

THIS PRINT COVERS CALENDAR ITEM NO.: 10.2

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance and Information Technology

BRIEF DESCRIPTION:

Authorizing the Director of Transportation, or his designee, to approve a project, to execute the required Certifications and Assurances, including any amendments to such documents, with the California Department of Transportation (Caltrans) for all transit projects funded by the Low Carbon Transit Operations Program for Fiscal Year 2021-22 including Free Muni for Seniors and Persons with Disabilities, and authorizing the SFMTA to comply with all conditions and requirements set forth in the Certifications and Assurances and applicable statutes, regulations and guidelines.

SUMMARY:

- The Low Carbon Transit Operations Program (LCTOP) is one of several programs that are part of the Transit, Affordable Housing, and Sustainable Communities (Cap-and-Trade) Program established by the California Legislature in 2014.
- The SFMTA is an eligible project sponsor and anticipates receiving \$17,489,073 in FY 2021-22 LCTOP funds for transit purposes.
- The funding administrator, the Caltrans Division of Rail and Mass Transportation, requires a board resolution approving a program of projects, authorizing the execution of Certifications and Assurances, and designating the SFMTA's Authorized Agent(s) to sign documents with Caltrans for LCTOP funds.
- The project to be approved for funding is Free Muni for Seniors and People with Disabilities.

ENCLOSURES:

1. SFMTAB Resolution
2. LCTOP Program of Projects
3. LCTOP Certifications and Assurances

APPROVALS:

DIRECTOR



DATE`

March 9, 2022

SECRETARY



March 9, 2022

ASSIGNED SFMTAB CALENDAR DATE: March 15, 2022

PAGE 2.

PURPOSE

The purpose of this item is for the SFMTA Board to authorize the Director of Transportation, or his designee, to approve a project, to execute the required Certifications and Assurances, including any amendments to such documents, with the California Department of Transportation (Caltrans) for all transit projects funded by the Low Carbon Transit Operations Program for Fiscal Year 2021-22 including Free Muni for Seniors and Persons with Disabilities, and authorizing the SFMTA to comply with all conditions and requirements set forth in the Certifications and Assurances and applicable statutes, regulations and guidelines.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

The LCTOP program of projects supports the following goals and objectives within the SFMTA Strategic Plan including:

Goal 1: Identify and reduce disproportionate outcomes and resolve past harm towards marginalized communities.

Goal 4: Make streets safer for everyone.

Goal 5: Deliver reliable and equitable transportation services.

Goal 6: Eliminate pollution and greenhouse gas emissions by increasing use of transit, walking, and bicycling.

Goal 7: Build stronger relationships with stakeholders.

Goal 10: Position the agency for financial success.

This item will support the following Transit First Policy Principles:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods. Public transit, including taxis and vanpools, is an economically and environmentally sound alternative to transportation by individual automobiles. Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.
2. Public transit, including taxis and vanpools, is an economically and environmentally sound alternative to transportation by individual automobiles. Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.
3. Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and improve public health and safety.
4. Transit priority improvements, such as designated transit lanes and streets and improved signalization, shall be made to expedite the movement of public transit vehicles (including taxis and vanpools) and to improve pedestrian safety.
5. Pedestrian areas shall be enhanced wherever possible to improve the safety and comfort of pedestrians and to encourage travel by foot.

PAGE 3.

6. Bicycling shall be promoted by encouraging safe streets for riding, convenient access to transit, bicycle lanes, and secure bicycle parking.
7. Parking policies for areas well served by public transit shall be designed to encourage travel by public transit and alternative transportation.
8. New transportation investment should be allocated to meet the demand for public transit generated by new public and private commercial and residential developments.
9. The ability of the City and County to reduce traffic congestion depends on the adequacy of regional public transportation. The City and County shall promote the use of regional mass transit and the continued development of an integrated, reliable, regional public transportation system.
10. The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway.

DESCRIPTION

LCTOP is one of several programs that are part of the Cap-and-Trade Program established by the California Legislature in 2014 by Senate Bill 862. LCTOP was created to provide operating and capital assistance for transit agencies to reduce greenhouse gas emissions and improve mobility, with a priority on serving disadvantaged communities.

Beginning in FY 2015-16, LCTOP received five percent of all statewide Cap-and-Trade auction proceeds. Distribution of LCTOP funds follows the well-established State Transit Assistance (STA) formula, with 50 percent of the funds awarded to transit operators and 50 percent awarded to the State's regional transportation planning agencies. The transit operator funds are distributed according to population and in proportion to the agency's generation of transit fare revenue.

Based on the State Controller's Office FY 2021-22 LCTOP fund estimate, the SFMTA will receive \$17,489,073 in revenue-based LCTOP funding.

LCTOP is unique in that both operating and capital projects are eligible for funding. The Director of Transportation, Director of Transit, and Director of Finance and Information Technology have determined that the following projects are the highest priority for use of the \$17,489,073 in FY 2021-22 LCTOP funds:

- Free Muni for Seniors and People with Disabilities (\$17,489,073)

The project description(s) are contained in Enclosure 2.

Caltrans reviews the program of projects to ensure that the projects are eligible under LCTOP guidance. For its review, Caltrans requires a program of projects and a board resolution authorizing the execution of Certifications and Assurances and designating an Authorized Agent for LCTOP for FY 2021-22. The Authorized Agent will be the Director of Transportation or his

PAGE 4.

designee. The required Certifications and Assurances are contained in Enclosure 3.

STAKEHOLDER ENGAGEMENT

Free Muni for Seniors and People with Disabilities is an operating investment and is included in the “Fiscal Year 2021 & FY 2022 Operating and Capital Consolidated Budget” (Budget). Fare subsidy programs are consistent with the Board’s intent to promote an equitable system through the adopted Muni Service Equity Policy in 2014 and 2018.

Community outreach and engagement for the Budget and CIP included town hall meetings with in-person and online events held at both daytime and evening hours to ensure a variety of options for participation.

ALTERNATIVES CONSIDERED

If the SFMTA chooses not to pursue these funds, the SFMTA will have to identify another \$17,489,073 of funding from other projects or programs to fund the proposed project. Further, if the SFMTA does not pursue these funds, they will be lost to the Agency.

FUNDING IMPACT

LCTOP provides an ongoing revenue source for which both transit operating and capital expansion projects are eligible. The program of projects being submitted to Caltrans includes \$17,489,073 of LCTOP funds:

- Free Muni for Seniors and People with Disabilities: \$17,489,073 covers 98.3% of the project’s \$17,787,671 funding plan.

ENVIRONMENTAL REVIEW

The project proposed for receipt of LCTOP funding is subject to the California Environmental Quality Act (CEQA).

Free Muni for Seniors and People with Disabilities

CEQA provides a statutory exemption from environmental review—as defined in Title 14 of the California Code of Regulations Sections 15273 and 21080(b)(8)—for the establishment, modification, structuring, restructuring or approval of rates, tolls, fares, and other charges, which the public agency finds are for the purpose of (1) meeting operating expenses, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects, or (5) obtaining funds necessary to maintain intracity transfers.

On April 2, 2020, the SFMTA, under authority delegated by the San Francisco Planning Department, determined (Case Number 2020-004013ENV) that the proposed Free Muni for Seniors and People with Disabilities program is statutorily exempt from environmental review

PAGE 5.

under Title 14 of the California Code of Regulations Sections 21080(b)(8) and 15273.

A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and may be found in the records of the Planning Department by Case Number at <https://sfplanninggis.org/pim/> or 49 South Van Ness Avenue, Suite 1400 in San Francisco, and are incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

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

LCTOP allocation requests and other documentation are subject to review by Caltrans.

RECOMMENDATION

Staff recommends that the SFMTA Board authorize the Director of Transportation, or his designee, to approve a program of projects, to execute the required Certifications and Assurances, including any amendments to such documents, with the California Department of Transportation for all transit projects funded by the Low Carbon Transit Operations Program for Fiscal Year 2021-22; and authorizing the SFMTA to comply with all conditions and requirements set forth in the Certifications and Assurances and applicable statutes, regulations and guidelines.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) is an eligible project sponsor for California's Low Carbon Transit Operations Program (LCTOP), established under Senate Bill 862 in 2014, and administered by the State Department of Transportation Division of Rail and Mass Transportation (Caltrans); and

WHEREAS, The statutes related to state-funded transit projects require a local or implementing agency to abide by various regulations; and

WHEREAS, Senate Bill 862 (2014) named the Department of Transportation (Department) as the administrative agency for LCTOP; and

WHEREAS, The Department has developed guidelines for the purpose of administering and distributing LCTOP funds to eligible project sponsors (local agencies); and

WHEREAS, The SFMTA has requested \$17,489,073 in LCTOP funds for the following project:

- Free Muni for Seniors and People with Disabilities (\$17,489,073); and

WHEREAS, The SFMTA wishes to implement the following LCTOP project(s) listed above; and

WHEREAS, The proposed Free Muni for Seniors and People with Disabilities program is subject to CEQA, which provides an exemption from environmental review for the establishment, modification, structuring, restructuring or approval of rates, tolls, fares, and other charges, as defined in Title 14 of the California Code of Regulations Sections 21080(b)(8) and 15273; and

WHEREAS, On April 2, 2020, the SFMTA, under authority delegated by the San Francisco Planning Department, determined (Case Number 2020-004013ENV) that the proposed Free Muni for Seniors and People with Disabilities program is statutorily exempt from environmental review under Title 14 of the California Code of Regulations Sections 21080(b)(8) and 15273; and

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and may be found in the records of the Planning Department by case number at <https://sfplanninggis.org/pim/> and 49 South Van Ness Avenue, Suite 1400 in San Francisco, and are incorporated herein by reference; and

WHEREAS, Should the SFMTA designate any other capital projects for receipt of all or a portion of the LCTOP funds, the Agency shall conduct appropriate environmental review prior to approving such capital projects; and

WHEREAS, The SFMTA Board of Directors wishes to delegate authorization to execute the necessary LCTOP documents and any amendments thereto to the Director of Transportation or his designee; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation, or his designee, to approve a program of projects, to execute the required Certifications and Assurances for all transit projects funded by the Low Carbon Transit Operations Program for Fiscal Year 2021-22, including any amendments to such documents, with the California Department of Transportation; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the SFMTA to comply with all conditions and requirements set forth in the Certification and Assurances and applicable statutes, regulations and guidelines for all transit projects funded by the Low Carbon Transit Operations Program for Fiscal Year 2021-22.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of March 15, 2022.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

Enclosure 2

FY 2021-2022 LCTOP Program of Projects

Project Name: Free Muni for Seniors and People with Disabilities

Amount of LCTOP funds requested: \$17,489,073

SFMTA/Muni offers a variety of free and reduced fare programs that support San Francisco riders who are most price-sensitive. Free Muni for Seniors is available to San Francisco residents ages 65+ with a gross annual family income at or below 100% of the Bay Area median income. Free Muni for People with Disabilities is available to San Francisco residents with disabilities with a gross annual family income at or below 100% of the Bay Area median income. Benefiting passengers must be in possession of a registered Regional Transit Connection (RTC) card. During the duration of the program the qualifying senior or person with disability will have unlimited access to SFMTA's transit system at no cost. This project will capture new riders and remove vehicles from the road, therefore reducing greenhouse gas emissions.

Benefit to Priority Populations: Feedback from the low-income and disadvantaged communities indicated that there is a cost barrier in accessing the transit system. Prior to this program, many of these residents had quality of life issues related to mobility to medical appointments, grocery runs, getting to work, and other common transportation needs. This transit subsidy program provides free access to the SFMTA's complete transit network, promoting the equitable use of the system.

Amount to benefit Priority Populations: \$8,744,537

Contributing Sponsors (if applicable): N/A

Enclosure 3

Certifications and Assurances

Lead Agency: San Francisco Municipal Transportation Agency

Project Title: Free Muni for Seniors and People with Disabilities (\$17,489,073)

Prepared by: Charles Leung

The California Department of Transportation (Caltrans) has adopted the following Certifications and Assurances for the Low Carbon Transit Operations Program (LCTOP). As a condition of the receipt of LCTOP funds, Lead Agency must comply with these terms and conditions.

A. General

1. The Lead Agency agrees to abide by the current LCTOP Guidelines and applicable legal requirements.
2. The Lead Agency must submit to Caltrans a signed Authorized Agent form designating the representative who can submit documents on behalf of the project sponsor and a copy of the board resolution appointing the Authorized Agent.

B. Project Administration

1. The Lead Agency certifies that required environmental documentation is complete before requesting an allocation of LCTOP funds. The Lead Agency assures that projects approved for LCTOP funding comply with Public Resources Code § 21100 and § 21150.
2. The Lead Agency certifies that a dedicated bank account for LCTOP funds only will be established within 30 days of receipt of LCTOP funds.
3. The Lead Agency certifies that when LCTOP funds are used for a transit capital project, that the project will be completed and remain in operation for its useful life.
4. The Lead Agency certifies that it has the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of that project.
5. The Lead Agency certifies that they will notify Caltrans of pending litigation, dispute, or negative audit findings related to the project, before receiving an allocation of funds.
6. The Lead Agency must maintain satisfactory continuing control over the use of project equipment and facilities and will adequately maintain project equipment and facilities for the useful life of the project.
7. Any interest the Lead Agency earns on LCTOP funds must be used only on approved LCTOP projects.

8. The Lead Agency must notify Caltrans of any changes to the approved project with a Corrective Action Plan (CAP).
9. Under extraordinary circumstances, a Lead Agency may terminate a project prior to completion. In the event the Lead Agency terminates a project prior to completion, the Lead Agency must (1) contact Caltrans in writing and follow-up with a phone call verifying receipt of such notice; (2) pursuant to verification, submit a final report indicating the reason for the termination and demonstrating the expended funds were used on the intended purpose; (3) submit a request to reassign the funds to a new project within 180 days of termination.

C. Reporting

1. **The Lead Agency must submit the following LCTOP reports:**
 - a. **Annual Project Activity Reports October 28th each year.**
 - b. **A Close Out Report within six months of project completion.**
 - c. **The annual audit required under the Transportation Development Act (TDA), to verify receipt and appropriate expenditure of LCTOP funds. A copy of the audit report must be submitted to Caltrans within six months of the close of the year (December 31) each year in which LCTOP funds have been received or expended.**
 - d. **Project Outcome Reporting as defined by CARB Funding Guidelines.**
 - e. **Jobs Reporting as defined by CARB Funding Guidelines.**
2. Other Reporting Requirements: CARB develops and revises Funding Guidelines that will include reporting requirements for all State agencies that receive appropriations from the Greenhouse Gas Reduction Fund. Caltrans and project sponsors will need to submit reporting information in accordance with CARB's Funding Guidelines, including reporting on greenhouse gas reductions and benefits to disadvantaged communities.

D. Cost Principles

1. The Lead Agency agrees to comply with Title 2 of the Code of Federal Regulations 225 (2 CFR 225), Cost Principles for State and Local Government, and 2 CFR, Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
2. The Lead Agency agrees, and will assure that its contractors and subcontractors will be obligated to agree, that:
 - a. Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allow ability of individual project cost items and
 - b. Those parties shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements for Grants and

Cooperative Agreements to State and Local Governments. Every sub-recipient receiving LCTOP funds as a contractor or sub-contractor shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

3. Any project cost for which the Lead Agency has received funds that are determined by subsequent audit to be unallowable under 2 CFR 225, 48 CFR, Chapter 1, Part 31 or 2 CFR, Part 200, are subject to repayment by the Lead Agency to the State of California (State). All projects must reduce greenhouse gas emissions, as required under Public Resources Code section 75230, and any project that fails to reduce greenhouse gases shall also have its project costs submit to repayment by the Lead Agency to the State. Should the Lead Agency fail to reimburse moneys due to the State within thirty (30) days of demand, or within such other period as may be agreed in writing between the Parties hereto, the State is authorized to intercept and withhold future payments due the Lead Agency from the State or any third-party source, including but not limited to, the State Treasurer and the State Controller.

A. Record Retention

1. The Lead Agency agrees and will assure that its contractors and subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred project costs and matching funds by line item for the project. The accounting system of the Lead Agency, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles (GAAP) and enable the determination of incurred costs at interim points of completion. All accounting records and other supporting papers of the Lead Agency, its contractors and subcontractors connected with LCTOP funding shall be maintained for a minimum of three (3) years after the "Project Closeout" report or final Phase 2 report is submitted (per ARB Funding Guidelines, Vol. 3, page 3.A-16), and shall be held open to inspection, copying, and audit by representatives of the State and the California State Auditor. Copies thereof will be furnished by the Lead Agency, its contractors, and subcontractors upon receipt of any request made by the State or its agents. In conducting an audit of the costs claimed, the State will rely to the maximum extent possible on any prior audit of the Lead Agency pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by the Lead Agency's external and internal auditors may be relied upon and used by the State when planning and conducting additional audits.
2. For the purpose of determining compliance with Title 21, California Code of Regulations, Section 2500 et seq., when applicable, and other matters connected with the performance of the Lead Agency's contracts with third parties pursuant to Government Code § 8546.7, the project sponsor, its contractors and subcontractors and the State shall each maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited

to, the costs of administering those various contracts. All of the above referenced parties shall make such materials available at their respective offices at all reasonable times during the entire project period and for three (3) years from the date of final payment. The State, the California State Auditor, or any duly authorized representative of the State, shall each have access to any books, records, and documents that are pertinent to a project for audits, examinations, excerpts, and transactions, and the Lead Agency shall furnish copies thereof if requested.

3. The Lead Agency, its contractors and subcontractors will permit access to all records of employment, employment advertisements, employment application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by the State, for the purpose of any investigation to ascertain compliance with this document.

F. Special Situations

Caltrans may perform an audit and/or request detailed project information of the project sponsor's LCTOP funded projects at Caltrans' discretion at any time prior to the completion of the LCTOP.

I certify all of these conditions will be met.

Jonathan Rewers

(Print Authorized Agent)

Acting Chief Financial Officer

(Title)

(Signature)

(Date)