DATE: February 28, 2005

TO: MTA Board of Directors
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FROM: Michael T. Burns
Director of Transportation

RE: Long-Term Revenue Proposals

Long-Term Revenue Options

As a part of the discussions surrounding the FY2006 budget, there have been many suggestions regarding longer-term revenue generating proposals. None of these proposals, even if implemented now, would help with FY2006. However, staff will keep the Board apprised of the status of these options as new information becomes available. They are discussed in more detail below.

In addition to long-term revenue proposals, staff is also looking at ways make the MTA a more efficient organization. To that end, the City Controller has been asked to review both the financial situation at the MTA, as well as the organizational and service structure.

Sales Tax

The MTA could place a measure directly on the ballot, which could add a sales tax in the County of San Francisco in support of MTA transportation expenses. Because it would be a special tax for transportation, as opposed to a general tax, it would require two-thirds voter approval. A general tax that was placed on the November 2004 ballot, and which required a simple majority, failed. We will continue to pursue this option for potential placement on the November 2005 ballot.

Vehicle Environmental Impact Fee

The MTA could propose a local vehicle environmental impact fee based on an assessment of the cost to the City of private vehicle use. Currently, no such fee exists. Implementation of such a fee would require a citywide planning process and authorization from the state legislature. It is estimated that this process would take approximately one year for approval and up to six months for implementation through the Department of Motor Vehicles. Any revenue generated through such a fee would not likely be realized until FY08. In addition, it is likely that any fees generated would have to be shared with the City.

Increasing Parking Tax Rate
Currently, the City and County of San Francisco levies a 25% parking tax on all parking facilities. An amount equal to approximately 40% of the parking tax revenues is allocated to Muni.

In FY2005, the parking tax is expected to yield approximately $21 million in operating revenues to Muni, and approximately $54 million in total revenue for the City. Revenue changes for Muni depend on the scale of a rate increase. For instance, if the City's parking tax were increased to 35%, and parking demand were not reduced significantly as a result, then the total increase in annual revenue would be approximately $21 million at current parking rates. Under the current revenue allocation formula, Muni would receive an additional $8.6 million in annual revenue from the increase. However, under the Charter, an increase in the parking tax would require a reduction in the MTA's General Fund transfer equal to half the amount of the increase. For example, were a parking tax increase to generate $8.6 million in additional revenue, the MTA's General Fund transfer would be reduced by $4.3 million.

Any proposal to increase the parking tax with revenues directed to Muni would require two-thirds voter approval. The next scheduled election is in November, 2005. If approved, the parking tax rate increase would become effective ten days after the Board of Supervisors certified the results of the election. A transition period would then be required to implement any necessary administrative changes related to collection of the tax. Taking into consideration these process requirements, it is currently estimated that implementation of a parking tax increase would take approximately 15 months from now; that is, summer of 2006.

Imposition of a "Congestion Fee" on Vehicles Entering Specified Downtown Area
MTA may not impose a charge on private cars entering specified downtown areas. Cities have no authority over vehicle traffic except as expressly authorized by the Legislature. (Vehicle Code §21; Save the Sunset Strip Coalition v. City of West Hollywood (2001) 87 Cal.App.4th 1172, 177-1178, citing Rumford v. City of Berkeley (1982) 31 Cal.3d 545, 550. The Vehicle Code explicitly prohibits a local agency from imposing "a tax, permit fee or other charge" for the privilege of using public streets. (Vehicle Code §9400.8). Moreover, even in the absence of that section, charging a fee for use of certain streets would likely make those streets into toll roads as defined in Vehicle Code §611. The state Department of Transportation has exclusive jurisdiction over toll roads. (Streets & Highways Code §§30800 et seq.). Thus, if the MTA were interested in pursuing this option, it would require action by the Legislature and/or coordination with, and approval from, the Department of Transportation. The MTA will cooperate with the San Francisco Country Transportation Authority on their study of this concept.

Establishing a Transit Assessment District
The City could establish a "Transit Assessment District" in order to assess property owners for their share of the cost of providing transit service. Such a district would be a type of special benefit assessment district. The use of revenues from the district could be used only to cover the costs of providing transit service to properties in the subject area, and the assessment imposed on each property could not exceed that property's proportional share of the special benefit received. There are six key steps required to form an assessment district. First, the Board of Supervisors may need to pass implementing procedural legislation. Second, the MTA would need to have an analysis prepared to quantify the cost of the special benefit that Muni services give to the affected property (as contrasted to the general benefit to the City and the public), and break down

that cost on a per-parcel basis. Third, the Board of Supervisors would need to pass a resolution of intent to form the district. Fourth, property owners who would be subject to the assessment would have to be mailed a notice of the proposed assessment and a ballot to approve or disapprove establishment of the assessment district. Fifth, the Board of Supervisors would have to hold a public hearing on the proposed district. Finally, if the district were approved by property owners responsible for a majority of the assessment, the Board of Supervisors would adopt legislation creating the district.

Citywide Parcel Tax
The MTA Board could place a Citywide parcel tax on the ballot for the purpose of supporting Muni improvements, maintenance, and operations. Such a measure would be a special tax and require two-thirds voter approval. Parcel taxes are typically allocated among properties based on a factor such as the size of the parcel, the number of units on the parcel, or the total square feet of improvements on the parcel. A parcel tax may not be imposed based on the value of the property. Such a measure must be submitted to the Department of Elections at least 90 days before an election. If approved by the voters, the tax would go into effect ten days after the Board of Supervisors certified the results of the election. However, it is not clear when the Tax Collector could begin to collect this tax, or at what point revenue generated by the tax could be distributed to the MTA. In addition, the parcel tax would need to provide for a credit for amounts paid under the City's Transit Impact Development Fee. Unless the measure provided otherwise, in order to pass the cost of such an assessment on to tenants of property subject to the City's Residential Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), a landlord would need to submit a request for an arbitration hearing under §37.8 of the San Francisco Administrative Code.

Downtown Parcel Tax Approved by Voters Citywide
Alternatively, the MTA Board could consider a parcel tax on downtown property. The MTA Board may as an alternative also consider a parcel tax on buildings that could be presumed to have a significant effect on transit use because of their size and use. As with a Citywide parcel tax, the tax would need to provide for a credit for amounts paid under the City's Transit Impact Development Fee. Similarly, unless the measure provided otherwise, in order to pass the cost of such an assessment on to tenants of property subject to the City's Rent Ordinance, a landlord would need to submit a request for an arbitration hearing under §37.8 of the Administrative Code. As with a regular parcel tax, such a measure would be a special tax and require two-thirds voter approval.

Transit Impact Fee Imposed on Downtown Businesses
The MTA Board could place a fee measure on the ballot to impose a fee on business owners located in the downtown area. Such a fee would need to be justified by a nexus study establishing the benefit provided to business owners by Muni service, and the costs incurred in providing that service (adjusted for any payments that may have been made pursuant to the Transit Impact Development Fee). Imposition of such a fee raises enforcement concerns because delinquent fees could not be collected via liens on real property. The City would have limited leverage against individual business owners. Alternatively, property owners could be required to collect the fee from their tenants, in which case nonpayment could be enforced through lien proceedings. In order to avoid delay, the MTA Board may wish to consider putting forward a ballot measure that authorizes imposition of a fee not to exceed a specified amount, subject to the

completion of a nexus study that would support such a fee. Approval of the ballot measure would be subject to a simple majority vote.

State-Level Initiatives
In terms of longer-term revenue measures being pursued, the MTA will actively work to support proposals that enhance transportation funding. In Sacramento, there are several new bills that directly address our funding needs--SB 1020 (Migden) would enable counties to place a measure on the local ballot to double Transportation Development Act funding. This measure alone would generate an additional $30M per year in operating funds for the MTA by increasing from .25 to .5 the state sales tax on the sale of all goods in San Francisco. Also, pending introducing is an environmental mitigation/vehicle fee bill that would be directed to maintenance, operation and construction of local streets and roads; this measure will aid in funding activities of the MTA as well as the Department of Public Works. These new proposals combined with the MTA's support to allow Proposition 42 funds to flow to transportation have the potential to produce a steady and permanent funding stream.