5	\$184.4
28	Operations Reserve ⁵	\$7.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
29	Net Budget	\$7.0	\$3.8	\$0.0	(\$3.5)	(\$7.5)	(\$12.4)	

³ Contingent upon availability and MTC Commission Approval

⁴ Used for Next-Gen Clipper Operating Startup Costs

⁵ Operations Carry Forward From Prior Year = \$7.0M (\$2.5 STA Reserve, \$1.1M Float, \$3.4M Inactive Funds)

CLIPPER® **DRAFT** CAPITAL BUDGET - APRIL 28, 2022

Item No.	Description	Current FY 21/22 (\$M)	FY 22/23 (\$M)	FY 23/24 (\$M)	FY 24/25 (\$M)	FY 25/26 (\$M)	FY 26/27 (\$M)	5 YEAR TOTAL - FY 22/23 - 26/27 (\$M)
Capital Costs								
1	Current Clipper Cards & Fare Media	\$4.0	\$2.0	\$0.0	\$0.0	\$0.0	\$0.0	\$2.0
2	Next Gen Clipper Cards & Fare Media	\$3.0	\$3.0	\$3.0	\$2.0	\$2.0	\$1.0	\$11.0
Current Clipper System								
3	MTC Staff	\$0.9	\$0.5	\$0.0	\$0.0	\$0.0	\$0.0	\$0.5
4	Consultants	\$0.5	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
5	System Enhancements and Infrastructure Replacement	\$0.7	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Next Generation Clipper System								
6	MTC Staff	\$3.3	\$2.9	\$3.5	\$3.7	\$3.9	\$4.1	\$18.0
7	Consultants	\$2.5	\$2.2	\$2.3	\$2.0	\$1.5	\$1.5	\$9.5
8	System Integrator Contract	\$46.8	\$35.3	\$6.1	\$0.0	\$0.0	\$0.0	\$41.4
9	Next-Gen Clipper Equipment	\$0.0	\$51.7	\$0.0	\$0.0	\$0.0	\$0.0	\$51.7
10	Operator CAD/AVL Integration	\$1.3	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
11	TR4 Integration and Open Payment Deployment	\$7.3	\$0.4	\$0.0	\$0.0	\$0.0	\$0.0	\$0.4
12	Customer Service Center / Payment Services	\$3.0	\$0.0	\$0.0	\$0.0	\$1.0	\$1.0	\$2.0
13	System Enhancements and Infrastructure Replacement	\$0.0	\$0.0	\$0.0	\$6.5	\$6.5	\$6.5	\$19.5
14	Total Expenses	\$73.3	\$97.9	\$14.9	\$14.2	\$14.9	\$14.1	\$155.9
Capital Revenue								
15	TCP - FTA*	\$47.7	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
16	TCP - OBAG2-STP/CMAQ*	\$34.8	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
17	TCP - OBAG2-RM2*	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
18	SGR / RM3 / OBAG3*	\$0.0	\$39.6	\$7.0	\$3.2	\$0.0	\$0.0	\$49.8
19	SGR	\$11.0	\$10.3	\$0.0	\$0.0	\$0.0	\$0.0	\$10.3
20	Fare Media and Card Fee Revenue	\$2.0	\$4.0	\$4.0	\$4.0	\$4.0	\$4.0	\$20.0
21	Capital Reserve	\$33.4	\$0.0	\$0.0	\$0.0	\$0.0	\$1.0	\$1.0
22	Total Annual Revenue	\$128.9	\$53.9	\$11.0	\$7.2	\$4.0	\$5.0	\$81.1
24	Cumulative Surplus/Deficit	\$55.6	\$11.6	\$7.8	\$0.8	(\$10.1)	(\$19.1)	

* Committed to System Integrator Contract