

File No. 100044

Committee Item No. 3

Board Item No. 01

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee BUDGET AND FINANCE

Date 3/10/10

Board of Supervisors Meeting

Date 03/23/10

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
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#### OTHER

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Completed by: Gail Johnson

Date 3/5/10

Completed by: [Signature]

Date 3/11/10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

FILE NO. 100044

ORDINANCE NO.

1 [Repealing various MTA Special Funds.]

2

3 Ordinance amending Chapter 8 and Chapter 10, Article XIII, of the Administrative Code

4 by repealing sections 8.29 (Municipal Railway Video Production Fund), 10.100-155

5 (Municipal Transportation Capital Reserve Fund), 10.100-157 (Municipal Transportation

6 Improvement Fund), 10.100-159 (Municipal Transportation Information Fund), 10.100-

7 162 (Municipal Transportation Operators Lounge Facilities Fund), and 10.100-164

8 (Municipal Transportation Para Transit Fund) and appropriating \$70, 687 from the

9 Municipal Transportation Information Fund to the Municipal Transportation Agency.

10 NOTE: Additions are single-underline italics Times New Roman;

11 deletions are ~~strike-through italics Times New Roman~~.

12 Board amendment additions are double-underlined;

13 Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The San Francisco Administrative Code is hereby amended by repealing

15 Sections 8.29, 10.100-155, 10.100-157, 10.100-159, 10.100-162, and 10-100-164 in their

16 entirety.


17 Section 2. The Board of Supervisors hereby appropriates \$70, 687 from the Municipal

18 Transportation Information Fund to the Municipal Transportation Agency for Fiscal Year 2009-

19 2010.

20 APPROVED AS TO FORM:

21 DENNIS J. HERRERA, City Attorney

22 By: 

23 DAVID A. GREENBURG

24 Deputy City Attorney

25 Supervisor Chiu

Municipal Transportation Agency

BOARD OF SUPERVISORS

**Item 3**  
**File 10-0044**

**Department:**  
Municipal Transportation Agency (MTA),  
Public Utilities Commission (PUC)

## EXECUTIVE SUMMARY

### Legislative Objectives

- Ordinance amending Chapters 8 and 10, Article XIII of the City's Administrative Code to repeal Sections 8.29 (Municipal Railway Video Production Fund), 10.100-155 (Municipal Transportation Capital Reserve Fund), 10.100-157 (Municipal Transportation Improvement Fund), 10.100-159 (Municipal Transportation Information Fund), 10.100-162 (Municipal Transportation Operators Lounge Facilities Fund) and 10.100-164 (Municipal Transportation Paratransit Fund).

### Key Points

- The proposed ordinance would repeal the City's Administrative Code provisions for the establishment, funding and expenditures for six special funds in order to streamline the administrative and accounting system under MTA's Municipal Transportation Fund. Each special fund's legal restrictions would be maintained, based on advice of the City Attorney.
- The Controller's six-month FY 2009-2010 budget report estimated a minimum projected net operating deficit of \$16.9 million and a fiscal year-end projected negative fund balance of \$1.4 million for MTA. However, the Controller's six-month report notes that given significant uncertainty related to MTA's net operating projections, MTA's potential net operating deficit for FY 2009-2010 could increase to \$38.9 million and the estimated fiscal year-end 2009-2010 negative fund balance could increase to \$23.4 million.

### Fiscal Impacts

- Two funds have zero balances and the other four funds have balances totaling \$1,435,918, such that the Controller and MTA should appropriate (a) \$1,073,023 from the Municipal Transportation Capital Reserve Fund to MTA's FY 2009-2010 capital needs, (b) \$249,948 from the Municipal Transportation Improvement Fund to MTA's FY 2009-2010 projected operating deficit, (c) \$80,687 from the Municipal Transportation Information Fund divided to provide (i) \$70,687 to the City's FY 2009-2010 General Fund Reserve and (ii) \$10,000 for MTA's public awareness activities in FY 2009-2010 and (d) \$32,260 from the Municipal Transportation Operators Lounge Facilities Fund to offset FY 2009-2010 maintenance costs for MTA's operator lounges and rest facilities.

### Recommendations

- The Controller should immediately transfer \$70,687 from the Municipal Transportation Information Fund to the City's General Fund, and (b) the MTA should immediately transfer the remaining \$1,365,231 balances in these six special funds to reduce MTA's FY 2009-2010 projected budget shortfalls, as specified in Table 2.
- Approve the proposed ordinance.

**MANDATE STATEMENT**

Section 8.29 of the City's Administrative Code established a special fund, the Municipal Railway Video Production Fund, into which the Public Utilities Commission (PUC) is authorized to deposit all monies received from the publication and sale of materials relating to transit training, and to appropriate such Fund revenues for developing, producing and selling such transit-related programs.

Section 10.100-155 of the City's Administrative Code established a category eight special fund<sup>1</sup>, the Municipal Transportation Capital Reserve Fund, to receive all monies generated by any agreement with the San Francisco Municipal Railway Improvement Corporation<sup>2</sup> to facilitate Section 168 of the Internal Revenue Code<sup>3</sup>. Under this Section of the Code, disbursements from the Municipal Transportation Capital Reserve Fund are appropriated, authorized and approved as necessary for (a) indemnity payments required under Section 168 Agreements, (b) title to any mass commuting vehicle, (c) release of any security interests, and (d) fees for legal counsel, financial consultants and other services related to the Section 168 Agreements, (e) with all remaining funds expended for capital purposes for the Municipal Transportation Agency.

Section 10.100-157 of the City's Administrative Code established a category six special fund<sup>4</sup>, the Municipal Transportation Improvement Fund, to receive all monies certified by the Controller and identified in the Memorandum of Understanding (MOU) between the Transport Workers Union and the City and County of San Francisco effective July 1, 1996, paid by the City into the Transport Workers Union-San Francisco Municipal Transportation Trust Fund (Trust Fund) for FY 1994-95 and FY 1996-97, if such monies exceeded the level of permissible payments to the Trust Fund. In accordance with Section 10.100-57, this Municipal Transportation Improvement Fund is to be used to improve operations, efficiency and service of the MTA, and may include but not be limited to implementation of the 'Ambassador' program and 'Friends of the Muni' programs currently under discussion between the Municipal Railway Department and the Transport Workers Union; employee health facilities and employee child care facilities. As provided by this Section of the Code, Municipal Transportation Improvement Fund expenditures are to be authorized by a majority of the Trustees of the Trust Fund.<sup>5</sup>

<sup>1</sup> In accordance with Section 10.100-1 of the City's Administrative Code, a category eight special fund is (a) automatically appropriated consistent with the purpose and uses authorized, (b) accumulated interest is directly credited to the fund and (c) the fund balance is carried forward each year.

<sup>2</sup> The San Francisco Municipal Railway Improvement Corporation is a nonprofit public benefit corporation established in 1968 to provide financial assistance for the modernization of the San Francisco Municipal Railway by purchasing equipment and improving facilities.

<sup>3</sup> Section 168 of the Federal Internal Revenue Code provides alternative rates of depreciation of assets for accelerated rates of cost recovery.

<sup>4</sup> In accordance with Section 10.100-1 of the City's Administrative Code, a category six special fund is (a) automatically appropriated consistent with the purposes and uses authorized, (b) does not provide for interest to be credited to the fund and (c) the fund balance is carried forward each year.

<sup>5</sup> Trustees of the Trust Fund are selected by Trust Fund members with concurrence of the Chief Executive Officer of the MTA and include three representatives from the Transport Workers Union and three representatives from MTA management.

Section 10.100-159 of the City's Administrative Code established a category six special fund, the Municipal Transportation Information Fund, to receive monies from the sale of monogrammed and printed historic materials, souvenir items or specified gifts or bequests intended to encourage patronage of MTA through increased public awareness, with expenditures used exclusively to encourage patronage of the MTA through increased public awareness of the advantages of MTA's services, facilities and programs.

Any balance greater than \$10,000 remaining in the Municipal Transportation Information Fund at the end of any fiscal year would be transferred to the City's General Fund.

Section 10.100-162 of the City's Administrative Code established a category six special fund, the Municipal Transportation Operators Lounge Facilities Fund, to receive the net proceeds from vending machines installed in MTA facilities, with such funds used exclusively for establishing and maintaining lounge and rest facilities for MTA operators. In accordance with this Section, all expenditures from this Fund must be approved by the Municipal Transportation Commission, unless such approval is delegated to the General Manager of the MTA.

Section 10.100-164 of the City's Administrative Code established a category eight special fund, the Municipal Transportation Paratransit Fund, to receive donations of money, property and personal services for the use and benefit of the Paratransit Fund, expended only to provide and improve MTA's paratransit services, at the discretion of the MTA General Manager, as approved by the Municipal Transportation Commission.

## BACKGROUND

In 1999, San Francisco voters approved a Charter amendment (Proposition E) to create a Municipal Transportation Agency (MTA) with expanded powers and duties and dedicated financing to operate the Municipal Railway and the Department of Parking and Traffic. In November of 2007, the voters of San Francisco approved another Charter Amendment (Proposition A), which expanded the MTA's authority over its operations and provided additional funding for the MTA. Under both Propositions E and A, a Municipal Transportation Fund was established, to be maintained, separate and apart from the City and County of San Francisco, to receive all specified appropriations and to be used by the MTA solely and exclusively for all its capital improvements, management, supervision, maintenance and operations.

## DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend Chapters 8 and 10, Article XIII of the City's Administrative Code to repeal (a) Section 8.29 (Municipal Railway Video Production Fund), (b) Section 10.100-155 (Municipal Transportation Capital Reserve Fund), (c) Section 10.100-157 (Municipal Transportation Improvement Fund), (d) Section 10.100-159 (Municipal Transportation Information Fund), (e) Section 10.100-162 (Municipal Transportation Operators

Lounge Facilities Fund) and (f) Section 10.100-164 (Municipal Transportation Paratransit Fund).

The proposed ordinance would repeal the City's Administrative Code provisions for the establishment, funding and expenditures for these six special funds. According to Ms. Sonali Bose, Chief Financial Officer for the MTA, these six special funds would be eliminated under the proposed ordinance in order to streamline the administrative and accounting system under the MTA's Municipal Transportation Fund, such that the remaining balances in each of the special funds would be transferred to separate index codes under the MTA's Municipal Transportation Fund. Ms. Bose also advises that any valid legal restrictions on the use of each of the existing special funds would be maintained, based on advice of the City Attorney.

## FISCAL IMPACTS

As shown in Table 1 below, based on information provided by Ms. Elena Chiong of the MTA, as of February 17, 2010, these six MTA Special Funds had the following remaining balances:

**Table 1: Municipal Transportation Agency Special Funds as Provided in the City's Administrative Code and Remaining Fund Balances**

Section of Administrative Code	Special Fund Title	Remaining Balances
Section 8.29	Municipal Railway Video Production Fund	\$0
Section 10.100-155	Municipal Transportation Capital Reserve Fund	1,073,023
Section 10.100-157	Municipal Transportation Improvement Fund	249,948
Section 10.100-159	Municipal Transportation Information Fund	80,687
Section 10.100-162	Municipal Transportation Operators Lounge Facilities Fund	32,260
Section 10.100-164	Municipal Transportation Paratransit Fund	0
<b>Total</b>		<b>\$1,435,918</b>

Given that the Municipal Railway Video Production Fund and the Municipal Transportation Paratransit Fund each has a zero balance, under the proposed ordinance, each of these two funds would be repealed and then, according to Ms. Bose, eliminated.

The Municipal Transportation Capital Reserve Fund with an existing \$1,073,023 fund balance would be repealed and the funds transferred to a separate index code under the MTA's Municipal Transportation Fund. According to Ms. Bose, given that all of the Internal Revenue Code Section 168 Agreement requirements have been fulfilled, in accordance with the existing Administrative Code provisions, the Budget and Legislative Analyst recommends that the existing \$1,073,023 Municipal Transportation Capital Reserve Fund balance be appropriated for MTA's FY 2009-2010 capital needs.

As shown in Table 1 above, the Municipal Transportation Improvement Fund has an existing \$249,948 Fund balance. In accordance with Administrative Code Section 10.100-157, these funds were transferred into the Municipal Transportation Improvement Fund over 13 years ago,

when the City's contributions exceeded the level of permissible payments to the Transport Workers Union-San Francisco Municipal Transportation Trust Fund in FY 1994-95 and FY 1996-97, based on the MOU between the City and the Transport Workers Union effective July 1, 1996. Section 10.100-57 authorizes this Municipal Transportation Improvement Fund be used to improve operations, efficiency and service of the MTA, based on majority approval of the Trustees of the Trust Fund. The Budget and Legislative Analyst recommends that the Trust Fund Trustees approve the immediate appropriation of the existing \$249,948 fund balance to reduce MTA's FY 2009-2010 projected operating deficit.

As shown in Table 1 above, the Municipal Transportation Information Fund has an existing \$80,687 Fund balance. In accordance with Administrative Code Section 10.100-159, these funds are to be used to encourage MTA patronage through increased public awareness of the advantages of MTA's services, facilities and programs, with any balance greater than \$10,000 remaining in the Municipal Transportation Information Fund at the end of any fiscal year transferred to the City's General Fund. Given the existing \$80,687 fund balance, the Budget and Legislative Analyst recommends that \$70,687 of the \$80,687 balance in the Municipal Transportation Information Fund be transferred to the City's General Fund and the remaining balance of \$10,000 be appropriated for MTA public awareness activities in FY 2009-2010 to reduce MTA's projected operating shortfalls.

As shown in Table 1 above, the Municipal Transportation Operators Lounge Facilities Fund has an existing \$32,260 Fund balance from vending machines installed in MTA facilities. In accordance with Section 10.100-162, these MTA vending machines proceeds can only be used to establish and maintain lounge and rest facilities for MTA operators and all such expenditures must be approved by the Municipal Transportation Commission unless approval is delegated to the General Manager of the MTA. The Budget and Legislative Analyst recommends that the existing \$32,260 Fund balance be approved for expenditure in FY 2009-2010 to reduce maintenance costs for MTA's operator lounges and rest facilities.

## **POLICY CONSIDERATIONS**

The Controller's six-month FY 2009-2010 budget report issued on February 9, 2010 found that the MTA has a minimum projected net operating deficit of \$16.9 million and an estimated fiscal year-end 2009-2010 projected negative fund balance of \$1.4 million. However, the Controller's six-month report notes that given significant uncertainty related to MTA's net operating projections, MTA's potential net operating deficit for FY 2009-2010 could increase to \$38.9 million and the estimated fiscal year-end 2009-2010 negative fund balance could increase to \$23.4 million. In addition, Ms. Bose is currently estimating a FY 2010-2011 MTA budget deficit of up to \$103.7 million.

Given these significant projected budget shortfalls for FY 2009-2010 and FY 2010-2011, the Budget and Legislative Analyst recommends that, if the Board of Supervisors approves the proposed ordinance, in accordance with the legal restrictions on the use of each fund, (a) the Controller immediately transfer \$70,687 from the Municipal Transportation Information Fund to the City's General Fund, and (b) the MTA transfer the remaining \$1,365,231 balances in these

six special funds to reduce the FY 2009-2010 projected budget shortfalls, as shown in Table 2 below:

**Table 2: Municipal Transportation Agency Special Fund Remaining Balances and Recommendations**

Special Fund Title	Remaining Balances	Recommendations
Municipal Railway Video Production Fund	\$0	None
Municipal Transportation Capital Reserve Fund	1,073,023	Appropriate for capital needs
Municipal Transportation Improvement Fund	249,948	Appropriate for MTA operations
Municipal Transportation Information Fund	80,687	Transfer \$70,687 to General Fund and appropriate \$10,000 to MTA operations
Municipal Transportation Operators Lounge Facilities Fund	32,260	Appropriate for maintenance of operator lounges and rest facilities
Municipal Transportation Paratransit Fund	0	None
<b>Total</b>	<b>\$1,435,918</b>	

Ms. Bose advises that these recommendations will assist in further reducing MTA's projected budgetary shortfalls.

## RECOMMENDATIONS

1. In accordance with the legal restrictions on the use of each fund, (a) request the Controller to transfer \$70,687 from the Municipal Transportation Information Fund to the City's General Fund, and (b) request the MTA to transfer the remaining \$1,365,231 balances in these six special funds to reduce MTA's FY 2009-2010 projected budget shortfalls, as specified in Table 2 above.
2. Approve the proposed ordinance.