

**Metropolitan Transportation Commission and Association of Bay Area Governments
Joint MTC ABAG Legislation Committee**

November 3, 2023

Agenda Item 3a

Regional Transportation Revenue Measure Update

Subject:

Update on the enabling legislation for a potential 2026 regional transportation revenue measure, including proposed goals, guiding principles, expenditure priorities, and revenue options, as well as next steps toward authorizing legislation in 2024.

Background:

At the Commission's direction, MTC staff over the past years have conducted multiple rounds of stakeholder engagement, completed an initial round of public polling on Bay Area voters' priorities concerning transportation, and conducted public engagement activities in all nine counties of the San Francisco Bay Area, as part of Plan Bay Area 2050+ outreach, that included activities to learn about Bay Area residents' priorities for a future transportation measure. A regional transportation funding measure is one component of a suite of strategies to advance Plan Bay Area 2050's (Plan) vision of a more affordable, connected, diverse, healthy, and vibrant region for all residents. To help achieve this vision, the Bay Area needs **a climate-friendly transportation system that is safe, accessible and convenient for all**. Staff are proposing this as the central goal of the regional transportation measure. Further, based on regional needs and feedback from the public and key stakeholders over the summer and fall, as well as polling results, staff are proposing three focus areas for the measure:

1. Protect and enhance transit service
2. Make transit faster, safer, and easier to use
3. Enhance mobility and access for all

Draft Guiding Principles:

Staff recommend the Commission adopt a set of guiding principles to keep in focus for the entirety of the legislative process to authorize the measure (i.e., the enabling legislation). Draft guiding principles are below; staff anticipates seeking Commission approval of guiding principles as part of the enabling legislation item that will be brought to the Commission in December.

- Each funding category should advance **equity** for residents of Equity Priority Communities and other marginalized groups, such as older adults and persons with disabilities.
- Each funding category should be **climate**-friendly and help advance the state's goal of carbon neutrality (net zero emissions) by 2045. The expenditure plan should meaningfully reduce greenhouse gas (GHG) emissions from the transportation sector.
- Each funding category should be **adaptable**, recognizing the region's future remains highly uncertain.
- The measure should be **cohesive** and easy to communicate to the public.

Expenditure Priorities:

Throughout the summer and fall, staff received considerable feedback from stakeholders on potential expenditure priorities. Based on that feedback, staff are proposing the following four expenditure categories:

- Transit transformation
- Safe streets
- Connectivity
- Climate resilience

Transit Transformation Sustaining public transit service, especially for those who depend upon it, and investing in improvements, such as implementation of the Bay Area Transit Transformation Plan, are a high priority among Bay Area voters, stakeholders and the general public and are vital to advancing the Plan's goals. The Bay Area's anticipated transit operating shortfall is formidable (transit operator continue to forecast shortfalls in excess of \$700 million per year starting in FY 2025-26). Transit operators and advocates are looking to the regional measure to not just close the gap but also provide funding to *expand* service. Transit advocates and the public are also eager for transit to offer a better customer experience, especially with respect to safety and cleanliness. Recognizing that you can't make significant improvements to transit if it doesn't have a reliable source of operating funding, staff have combined what were earlier two categories (transit operating and transit transformation) into simply "transit transformation."

While it's difficult to predict how much new funding will be needed in FY 2026-27 and beyond to provide the level of transit service needed in the region to achieve the Plan's goals, there's no question that doing so will require a massive infusion of new, dedicated funding from somewhere. Whether the regional measure should aim to *fully* close this gap is a key policy question that will need to be explored by MTC, Bay Area legislators, operators and other stakeholders over the coming months. The extent to which the regional measure aims to address this need will drive the measure's size (i.e., tax rate) and how much funding is available to address other priorities – key considerations that will affect its viability at the polls.

Safe Streets & Connectivity Beyond transit, public engagement this summer found significant interest in funds prioritizing Main Streets (which staff have since rebranded as “Safe Streets”). Conversely, there was less interest in investing in large-scale “priority projects” which were often the focus of past regional revenue measures, such as rail extensions and express lanes. Given the relatively low level of support for a “priority project” category, along with concerns that its name invites an earmarking approach to the enabling legislation that raises a number of concerns, staff are recommending the new “Connectivity” funding category that could fund an array of multimodal projects that advance Plan Bay Area 2050 and align with the proposed guiding principles.

Climate resilience Climate resilience is a funding category that would be available to fund planning, design and/or construction activities that protect transportation infrastructure from climate impacts, such as rising sea levels, flooding, wildfires, and extreme heat. The region's transportation system is highly vulnerable to sea level rise and other climate risks, but these risks can largely be mitigated if the appropriate planning, design and infrastructure investments are made. The measure could help fund critical climate adaptation work to protect the Bay Area's transportation infrastructure. (See Attachment A for draft eligible expenditures within each category.)

Structure of the Legislation:

While staff are seeking your input on the measure's central goal, focus areas and funding categories, we are also seeking feedback on two distinct approaches to the legislation, both of which have precedent in California and nationally.

1. ***Legislatively Determined Expenditure Plan*** A clearly defined authorization for MTC to place a measure on the ballot to implement an expenditure plan based on the funding “programmatic” categories outlined above with minimum percentage shares by category but including a “flexible” category to account for changing needs over time. (This would be more flexible than Regional Measures 2 and 3, which enumerated projects but also had some programmatic funding. The programmatic categories approach (with built-in flexibility) is similar to the Bay Area Housing Finance Authority’s enabling legislation, which the Legislature is familiar with, having just enacted AB 1319 (Wicks), a clean-up bill.)
2. ***Delegated Expenditure Plan*** Authorization for MTC to place a measure on the ballot for transportation with direction to MTC to develop an expenditure plan in a transparent and inclusive manner, subject to limits on administrative expenses and consistency with the sustainable communities strategy. (This is analogous to general county transportation sales tax measures, including the 1% sales tax authorization provided to Los Angeles County Metropolitan Transportation Authority (LA Metro) in SB 767 (2015) as well as a successful measures in Seattle (2016) and Atlanta (2016).)

For the sake of discussion, these options are described as extremes, but they could be adjusted to add more flexibility to Option 1 or more structure/oversight to Option 2. At this time, staff does not have a recommendation on a preferred approach, but we are mindful that a 2/3 supermajority is a steep hurdle that MTC has yet to face since bridge toll increases brought before the voters have been subject to a simple majority vote threshold.¹ One proven way to build support for a measure is to engage deeply with communities on their priorities in the formation of the expenditure plan, as would be facilitated by Option 2. Meaningful community engagement to inform a measure is also a core component and aligned with the first pillar of MTC/ABAG’s Equity Framework – “Listen and Learn.” Inviting local residents and community groups to help shape how funds may be spent can build trust and a strong foundation of grassroots support for the measure at the ballot. By contrast, an expenditure plan that is fully determined by the Legislature could be harder to build enthusiasm for locally.

¹ Regional Measure 2 and Regional Measure 3 received 57% and 55% support, respectively.

At the Partnership Board meeting held on October 23, members asked how the measure would achieve geographic balance and raised questions about potential “return to source” features which are quite common in county sales tax measures and is also a feature of the Bay Area Housing Finance Authority’s enabling legislation, AB 1487 (Chiu, 2019). Staff recognize that this is a key policy consideration that will be critical to address and an especially challenging one given the nature of the region’s transit operating funding shortfalls.

What Vote Threshold is Required? With the passage of ACA 1 (Aguilar-Curry) earlier this year, several stakeholders have asked if the measure could instead be subject to a 55% approval threshold if ACA 1 passes in November 2024. Since ACA 1 is limited to “infrastructure,” a measure including new funding for transit operations (the region’s greatest funding need) would not be eligible to take advantage of its lower vote threshold. Another option some advocates have raised is for the enabling legislation to authorize, in addition to MTC placing a measure on the ballot, the option for the measure to be placed upon the ballot via a signature gathering initiative, which courts have held require a simple majority. While this could be a good option, staff believe the enabling legislation should be crafted in a manner that has the maximum chance of resulting in a regional measure that at least 2/3 of voters will support.

Potential Revenue Options:

Sperry Consulting was retained this summer to provide a range of revenue options for consideration as a potential funding source for a new regional transportation measure subject to voter approval. Sales tax was included in that menu given the extent to which Bay Area voters have approved sales taxes to augment state and federal transportation funds, but staff also requested evaluation of options that would be less regressive. Regressive taxation is defined as a tax that captures a higher percentage of a lower income household’s income compared to a higher income household. Given consumers pay the same sales tax amount regardless of household income, sales taxes are generally viewed as regressive, which has resulted in opposition to this option from some stakeholders in previous discussions. In addition to sales tax, other options that were analyzed include: income tax, payroll tax, parcel tax, corporate head tax and a mileage-based fee. Based on an evaluation of the pros and cons of the options, MTC has commissioned a new poll of registered voters that will test support for a transportation measure backed by a sales tax, an income tax and a payroll tax at rates necessary to generate

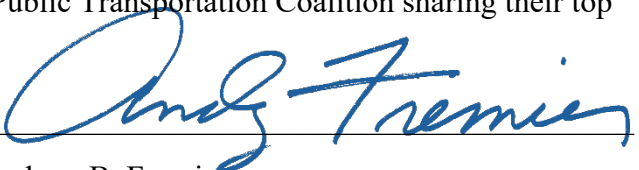
approximately \$1 billion annually. While we did not poll a parcel tax or a mileage-based fee, we recommend they continue to be explored, along with a potential regional voter registration surcharge. We recommend removal of the corporate head tax option at this time and instead limit the “business tax” option to the payroll tax. We look forward to the Committee’s feedback on these items.

Next Steps:

As noted, MTC has commissioned a second poll of registered voters, with results expected by mid-November. Informed by the findings from that poll and further feedback, including from Bay Area legislators, staff will bring a final proposed outline of the enabling legislation to the Joint MTC ABAG Legislation Committee on December 8, followed by MTC Commission approval on December 20, 2023.

Attachments:

- Attachment A: Draft Expenditure Priorities Under Consideration
- Attachment B: Presentation
- Attachment C: Letter from the Voices for Public Transportation Coalition sharing their top priorities



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