

THIS PRINT COVERS CALENDAR ITEM NO. : 10.5

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance & Information Technology

BRIEF DESCRIPTION:

Authorizing 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 (LCTOP); and authorizing the Director of Transportation, or his designee, to execute the required Certifications and Assurances, including any amendments to such documents, with the California Department of Transportation.

SUMMARY:

- The LCTOP is one of several programs that are part of the Transit, Affordable Housing, and Sustainable Communities Program established by the California Legislature in 2014.
- SFMTA is an eligible project sponsor, and in FY 2014-2015 received \$2,592,022 to provide increased transit service on five of its major bus routes. The SFMTA anticipates receiving \$8,156,592 in FY 2015-16.
- The funding administrator, the California Department of Transportation Division of Rail and Mass Transportation requires a board resolution authorizing the execution of certifications and assurances and designating SFMTA's Authorized Agent(s) to sign LCTOP documents.

ENCLOSURES:

1. SFMTAB Resolution
2. LCTOP Certifications and Assurances

APPROVALS:

DATE

DIRECTOR _____ 3/29/16

SECRETARY R. Boomer _____ 3/29/16

ASSIGNED SFMTAB CALENDAR DATE: April 5, 2016

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PURPOSE

The purpose of this item is for the SFMTA Board to authorize the Agency 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; and authorizing the Director of Transportation, or his designee, to execute the required Certifications and Assurances, including any amendments to such documents, with the California Department of Transportation.

GOAL

This recommendation supports the SFMTA's following Strategic Policy Goals:

- Goal 2: Make transit, walking, bicycling, taxi, ridesharing and car sharing the preferred means of travel
- Goal 3: Improve the environment and quality of life in San Francisco

DESCRIPTION

The 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 by Senate Bill 862. The 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.

On January 20, 2015, the SFMTA Board approved a seven percent transit service increase to be phased in during FY 2014-15 and FY 2015-16 supporting Muni Forward. In making the decision to increase service, the Board took into consideration that State Cap-and-Trade funds would be available for operating projects.

Beginning in FY2015-16, the LCTOP will receive five percent of all statewide Cap-and-Trade auction proceeds. The LCTOP follows the established State Transit Assistance 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 transit fare revenue generation.

On November 1, 2015, the State Controller's Office released its notification of funding available to transit operators for FY 2015-16 in LCTOP funds. Out of \$75 million available statewide, the SFMTA will receive \$8,156,592.

The LCTOP is unique in that both operating and capital projects are eligible for funding. The service increase is in need of funding and meets the goals of the LCTOP, including the requirement that 50 percent of the funds be invested in disadvantaged communities. Therefore,

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the Director of Transportation determined that the highest priority for use of the FY 2015-16 LCTOP funds is to support the service increase.

The California Department of Transportation Division of Rail and Mass Transportation, the funding administrator, requires a resolution from the SFMTA Board of Directors authorizing the execution of certifications and assurances and designating an Authorized Agent for the LCTOP. The Agent will be the Director of Transportation or his designee. The required certifications and assurances are contained in Enclosure 2.

PUBLIC OUTREACH

The SFMTA's public biennial budget process resulted in calls for increased service that LCTOP funds will support.

ALTERNATIVES CONSIDERED

SFMTA would be ineligible to receive allocations of funds from LCTOP should the Board decline to authorize the Director of Transportation or his designee to execute the Certifications and Assurances. In the event that the SFMTA chooses not to pursue these funds, the SFMTA would have to identify another source of funding for the previously approved service increase.

FUNDING IMPACT

The LCTOP provides an ongoing revenue source for which both operating and capital projects are eligible. In FY 2015-16, \$75 million is available statewide, and SFMTA's FY 2015-16 share is estimated to be \$8,156,592. These monies will help offset the \$42,000,000 needed to fund the seven percent transit service increase in FY 2015-16.

ENVIRONMENTAL REVIEW

On January 20, 2015, the SFMTA Board approved a seven percent transit service increase to be phased in during FY 2014-15 and FY 2015-16 supporting Muni Forward. The budget for Muni Forward was included as part of SFMTA's FY 2015- 2016 Operating and Capital Budget, approved on April 15, 2014, and determined to be statutorily exempt from further review under the California Environmental Quality Act pursuant to California Public Resources Code section 201080(b) (8).

OTHER APPROVALS RECEIVED OR STILL REQUIRED

No additional approvals are required for the recommended action. LCTOP allocation requests and other documentation shall be subject to review by Caltrans.

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RECOMMENDATION

Staff recommends that the SFMTA Board authorize the Agency 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; and authorizing the Director of Transportation, or his designee, to execute the required Certifications and Assurances, including any amendments to such documents, with the California Department of Transportation.

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

WHEREAS, On January 20, 2015, the SFMTA Board approved a seven percent transit service increase to be phased in during FY 2014-15 and FY 2015-16 supporting Muni Forward; the budget for Muni Forward was included as part of SFMTA's FY 2015- 2016 Operating and Capital Budget, approved on April 15, 2014, and determined to be statutorily exempt from further review under the California Environmental Quality Act pursuant to California Public Resources Code section 201080(b) (8); and

WHEREAS, The SFMTA Board of Directors wishes to delegate authority to execute 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 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; and, be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation, or his designee, to execute the required Certifications and Assurances, including any amendments to such documents, with the California Department of Transportation.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of April 5, 2016.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency



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Low Carbon Transit Operations Program (LCTOP) CERTIFICATIONS AND ASSURANCES

Project Sponsor: San Francisco Municipal Transportation Agency (SFMTA)

Agency Name: SFMTA

Effective Date of this Document: March 17, 2016

The California Department of Transportation (Department) has adopted the following certifications and assurances for the Low Carbon Transit Operations Program. As a condition of the receipt of LCTOP funds, project lead must comply with these terms and conditions.

A. General

- (1) The project lead agrees to abide by the current LCTOP Guidelines and applicable legal requirements.
- (2) The project lead must submit to the Department 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 project lead certifies that required environmental documentation is complete before requesting an allocation of LCTOP funds. The project lead assures that projects approved for LCTOP funding comply with Public Resources Code § 21100 and § 21150.
- (2) The project lead certifies that a dedicated bank account for LCTOP funds only will be established within 30 days of receipt of LCTOP funds.
- (3) The project lead 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 project lead 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 project lead certifies that they will notify the Department of pending litigation, dispute, or negative audit findings related to the project, before receiving an allocation of funds.
- (6) The project lead 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.



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- (7) Any interest the project lead earns on LCTOP funds must be used only on approved LCTOP projects.
- (8) The project lead must notify the Department of any changes to the approved project with a Corrective Action Plan (CAP).
- (9) Under extraordinary circumstances, a project lead may terminate a project prior to completion. In the event the project lead terminates a project prior to completion, the project lead must (1) contact the Department 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.
- (10) Funds must be encumbered and liquidated within the time allowed.

C. Reporting

- (1) The project lead must submit the following LCTOP reports:
 - a. Semi-Annual Progress Reports by May 15th and November 15th each year.
 - b. A Final 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 the Department within six months of the close of the year (December 31) each year in which LCTOP funds have been received or expended.
- (2) Other Reporting Requirements: ARB is developing 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 ARB's funding guidelines, including reporting on greenhouse gas reductions and benefits to disadvantaged communities.

D. Cost Principles

- (1) The project lead 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 project lead 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



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- 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 project lead 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 project lead 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 subject to repayment by the project lead to the State. Should the project lead 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 project lead from the State or any third-party source, including but not limited to, the State Treasurer and the State Controller.

E. Record Retention

- (1) The project lead 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 project lead, 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 project lead, 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 project lead, 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 project lead pursuant to the provisions of federal and State law. In the absence of such an audit, any acceptable audit work performed by the project lead'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 project lead'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



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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 project lead shall furnish copies thereof if requested.

- (3) The project lead, 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

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

I certify all of these conditions will be met.

BY: _____
Edward D. Reiskin, Director of Transportation, SFMTA

San Francisco Municipal Transportation Agency
Board of Directors
Resolution No. _____
Adopted: _____
Attest:

Secretary, SFMTA Board of Directors