

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance & Information Technology

BRIEF DESCRIPTION:

Authorizing the San Francisco Municipal Transportation Agency, through its Executive Director/CEO or his designee, to (1) acknowledge and adhere to procedures and conditions set forth by the Metropolitan Transportation Commission for programming and allocation of 2010 Regional Improvement Program funds; (2) execute and file applications with the Metropolitan Transportation Commission to program \$1,600,622 in 2010 Regional Improvement Program funds for various capital projects; and (3) to accept and expend those funds.

SUMMARY:

- The Metropolitan Transportation Commission (MTC) is responsible for programming projects eligible for Regional Improvement Program funds, pursuant to California Government Code Section 14527(b), for inclusion in the Regional Transportation Improvement Program (RTIP), and submission to the California Transportation Commission, for inclusion in the State Transportation Improvement Program (STIP).
- The San Francisco Municipal Transportation Agency (SFMTA) submitted applications to MTC for \$1,600,622 in funding from the 2010 RTIP for the Church and Duboce Pedestrian Improvement Project, the Phelan Loop Pedestrian and Beautification Project, SF Bike Parking Program – Valencia Street and Mission District, and Sunset Pedestrian Improvement Project and Safety Education Program.
- As part of the application for 2010 RTIP funding, the MTC has adopted procedures and conditions that must be acknowledged and adhered to by recipients of 2010 RTIP funding. The attached resolution incorporates the procedures and conditions established by the MTC that must be acknowledged and adhered to by the SFMTA in regard to the MTC’s allocation of 2010 RTIP funding.
- This action authorizes the Agency, through its Executive Director/CEO (or his designee), to acknowledge and adhere to the procedures and conditions established by the MTC in regard to the allocation of 2010 RTIP funding as detailed in the attached resolution. Also, this action authorizes the SFMTA to execute and file applications with the Metropolitan Transportation Commission to program \$1,600,622 in 2010 Regional Improvement Program funds pursuant to its project applications and to accept and expend those funds

ENCLOSURES:

1. SFMTAB Resolution
2. Opinion of Legal Counsel

APPROVALS:

DATE

DIRECTOR OF DIVISION

PREPARING ITEM _____

FINANCE _____

EXECUTIVE DIRECTOR/CEO _____

SECRETARY _____

ADOPTED RESOLUTION

BE RETURNED TO Leda Young, 1 South Van Ness Avenue, 8th Floor

ASSIGNED SFMTAB CALENDAR DATE: _____

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PURPOSE

To obtain a resolution authorizing the San Francisco Municipal Transportation Agency, through its Executive Director/CEO or his designee, to acknowledge and adhere to procedures and conditions set forth by the Metropolitan Transportation Commission for programming and allocation of 2010 Regional Improvement Program funds, execute and file applications with the Metropolitan Transportation Commission to program \$1,600,622 in 2010 Regional Improvement Program funds for various capital projects; and to accept and expend those funds.

GOAL

The SFMTA will further the following goals of the Strategic Plan through programming and acceptance of these FY2010 RTIP funds:

- Goal 1: Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy.

Objective 1.1 - Improve safety and security across all modes of transportation.

Objective 1.4 - Improve accessibility across transit services.

Objective 1.5 - Increase percentage of trips using more sustainable modes (such as transit, walking, bicycling, rideshare).

- Goal 4: Customer Financial Capacity: To ensure financial stability and effective resource utilization.

Objective 4.2 - Ensure efficient and effective use of resources.

DESCRIPTION

The MTC is responsible for programming projects eligible for Regional Improvement Program funds, pursuant to California Government Code Section 14527(b), for inclusion in the RTIP, and submission to the California Transportation Commission, for inclusion in the STIP. On October 2, 2009, SFMTA staff applied to MTC for 2010 RTIP funds totaling \$1,600,622 for the following four projects: SF Bike Parking Program – Valencia Street and Mission District, Phelan Loop Pedestrian and Beautification Project, Church and Duboce Pedestrian Improvement Project, and Sunset Pedestrian Improvement Project and Safety Education Program.

As part of the application process to the MTC, applications must be submitted consistent with procedures, conditions, and forms that the MTC provides to eligible transportation project sponsors. The MTC expects the SFMTA, through its governing board, to certify that the agency acknowledges and will adhere to the following conditions with respect to the project applications:

- The SFMTA certifies the assurances set forth in Part 2 of the project application required by SB 45 to qualify the projects listed in the RTIP project nomination sheets for programming by MTC.

These assurances include for each project:

- That the project is eligible for consideration in the RTIP;
 - That no costs will be incurred prior to adoption of the project into the STIP by the CTC;
 - That a Project Study Report (PSR) has been prepared for the project.
 - That the project budget included in the project application reflects current costs updated as of the date of application and escalated to the appropriate year;
 - That the project is included in a local congestion management program;
 - That the year of funding has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project;
 - That the project is fully funded;
 - That the SFMTA agrees to abide by all statutes, rules and regulations applying to the STIP.
- The SFMTA will comply with the provisions and requirements of the “Timely Use of Funds Provisions and Deadlines” (MTC Resolution No. 3928, Attachment 1);
 - The projects will be implemented as described in the completed applications and, if approved, for the amounts programmed in the MTC federal TIP;
 - The SFMTA will comply with the requirements as set forth in the 2010 RTIP Policies and Procedures (MTC Resolution No. 3928); and
 - The SFMTA has adequate staffing resources to deliver and complete the projects within the schedules set forth in the RTIP Project Programming Request forms of the project applications.

ALTERNATIVES CONSIDERED

Not applicable.

FUNDING IMPACT

The 11.47% local match required for the RTIP projects will be provided by State Highway Improvement Funds (SHIF). The State will automatically match the award of RTIP funds:

Project	2010 RTIP Amount	11.47% Match Automatically Covered by SHIF	Total Application Amount
SF Bike Parking Program – Valencia Street and Mission District	\$208,046	\$26,954	\$235,000
Church and Duboce Pedestrian Improvement Project	\$343,496	\$44,504	\$388,000
Sunset Pedestrian Improvement Project and Safety Education Program	\$540,918	\$70,082	\$611,000
Phelan Loop Pedestrian and Beautification Project	\$508,162	\$65,838	\$574,000
Total	\$1,600,622	\$207,378	\$1,808,000

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OTHER APPROVALS RECEIVED OR STILL REQUIRED

Before implementation of any of these projects, the SFMTA will complete appropriate environmental review.

The San Francisco Superior Court has modified its injunction prohibiting implementation of the City's Bicycle Plan to permit construction of bicycle racks which is part of the SF Bike Parking Program project.

The City Attorney's Office has reviewed this calendar item.

RECOMMENDATION

Staff recommends that the SFMTA Board approve this resolution, which would authorize the SFMTA to (1) acknowledge and adhere to procedures and conditions set forth by the Metropolitan Transportation Commission for programming and allocation of 2010 Regional Improvement Program funds; (2) execute and file applications with the Metropolitan Transportation Commission to program \$1,600,622 in 2010 Regional Improvement Program funds for various capital projects; and (3) to accept and expend those funds.

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS**

RESOLUTION No. _____

WHEREAS, State Senate Bill 45 (Chapter 622, Statutes 1997) substantially revised the process for estimating the amount of state and federal funds available for transportation projects in the state and for appropriating and allocating the available funds to these projects; and

WHEREAS, As part of that process, the Metropolitan Transportation Commission (MTC) is responsible for programming projects eligible for Regional Improvement Program funds, pursuant to California Government Code Section 14527(b), for inclusion in the Regional Transportation Improvement Program (RTIP), and submission to the California Transportation Commission, for inclusion in the State Transportation Improvement Program; and

WHEREAS, The MTC will review and include, if approved, 2010 RTIP projects in the federal Transportation Improvement Program (TIP); and

WHEREAS, The MTC has requested eligible transportation project sponsors to submit applications nominating projects to be programmed for Regional Improvement Program funds in the RTIP; and

WHEREAS, Applications to MTC must be submitted consistent with procedures, conditions, and forms it provides transportation project sponsors; and

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) is a sponsor of transportation projects eligible for Regional Improvement Program funds; and

WHEREAS, The SFMTA submitted applications to the MTC for \$1,600,622 in funding from the 2010 RTIP for the Church and Duboce Pedestrian Improvement Project, the Phelan Loop Pedestrian and Beautification Project, SF Bike Parking Program – Valencia Street and Mission District, and Sunset Pedestrian Improvement Project and Safety Education Program as authorized by MTC by Resolution No. 3928; and

WHEREAS, The RTIP Project Programming Request (PPR) form of the project applications, incorporated by reference as though fully set forth, lists the project, purpose, schedule and budget for which the SFMTA is requesting that MTC program Regional Improvement Program funds for inclusion in the RTIP; and

WHEREAS, Part 2 of the project application, incorporated by reference as though fully set forth, includes the certification by the SFMTA of assurances required by SB 45 in order to qualify the project listed in the RTIP project nomination sheet of the project application for programming by MTC; and

WHEREAS, As part of the application for 2010 Regional Improvement Program funding, MTC requires any resolution adopted by the responsible implementing agency to state that the project will comply with the procedures specified in the “Timely Use of Funds Provisions and Deadlines” (MTC Resolution No. 3928, Attachment 1, and as may be further amended); now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Authority Board of Directors authorizes the Metropolitan Transportation Commission to program \$1,600,622 in Regional Improvement Program funds into the Regional Transportation Improvement Program for the Church and Duboce Pedestrian Improvement Project (\$343,496), the Phelan Loop Pedestrian and Beautification Project (\$508,162), the SF Bike Parking Program – Valencia Street and Mission District (\$208,046), and the Sunset Pedestrian Improvement Project and Safety Education Program (\$540,918), and to accept and expend those funds for the purposes and amounts indicated in the project applications; and, be it further

RESOLVED, That the SFMTA Board of Directors approves the assurances set forth in Part 2 of the project applications, incorporated by reference as though fully set forth; and be it further

RESOLVED, That the SFMTA will comply with the provisions and requirements of the “Timely Use of Funds Provisions and Deadlines” (MTC Resolution No. 3928, Attachment 1, and as may be further amended), that the projects will be implemented as described in the completed application and, if approved, for the amount programmed in the MTC federal TIP, and that the SFMTA will comply with the requirements as set forth in the 2010 RTIP Policies and Procedures (MTC Resolution No. 3928); and, be it further

RESOLVED, That the SFMTA has reviewed the projects and has adequate staffing resources to deliver and complete the projects within the schedules set forth in the RTIP PPR forms of the project applications, incorporated by reference as though fully set forth; and be it further

RESOLVED, That the SFMTA is an eligible sponsor of projects in the State Transportation Improvement Program; and be it further

RESOLVED, That the SFMTA is authorized to submit an application for State Transportation Improvement Program funds for the projects; and be it further

RESOLVED, That the SFMTA Board of Directors delegates to the Executive Director/CEO (or his designee) the authority to make non-substantive changes or minor amendments to the project applications as appropriate; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO (or his designee) to furnish whatever additional information may be requested by the MTC in connection with this request; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Executive Director/CEO (or his designee) to execute any and all agreements necessary to complete the transfer of funds; and be it further

RESOLVED, That a copy of this resolution shall be transmitted to MTC in conjunction with the filing of the SFMTA's project applications referenced herein.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of _____.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

January 15, 2010

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

Re: Eligibility for Regional Improvement Program Funds

To Whom It May Concern:

This communication will serve as the requisite opinion of counsel in connection with the programming and allocation to the San Francisco Municipal Transportation Agency (SFMTA) for funding from the Regional Improvement Program for implementation of the Church and Duboce Pedestrian Improvement Project, the Phelan Loop Pedestrian and Beautification Project, the SF Bike Parking Program – Valencia Street and Mission District, and the Sunset Pedestrian Improvement Project and Safety Education Program.

1. The SFMTA is an eligible implementing agency for the Regional Improvement Program funding.
2. The SFMTA is authorized to submit an allocation request for Regional Improvement Program funds for the Church and Duboce Pedestrian Improvement Project, the Phelan Loop Pedestrian and Beautification Project, the SF Bike Parking Program – Valencia Street and Mission District, and the Sunset Pedestrian Improvement Project and Safety Education Program.
3. I have reviewed the pertinent state laws and I am of the opinion that there is no legal impediment to the SFMTA making an application for Regional Improvement Program funding. Furthermore, as a result of my examination, I find that there is no pending or threatened litigation that might in any way adversely affect the proposed projects, or the ability of the San Francisco Municipal Transportation Agency to deliver such projects, except as follows:

On June 10, 2005, the City adopted the San Francisco Bicycle Plan. On November 7, 2006, the San Francisco Superior Court issued an order granting a petition for peremptory writ of mandate. The order prohibited the City from implementing portions of the Bicycle Plan until environmental review has been completed on the entire Plan, including implementation of bicycle improvements. Although the environmental review process has been completed and upheld by the San Francisco Board of Supervisors, the petitioners in the lawsuit have challenged the decision of the Board of Supervisors. In response to a motion from the City to dissolve the injunction, the Superior Court modified the injunction to allow certain projects to be implemented, including installation of bike racks. These projects, however, are subject to being reversed if petitioners prevail. The hearing on petitioners' objections is currently scheduled for June 1, 2010.

Yours very truly,
DENNIS J. HERRERA

City Attorney

Robin M. Reitzes
Deputy City Attorney

THIS PRINT COVERS CALENDAR ITEM NO. : 10.3

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Office of Executive Director/CEO

BRIEF DESCRIPTION: Adoption of 2010 SFMTA Advocacy Program

SUMMARY:

- The 2010 SFMTA Advocacy Program is a guide for SFMTA’s advocacy efforts at the local, state and federal levels.
- In addition to the Advocacy Program, staff will provide legislative updates as appropriate to the Board regarding bills of interest to the SFMTA.
- Staff may request that the Board recommend a position of support for, or opposition to, a particular piece of legislation. Such actions, in addition to making the Board’s intent clear, provide staff with the guidance needed to represent the Agency’s policy positions on key issues at the local, state and federal levels.

ENCLOSURES:

1. SFMTAB Resolution
2. Proposed 2010 SFMTA Advocacy Program

APPROVALS:

DATE

DIRECTOR OF DIVISION PREPARING ITEM _____	_____
FINANCE _____	_____
EXECUTIVE DIRECTOR/CEO _____	_____
SECRETARY _____	_____

ADOPTED RESOLUTION
BE RETURNED TO Kate Breen

ASSIGNED SFMTAB CALENDAR DATE: _____

PURPOSE

The 2010 SFMTA Advocacy Program is a guide for SFMTA's advocacy efforts at the local, state and federal levels over the course of the current legislative sessions. The Advocacy Program is comprised of elements of SFMTA's legislative, regulatory and intergovernmental programs and includes input from the Mayor's office. Adoption of the Program by the SFMTA Board of Directors will provide our legislative delegation, our transportation partners and other important stakeholders and oversight agencies, with an approved statement of SFMTA's priorities for this year.

GOAL

The Advocacy Program supports a number of the Agency's strategic goals, including:

GOAL 1: Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the *Transit First* Policy.

GOAL 2: System Performance: To get customers where they want to go, when they want to be there.

GOAL 3: External Affairs/Community Relations: To improve the customer experience, community value and enhance the image of the SFMTA, as well as ensure SFMTA is a leader in the industry.

GOAL 4: Financial Capacity: To ensure financial stability and effective resource utilization.

DESCRIPTION

Each legislative session, the San Francisco Municipal Transportation Agency (SFMTA) prepares an Advocacy Program to guide advocacy efforts at the local, state and federal levels. The Program includes elements of our legislative, regulatory and intergovernmental programs and is intended to be broad enough to cover the wide variety of issues that may be taken up both locally and in Sacramento and Washington, D.C., and flexible enough to allow the SFMTA to respond to unanticipated developments. In an effort to support a fully integrated, multi-modal transportation system that is economically, environmentally and socially sustainable, a key component of the SFMTA's 2010 Advocacy Program will be our strong commitment to sustainable transportation and land use.

The attached document includes a summary of priority issues for the SFMTA relating to regional, intergovernmental and regulatory affairs, local, state and federal legislation, as well as measures the Agency will seek to sponsor in the 2010 legislative session. It is a strategic document that is not meant to be comprehensive of all issues but rather to provide general direction on issues relevant to the SFMTA and transportation interests in the coming year.

ALTERNATIVES CONSIDERED

None

FUNDING IMPACT

While the Advocacy Program described in this document does not in and of itself have any funding impacts, legislation and other efforts stemming from the Program could have funding impacts for the SFMTA.

OTHER APPROVALS RECEIVED OR STIL REQUIRED

The City Attorney's Office has reviewed the item.

RECOMMENDATION

Staff recommends adoption of the 2010 SFMTA Advocacy Program.

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) each year adopts an annual advocacy program and forwards that program to the Mayor's office for inclusion in the City's full legislative program; and

WHEREAS, The 2010 SFMTA Advocacy Program comprises elements of our legislative, regulatory and intergovernmental programs; and

WHEREAS, The purpose of an advocacy program is to set forth legislative policies, principles and priorities to guide SFMTA staff and to provide input to the Mayor's office on transportation matters for the upcoming year; and

WHEREAS, The 2010 Advocacy Program provides support for measures that will enhance funding levels for SFMTA's programs, opposition to governmental actions that might decrease funding for SFMTA's programs and authorization for SFMTA staff to carry out the objectives of the 2010 Advocacy Program; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board hereby adopts the 2010 Advocacy Program and authorizes the staff of the Agency to carry out the objectives of the Program.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of _____.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

SFMTA 2010 Advocacy Program

Each legislative session, the San Francisco Municipal Transportation Agency (SFMTA) prepares an advocacy program to guide advocacy efforts at the local, state and federal levels. It is a strategic document that is not meant to be comprehensive of all issues but rather to provide general direction on issues relevant to the SFMTA and transportation interests in the coming year. The program includes elements of our legislative, regulatory and intergovernmental programs. In an effort to support a fully integrated, multi-modal transportation system that is economically, environmentally and socially sustainable, a key component of the SFMTA's 2010 Advocacy Program will be our strong commitment to sustainable transportation and land use.

This document includes a summary of the priority issues for the SFMTA as well as measures the Agency will seek to sponsor in the 2010 legislative session.

Local Legislative Priorities

1. **Budget:** As the SFMTA prepares its two-year budget, prior to May 1, 2010 and in advance of the Board of Supervisors (BOS) consideration of the budget, staff will work with the BOS to gain support.
2. **Contracts:** Pursuant to Section 9.118 of the City Charter, the BOS must approve any SFMTA contract having anticipated revenue of one million dollars or more, or the modification, amendment or termination of any contract with anticipated revenue of one million dollars or more.

With the exception of construction contracts, any other contracts or agreements having a term in excess of ten years, or requiring anticipated expenditures by the City and County of ten million dollars, or the modification or amendments to such contract or agreement with an impact of more than \$500,000 must be approved by BOS.

The following contracts are expected to require BOS approval in 2010:

CONTRACT
Towing Contract with TEGSCO dba SF AutoReturn
Parking Meter Contract with Serco, Inc
Phelan Loop
Central Subway Project
Islais Creek
Other SFMTA Facilities: Short and Long-Term
Revenue Ballot Measure
Bond Issue

SFMTA staff will work with the BOS and the BOS Budget Analyst to gain support of any necessary contracts and contract extensions.

3. **Central Subway:** SFMTA staff will work with the BOS and the BOS Budget Analyst as appropriate to gain support for any local legislation necessary to advance any contracts or policy issues relating to the advancement of the Central Subway Project.
4. **Transportation Code Amendments:** Changes to Division I of the San Francisco Transportation Code require approval by the BOS. SFMTA staff will work with the BOS to gain support of any local legislation needed to make any necessary additional changes to the Transportation Code.
5. **Disabled Placard Abuse:** SFMTA staff will work with the BOS to gain support of any local legislation needed to support *SFpark* efforts. *SFpark* pilot projects offer an approach for improving the management of San Francisco's disabled parking supply to ensure convenient parking spaces are available to motorists with disabilities.
6. **Revenue Measures:** The SFMTA will engage with Mayor Gavin Newsom and members of the Board of Supervisors as discussions develop on revenue measures for the 2010 election cycle.

State Legislative Priorities

1. **Transportation Funding and State Budget:** Support efforts to restore State Transit Assistance (STA) funding following successful transit industry lawsuit against past diversions and advocate for full transit funding in the 2010-2011 State Budget. Support statewide initiative sponsored by the California Transit Association, the California League of Cities and the California Alliance for Jobs to provide constitutional protection against state diversion of funds from the Public Transportation Account, Proposition 42, local gasoline tax subventions for local streets and roads, redevelopment funds and local property taxes. Support efforts to lower the 2/3 super majority vote for local transportation taxes and legislation to authorize an additional one-quarter of one percent increase statewide in Transportation Development Act (TDA) funding.
2. **Bicycle-Pedestrian-Sustainable Streets:** Support efforts to identify additional funding and improvements to planning law that support SFMTA bike, pedestrian and sustainable streets priorities.
3. **Proposition 1B Bond Funds:** Support necessary annual appropriations from the Proposition 1B Public Transit Modernization, Improvement, Service Enhancement Account (PTMISEA)
4. **Taxi Legislation and Policy:** Monitor and support as appropriate state legislation related to taxi industry issues governed by the California Vehicle Code, California Government Code and California Public Utilities Code.
5. **Disabled Placard Abuse:** In 2009, Assemblywoman Ma sponsored AB 144 on behalf of the SFMTA and the City and County of San Francisco. AB 144 (Ma) increases the penalty amount for a number of disabled placard parking violations and gives Parking Control

Officers the authority to cite these violations as a civil penalty. The bill was signed by Governor Schwarzenegger and effective on January 1, 2010. In 2010, SFMTA will continue to monitor disabled placard legislation at the state level and track citation and placard confiscation numbers in an effort to monitor the effectiveness of AB 144 (Ma). This information will be used to determine whether additional changes will need to be made to the California Vehicle Code.

Federal Legislative Priorities

1. **Economic Stimulus and Ready to Go projects:** Congress and the Administration are working on a second stimulus bill and SFMTA has prepared a list of ready to go projects in support of this legislation. The list includes critical fleet repairs and rehabilitation, facilities improvements, security and safety projects, operating needs, bicycle and pedestrian projects and ready to go preconstruction activity for the Central Subway project.
2. **FY2011 Transportation Appropriations:** SFMTA will advance priority projects for FY2011 appropriations funding including the Central Subway light rail project, implementation of the Transit Effectiveness Project, audible pedestrian countdown signals and priority bicycle projects.
3. **Surface Transportation Reauthorization:** The current surface transportation law expired on September 30, 2009 and Congress has passed a short-term extension. SFMTA will continue to monitor and engage as reauthorization efforts advance. The SFMTA will continue to advocate for a streamlined federal program that emphasizes state of good repair investment needs, promotes metropolitan mobility and advances principles of sustainability and livability. San Francisco will also support much higher levels of funding for all programs.
4. **Climate Change:** SFMTA will continue to monitor Climate Change legislation to ensure that some portion of revenues generated by a cap and trade program are dedicated to support public transportation and infrastructure investment as a means to reduce greenhouse gas emissions.
5. **Federal Transit Safety Oversight:** With the heightened interest in transit safety across the nation, Congress and the Federal Transit Administration (FTA) have proposed legislation that proposes a greater role for the federal government in rail transit safety. SFMTA will monitor these developments to ensure SFMTA's interests are represented.
6. **Central Subway Final Design Approval:** SFMTA will continue to work with FTA and our Congressional delegation to secure Final Design approval for the Central Subway project, a key milestone in the on-going advancement of the project. This approval is expected early in 2010.

Regional/Intergovernmental Affairs Priorities

1. **Transbay Transit Center:** The Transbay Joint Powers Authority (TJPA) has broken ground on the temporary terminal that will accommodate transbay transit service during the construction of the Transit Center and tower. TJPA is currently awaiting definitive news regarding availability of American Recovery and Reinvestment Act (ARRA) funds to construct the subterranean trainbox in Project Phase I, which would save the Project \$100 million. SFMTA will continue to be actively engaged at both the staff and Board level on TJPA issues.
2. **High Speed Rail:** Intricately linked with the development and funding of the Transbay Center is the continuing environmental and design/engineering phases in the development of California High Speed Rail (CHSR). SFMTA will continue to lead the City's engagement on this project in 2010, in cooperation with Caltrain/Peninsula Rail Program, San Francisco County Transportation Authority (SFCTA), SF Redevelopment, SF Planning, SF Port and TJPA. Priority items include Transbay Center connectivity and subterranean grade separation to maintain or enhance physical neighborhood connectivity along the proposed alignments. Release of the CHSR draft alternatives analysis is expected in January 2010.
3. **Caltrain Electrification:** As the lead San Francisco representative on the Peninsula Joint Powers Board (Caltrain JPB), SFMTA will continue to actively engage on matters related to the proposed electrification of the Caltrain corridor between San Francisco and Gilroy. Partner agencies from Santa Clara, San Mateo and San Francisco – with participation from the Metropolitan Transportation Commission (MTC) – have agreed to funding contributions, but project costs have continued to escalate since the beginning of 2009 and will require extensive federal funding assistance for this project to be executed. Like TJPA, Caltrain is also waiting for a final decision on ARRA high-speed rail funding. Further efforts will continue to contain ongoing capital and operating subsidies.
4. **MTC:** SFMTA staff will continue to actively engage with MTC staff on a variety of regional policy issues and initiatives. Driven by a projected structural funding deficit, the regional Transit Sustainability Study will begin in Q1 of 2010 and will include a regional transit service review (similar to the TEP) and efforts to identify opportunities for cost containment across the region's transit operators. Efforts will also continue to work closely with MTC staff to identify new funding sources for both capital and ongoing operating expenses through the Bay Area Partnership and other MTC subcommittees.

Regulatory Affairs Priorities

1. **Federal Triennial Review:** In 2010, the Federal Transit Administration (FTA) will be conducting a Triennial Review of the SFMTA's transit operations as required by federal law (49 USC 5307 (i)). The Congressionally mandated Triennial Review is not an audit; it is an assessment of SFMTA's management practices and program implementation to evaluate compliance with Federal program requirements.
2. **FTA Quarterly Progress Review Meetings (QPRM):** These quarterly meetings provide an

3. **Safety Issues:** Monitoring proposed regulatory changes in the area of rail safety oversight, FTA-mandated H1N1 tracking and reporting requirements, monitoring and assisting with required documents, such as System Safety and Emergency Preparedness Plans and other safety and emergency planning issues and requirements.
4. **Title VI-related issues:** monitoring Environmental Justice, and Limited English Proficiency (LEP) Analyses of Service Changes and Fare Increases, Title VI complaint process and related policies.
5. **Equal Access to Language Services (EALS) Ordinance/Annual Compliance Report:** This 2001 local ordinance requires major city and county departments to provide equal access to essential city services to all San Franciscans, including those with limited proficiency in English. SFMTA is required to provide essential services in English and in the languages spoken by substantial populations of limited English speaking persons: Chinese and Spanish. An annual compliance report must be submitted to the Office of Language Services by February 1 of each year.

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Office of the Board of Directors

BRIEF DESCRIPTION:

Approving Amendment #3 to the Appointment and Compensation Employment Agreement between the City and County of San Francisco and Nathaniel P. Ford, Sr. to extend the term of his contract through January 16, 2014, reduce Mr. Ford's base salary by 2%, defer award of incentive compensation for FY2009, reduce Mr. Ford's entitlement to severance pay, and increase Mr. Ford's executive leave by five days per fiscal year.

SUMMARY:

- As required by the Charter, the SFMTA Board of Directors appointed Nathaniel P. Ford, Sr. to the position of Executive Director/CEO by approving an individual appointment contract. The contract sets forth the primary terms and conditions of Mr. Ford's employment.
- The Agreement provides for annual adjustment of the Executive Director/CEO's base salary by a percentage no less than the increase in the Consumer Price Index-Urban (CPIU) for the Bay Area. CPIU between June 30, 2008 and June 30, 2009 was negative .2%.
- As further required, the SFMTA Board approved an incentive compensation bonus plan for Mr. Ford, under which, based upon the Agency's achievement of milestones, the Executive Director/CEO may receive up to 10% of his base salary in incentive compensation.
- In recognition of the economic crisis, the SFMTA Board of Directors and Executive Director/CEO Ford have agreed to reduce Mr. Ford's base salary and defer award of incentive compensation until such time as may agreed to by the SFMTA Board of Directors and Mr. Ford.

ENCLOSURES:

1. SFMTAB Resolution
2. Amendment #3

APPROVALS:

DATE

CHAIRMAN _____

FINANCE _____

EXECUTIVE DIRECTOR/CEO _____

SECRETARY _____

ADOPTED RESOLUTION Roberta Boomer _____

TO BE RETURNED TO

ASSIGNED MTAB CALENDAR DATE: _____

PAGE 2.

PURPOSE

To approve Amendment #3 to the Appointment and Compensation Agreement between the City and County of San Francisco and Nathaniel P. Ford, Sr. to reduce Mr. Ford's base salary for the year beginning July 1, 2009 and defer award of incentive compensation for FY2009 and make associated changes.

GOAL

Approval of this calendar item supports:

Strategic Goal 4: Financial Capacity – to ensure financial stability and effective resource utilization.

Strategic Goal 5: SFMTA Workforce – To provide a flexible, supportive work environment and develop a workforce that is capable of leading the agency into the ever-evolving, technology driven future, that takes pride and ownership of the agency's mission and vision.

Objective 5.5 - Improve SFMTA's ability to grow and retain strong leadership.

Indirectly this calendar items supports all goals in the 2008-2012 Strategic Plan as the Executive Director/CEO leads the SFMTA toward the achievement of all goals.

DESCRIPTION:

Background

On December 6, 2005, the SFMTA Board of Directors appointed Nathaniel P. Ford, Sr. to the position of Executive Director/CEO of the Municipal Transportation Agency and approved the execution of an Appointment and Compensation Agreement (Agreement) by Resolution #05-179. The Agreement provides for (1) an annual performance evaluation after completion of each fiscal year; 2) an annual increase in base salary based on the results of the performance evaluation but no less than the increase in the Consumer Price Index-Urban (CPIU) for the Bay Area; and 3) award of incentive compensation in an amount not to exceed 10% of the Executive Director/CEO's current base salary based on an incentive compensation plan consistent with Section 8A.103 of the Charter. The Agreement also provides employment benefits for Mr. Ford, including executive leave and floating holidays each fiscal year. Executive leave and floating holidays unused in one fiscal year may be carried over to the following year and cashed out when Ford's employment terminates.

PAGE 3.

Performance Evaluation

Section 9 of the Agreement requires that the SFMTA Board of Directors provide Mr. Ford with an annual performance evaluation after completion of each fiscal year. The performance evaluation is conducted in closed session following presentation of the fiscal year end Service Standards Report.

The SFMTA Board of Directors and Mr. Ford met in closed session on September 15, 2009 and on November 17, 2009 to discuss Mr. Ford's performance evaluation. The Policy and Governance Committee of the SFMTA Board of Directors met on November 10, 2009 to discuss Mr. Ford's performance evaluation.

The SFMTA Board of Directors believes that Mr. Ford has exhibited strong leadership since his arrival and that his continued leadership will be crucial for the SFMTA as it works to minimize the impact of the budget deficit on SFMTA customers and workforce. In addition, the SFMTA Board of Directors recognizes that Mr. Ford has also shown strong leadership throughout the region as Chairman of the Transbay Joint Powers Authority, Chairman of the Translink Management Group and as a member of the Peninsula Corridor Joint Powers Board.

Annual Salary Adjustment

Based on the performance evaluation provided in accordance with Section 9 of the Agreement, Section 5 of the Agreement states that the SFMTA Board of Directors shall adjust Mr. Ford's base salary by a percentage no less than the increase in the Consumer Price Index – Urban (CPIU) for the Bay Area within 120 days after the close of any fiscal year. Any adjustment in Mr. Ford's base salary must be approved as an Amendment to the Agreement.

The Bay Area Consumer Price Index for All Urban Consumers (CPIU) from June 2008 through June 2009 is -.2%. The Bay Area CPI was calculated by using the Consumer Price Index Calculator provided by the State of California's Division of Labor Statistics & Research. The Consumer Price Index Calculator is available at <http://www.dir.ca.gov/dlsr/CAPriceIndex.htm>.

Annual Incentive Compensation

Pursuant to Charter Section 8A.102(c)(1) and Section 6 of the Agreement, the SFMTA is required to provide an incentive compensation plan to Mr. Ford based upon the Agency's achievement of the fiscal year milestones adopted pursuant to Section 8A.103. The SFMTA Board of Directors approved the incentive compensation bonus plan by Resolution #06-098 on August 1, 2006. The plan and Agreement state that incentive compensation shall not exceed 10% of Mr. Ford's current base salary.

PAGE 4.

Contract Amendment #2

Last year, the Board approved Contract Amendment #2 which approved an increase to the base salary to \$328,375.88; however, in light of the impact of the economic crisis, the Board and Mr. Ford agreed to defer payment of the increase. Ford has continued to receive the salary in effect before this approved adjustment, in the amount of \$315,140. The Board also approved incentive compensation for his performance in the amount of \$26,787; however, given the economic situation, both the Board and Mr. Ford agreed to defer payment of the incentive compensation. Contract Amendment #2 also allowed Mr. Ford to “cash out” any unused executive leave or floating holidays accrued at the base salary rate.

Contract Amendment #3

While the CPIU declined by .2%, in recognition of the financial situation and the sacrifices made by many other SFMTA employees, including employees represented by the Municipal Executives Association, Mr. Ford has stated that he will reduce his salary by 2% of his current base salary of \$315,140 resulting in a base salary of \$308,837.20 for Fiscal Year 2010 to match the amount that members of the Municipal Executive Association are giving back to the SFMTA. He also suggested that any incentive compensation for FY09 be deferred.

Based on the SFMTA Board of Directors performance evaluation of the Executive Director/CEO, the Chairman and Vice Chairman of the SFMTA Board of Directors, in consultation with Mr. Ford and in recognition of the continuing economic situation, have recommended that the SFMTA Board of Directors approve Contract Amendment #3 including:

- 1) A two percent salary reduction of his current base salary of \$315,140 resulting in a base salary of \$308,837.20 for FY2010.
- 2) A three-year contract extension (from January 16, 2011 to January 16, 2014).
- 3) That the Exec. Director/CEO's FY09 and FY10 Incentive Compensation (bonus) be deferred until such time during the term of this Agreement as may be mutually agreed by the parties. The FY09 Incentive Compensation that will be deferred is \$21,015.
- 4) In the event that the SFMTA Board terminates the contract early, all deferred compensation shall be paid immediately.
- 5) That the Exec. Director/CEO shall receive five extra days of executive leave per fiscal year.
- 6) That the amount of severance pay would be reduced from two years to one year.

PAGE 5.

FUNDING IMPACT

The SFMTA Board of Directors and the Executive Director/CEO recognize that the City and County of San Francisco and the San Francisco Municipal Transportation Agency have been deeply affected by the economic downturn and that city employees are facing lay-offs and wage freezes. Therefore the SFMTA Board of Directors and Mr. Ford have mutually agreed to reduce Mr. Ford's FY09 base salary by 2% of his current base salary of \$315,140 resulting in a base salary of \$308,837.20 and defer payment of the FY09 incentive compensation in the amount of \$21,015 until such time as may agreed to by the SFMTA Board of Directors and Mr. Ford.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

The City Attorney has reviewed this calendar item.

No other approvals are required.

RECOMMENDATION

Approval of this item is a policy matter for the SFMTA Board of Directors.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, Charter Section 8A.102(c) authorizes the San Francisco Municipal Transportation Agency Board of Directors to appoint a Director of Transportation pursuant to an individual contract; and,

WHEREAS, By Resolution No. 05-179, dated December 6, 2005, the SFMTA Board of Directors approved the Appointment and Compensation Employment Agreement between the City and Nathaniel P. Ford, Sr. (Agreement) and appointed Mr. Ford to the position of Executive Director/CEO of the San Francisco Municipal Transportation Agency; and,

WHEREAS, Charter Section 8A.102(c) (1) states that the “the Agency shall provide an incentive compensation plan . . . under which a portion of the Director's compensation is based on the achievement of service standards adopted by the Board of Directors”; and,

WHEREAS, Section 6 of the Agreement, entitled “Incentive Compensation”, states that "Ford shall be eligible to receive additional incentive compensation in an amount not to exceed 10% of Ford's current base salary based on an incentive compensation plan consistent with Section 8A.103 of the Charter"; and,

WHEREAS, Section 5 of the Agreement states that the SFMTA Board "shall adjust Ford's base salary by a percentage no less than the increase in the Consumer Price Index – Urban (CPIU) for the Bay within 120 days after the close of any fiscal year based on the performance evaluation provided in accordance with section 9 of the Agreement"; and,

WHEREAS, The Bay Area Consumer Price Index for All Urban Consumers between June 2008 and June 2009 declined by .2%, and,

WHEREAS, On August 1, 2006, the SFMTA Board of Directors approved an incentive compensation plan entitled “Executive Director’s Incentive Compensation Plan Recommendation” (Resolution #06-098), and,

WHEREAS, The SFMTA Board of Directors met with the Executive Director/CEO on September 15, 2009 following presentation of the FY09 Year-End Service Standards Report and on November 17, 2009 to conduct a performance evaluation for FY09 and,

WHEREAS, On November 10, 2009, the SFMTA Board of Directors' Policy and Governance Committee met to review Mr. Ford's performance evaluation,

WHEREAS, Based on the SFMTA Board of Directors performance evaluation, the Chairman and Vice Chairman of the SFMTA Board of Directors had determined that appropriate incentive compensation for FY09 would be \$21,015; and,

WHEREAS, The SFMTA Board of Directors and Executive Director/CEO Ford recognize the serious economic situation that the City and County of San Francisco and the San Francisco Municipal Transportation Agency now face and the sacrifices that have been made by many SFMTA employees and have agreed to reduce the compensation paid to Mr. Ford by 2% under his employment agreement for fiscal year 2010; now, therefore be it

RESOLVED, That the SFMTA Board of Directors hereby approves Amendment #3 to the Appointment and Compensation Employment Agreement between the City and County of San Francisco and Nathaniel P. Ford, Sr. to extend the term of his contract through January 16, 2014, reduce Mr. Ford's base salary by 2%, defer award of incentive compensation for FY2009, reduce Mr. Ford's entitlement to severance pay, and increase Mr. Ford's executive leave by five days per fiscal year.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of _____.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

AMENDMENT No. 3
TO
AGREEMENT FOR APPOINTMENT AND COMPENSATION

This Amendment to the Appointment and Compensation Employment Agreement between the City and County of San Francisco (City) and Nathaniel P. Ford, Sr. (Ford), dated December 6, 2005, as amended on November 20, 2007 (Agreement), and December 2, 2008, is entered into this 5th day of January, 2010 between the City, acting by and through its Board of Directors of the San Francisco Municipal Transportation Agency, and Ford.

NOW THEREFORE, it is mutually understood and agreed that all other terms and conditions of the Agreement shall remain in full force and effect and the Agreement is hereby amended as follows:

Section 2, Term of Appointment, is amended to read as follows:

Ford's appointment shall be for a term commencing January 17, 2006 and terminating on January 16, 2014, unless earlier terminated as provided in this Agreement.

Section 5, Salary, is amended to read as follows:

(a) Ford's base annual salary shall be \$298,000 subject to such deductions and withholding as may be required by law or authorized by Ford; provided, however that pursuant to the terms of the salary adjustment provision of this Section 5, Ford's base salary shall be increased to \$315,140 commencing on July 1, 2007. Ford's base annual salary shall be payable in the same manner and at the same time as other SFMTA employees are paid.

(b) The Board shall adjust Ford's base salary by a percentage no less than the increase in the consumer Price Index – Urban (CPIU) for the Bay Area within 120 days after the close of any fiscal year based on the performance evaluation provided in accordance with Section 9 of this Agreement. Any adjustment in Ford's base salary shall be approved as an Amendment to this Agreement in accordance with Section 16. For the fiscal year beginning July 1, 2008, the applicable CPIU is 4.2%.

(c) Notwithstanding the provisions of (a) and (b) above, in light of the impact of the national economic crisis on the City and County of San Francisco and its Municipal Transportation Agency, the parties agree that Ford shall defer the base salary adjustment (to \$328,375.88 based on the 4.2% increase in the CPIU) that he would otherwise be entitled to commencing in fiscal year 2009 until such time during the term of this Agreement as may be agreed by the parties and approved as an Amendment to this Agreement.

(d) For the period beginning July 1, 2009, the CPIU applicable under subsection (b) of this Section is negative .2%. Notwithstanding the provisions of subsections (a) and (b) above, for the fiscal year commencing July 1, 2009, in light of the continuing impact of the national economic crisis on the City and County of San Francisco and its Municipal Transportation Agency, the budget deficits facing the SFMTA, and the sacrifices that have been made by many SFMTA employees, the parties agree that Ford shall accept a salary reduction of 2% of his current base salary of \$315,140 resulting in a base salary of \$308,837.20.

Section 6, Incentive Compensation, is amended to read as follows:

(a) Ford shall be eligible to receive additional incentive compensation in an amount not to exceed 10% of Ford's current base salary based on an incentive compensation plan consistent with Section 8A.103 of the Charter. The Board shall approve such an incentive compensation plan within 180 days after Board approval of this Agreement. The amount of any incentive compensation to be paid shall be calculated on a fiscal year basis within 120 days after the close of any fiscal year and shall be pro-rated for any fiscal year in which Ford does not serve as Executive Director for 12 months; provided, however, that no incentive compensation shall be paid for any fiscal year in which Ford is terminated pursuant to the provisions of Section 10 of this Agreement.

(b) Based on the incentive compensation plan adopted by the Board of Directors on August 1 2006 by Resolution 06-098, and based on the 2007-08 performance evaluation conducted by the Board of Directors as required by Section 9 of this Agreement, the Chairman and Vice Chairman of the SFMTA Board of Directors recommend that the Board of Directors award Ford incentive compensation for performance in Fiscal Year 2008 in the amount of \$26,787; however, notwithstanding the provisions of (a) above, in light of the impact of the national economic crisis on the City and County of San Francisco and its Municipal Transportation Agency, the parties agree that Ford shall defer that incentive compensation until such time during the term of this Agreement as may be mutually agreed by the parties and approved as an Amendment to this Agreement.

(c) Based on the incentive compensation plan adopted by the Board of Directors on August 1 2006 by Resolution 06-098, and based on the 2008-09 performance evaluation conducted by the Board of Directors as required by Section 9 of this Agreement, the Chairman and Vice Chairman of the SFMTA Board of Directors recommend that the Board of Directors award Ford incentive compensation for performance in FY 2009 in the amount of \$21,015; however, notwithstanding the provisions of (a) above, in light of the impact of the national economic crisis on the City and County of San Francisco and its Municipal Transportation Agency, the budget deficits facing the SFMTA, and the sacrifices that have been made by many SFMTA employees, the parties agree that Ford shall defer that incentive compensation until such time during the term of this Agreement as may be mutually agreed by the parties and approved as an Amendment to this Agreement.

Section 8a, Additional Benefits (Executive Leave) is amended to read as follows:

a. Executive Leave. Ford is required to work the days and hours necessary to perform the duties of his position and shall schedule his time accordingly. Ford shall receive 15 days of paid executive leave between January 17, 2006 and June 30, 2007 and 10 days per fiscal year thereafter, provided that Ford shall receive 15 days of paid executive leave during fiscal year 2010 and in each fiscal year thereafter. Executive leave unused during any fiscal year may be carried over to the following year. Executive leave accrued as of December 2, 2008 may be cashed out at any time during the term of this Agreement at the base salary rate in effect as of December 2, 2008 (\$315,140). Executive leave accrued after December 2, 2008 may be cashed out at any time after December 2, 2008 at the base salary rate in effect at the time it is cashed out.

Section 11, Severance is amended to read as follows:

In the event of a termination by the Board for convenience, Ford shall receive all earned but unpaid benefits under this Agreement, including any deferred incentive compensation, plus one year's base salary, or the amount of base salary that would be due for the remaining term of this Agreement, whichever is lower, to be paid in the same manner and at the same time as other SFMTA employees are paid; provided, however, that the Board may, in its sole discretion, determine to pay out this amount in a lump sum. Ford shall also be entitled to continue any health benefits provided by the San Francisco Health Service System for 90 days after written notice of termination for convenience. Notwithstanding the foregoing, Ford shall not be entitled to any severance payment or benefits under this provision unless Ford submits to the Board, in a form acceptable to the Board and approved by the City Attorney, a waiver of rights releasing the City and all agents, employees, departments, commissioners and officers thereof, from any and all actions, causes of action, damages, claims and demands, in law or in equity, that may arise out of Ford's employment or termination.

Nathaniel P. Ford, Sr.

CITY AND COUNTY OF SAN FRANCISCO
by and through its Municipal Transportation Agency

Nathaniel P. Ford, Sr.

Tom Nolan, Chairman, Board of Directors

APPROVED AS TO FORM
Dennis J. Herrera
City Attorney

Resolution No.
Adopted:

Attested: _____
Roberta Boomer, Secretary
SFMTA Board of Directors

Julia M.C. Friedlander
SFMTA General Counsel
Deputy City Attorney

