RESOLUTION ADOPTING TRAFFIC CONGESTION MITIGATION TAX (TNC TAX) PROGRAM GUIDELINES AND PROGRAMMING $7,505,686 IN TNC TAX FUNDS TO TWO PROJECTS

WHEREAS, In November 2019, San Francisco voters approved the Proposition D Traffic Congestion Mitigation Tax to impose a surcharge on Transportation Network Company (TNC) trips that originate in San Francisco, for the portion of the trip within the City; and

WHEREAS, Beginning on January 1, 2020, single occupant TNC trips are taxed at 3.25%, shared trips are taxed at 1.5%, and trips provided in electric vehicles are taxed at 1.5% through 2024; and

WHEREAS, After 2% of revenue goes to the City and County of San Francisco (CCSF) for administration, 50% of revenue goes to the San Francisco Municipal Transportation Agency (SFMTA) for transit operations and improvements and 50% comes to the Transportation Authority for bicycle and pedestrian safety improvements, traffic calming, signals, and maintenance; and

WHEREAS, In order to inform development of the TNC Tax Program Guidelines, staff undertook a listening tour from December 2019 through March 2020 and sought input from agencies and stakeholders such as SFMTA, Department of Public Health, Vision Zero Task Force, Bicycle Advisory Committee, Pedestrian Safety Advisory Committee, San Francisco Bicycle Coalition, Walk San Francisco and Youth Commission's Housing and Transportation Land Use Committee, in addition to seeking input from the Transportation Authority's Technical Working Group; and

WHEREAS, The attached Program Guidelines establish four programmatic categories (Quick-Builds, Safe Streets, Signals, and Maintenance), provide revenue projections, and establish policies to guide program administration, including programming and allocation of funds; and

WHEREAS, Revenue projections published in July 2019 by CCSF's Office of the Controller and Office of Economic Analysis indicated approximately $30 million annually from the TNC Tax, and after the 2% administration fee to CCSF, and subsequent 50/50 split between the Transportation Authority and the SFMTA, approximately $14.7 million annually was projected to come to the Transportation Authority; and

WHEREAS, Actual total revenue collection for January 2020 to June 2020 was severely impacted by the COVID-19 pandemic and shelter-in-place orders and totaled $5,271,588, with $2,583,181 coming to the Transportation Authority; and

WHEREAS, For Fiscal Year 2020/21, the Transportation Authority's adopted budget aligns with the CCSF Controller's Office estimate of $15 million in revenue from the TNC Tax, with $7.35 million coming to the Transportation Authority; and

WHEREAS, Given the current uncertainty about this new revenue source staff is recommending taking a conservative approach to programming, and only programming $7.5 million of the total $9.9 million forecast to be available by the end of FY 2020/21, an amount which includes revenues collected in FY 2019/20; and

WHEREAS, Similarly, staff is recommending taking a conservative approach to allocations, and is recommending only allocating funds once they have been collected; and

WHEREAS, Staff is recommending programming only $7.5 million of the total $9.9 million in TNC Tax revenues forecast to be available in FY 2020/21 to SFMTA's FY21 Vision Zero Quick-Build Program ($2,505,686) and its FY22 Vision Zero Quick-Build Program ($5,000,000) in order to provide high priority safety improvements in the near-term, balanced with the uncertainty about revenue levels; and

WHEREAS, Staff will continue to closely monitor program revenues and if they come in as projected or higher, may issue a call for project to program additional funds later this year; and

WHEREAS, At its September 23, 2020 meeting, the Citizens Advisory Committee was briefed on the draft TNC Tax Program Guidelines and recommended programming and unanimously adopted a motion of support for the staff recommendation; now, therefore, be it

RESOLVED, That the Transportation Authority hereby adopts the attached TNC Tax Program Guidelines; and be it further

RESOLVED, That the Transportation Authority hereby programs a total of $7,505,686 to the SFMTA's FY21 Vision Zero Quick-Build Program ($2,505,686) and its FY22 Vision Zero Quick-Build Program ($5,000,000).

Attachment:

- Attachment 1 – TNC Tax Program Guidelines

San Francisco
County Transportation
Authority

The foregoing Resolution was approved and adopted by the San Francisco County Transportation Authority at a regularly scheduled meeting thereof, this 27th day of October, 2020, by the following votes:

Ayes: Commissioners Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee (11)

Nays: (0)

Absent: (0)

10-29-20

Aaron Peskin
Chair

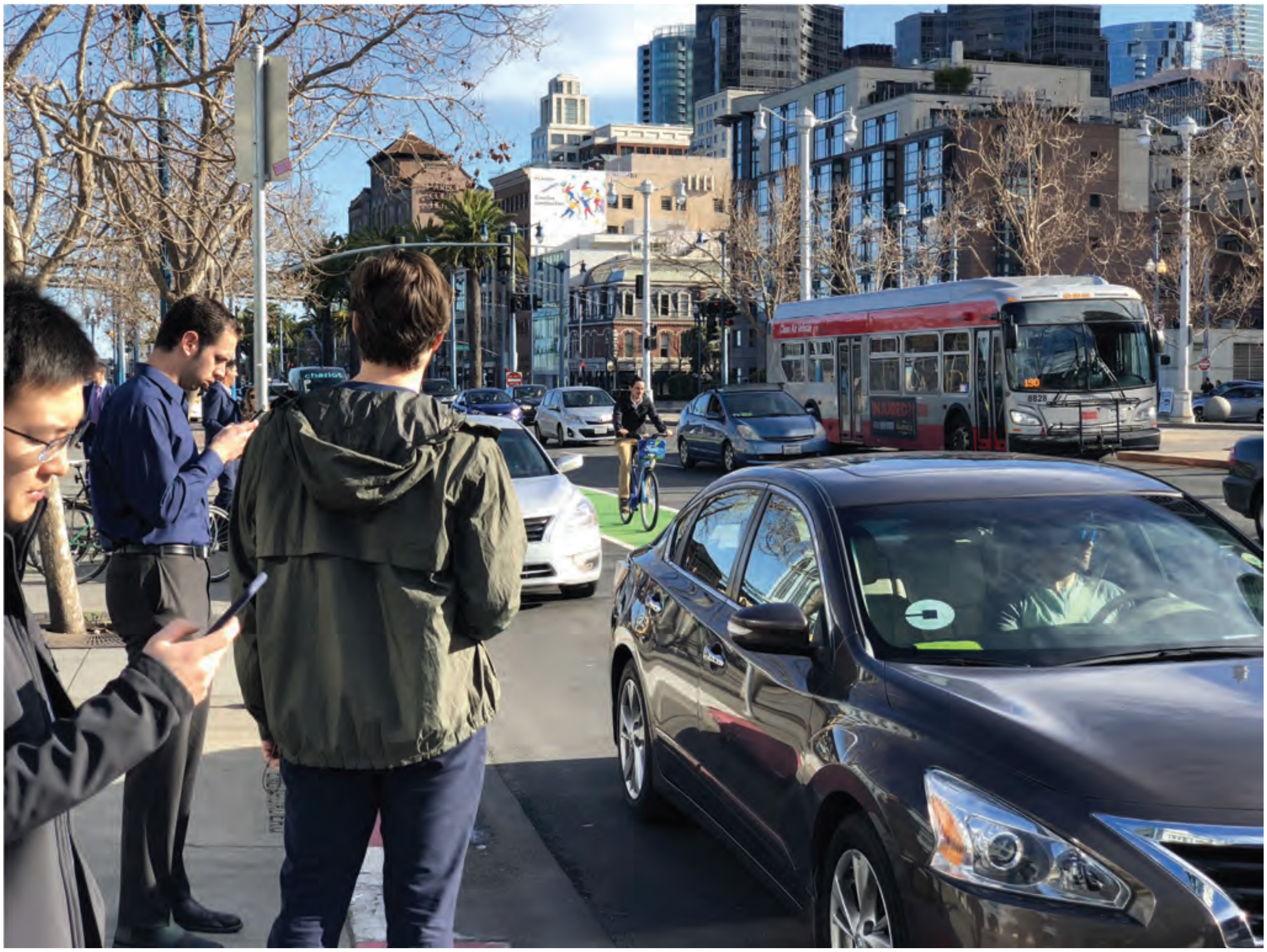
Date

ATTEST:

10/29/20

Tilly Chang
Executive Director

Date



Traffic Congestion Mitigation Tax

Draft Program Guidelines

San Francisco
County Transportation
Authority

Draft

Table of Contents

1. Introduction

The Proposition D Traffic Congestion Mitigation Tax was passed by San Francisco voters in November 2019. The measure, also referred to as the Transportation Network Company (TNC) Tax, is a surcharge on commercial ride-hail trips that originate in San Francisco, for the portion of the trip within the City. The intent of the TNC Tax program is to deliver improvements to transit reliability and safety on San Francisco's roadways, mitigating the effects of increased congestion due to TNC vehicles. Beginning January 1, 2020, a 1.5% tax is charged on shared rides or rides taken in a zero-emission vehicle, and 3.25% is charged on rides with a single occupant. The measure also takes into account rides provided by autonomous vehicles in the future which would be taxed in this same manner and rides provided by private transit companies if a company were to enter the market. The tax is in effect until November 2045.

Revenue projections published by the City and County of San Francisco (CCSF) Office of the Controller and Office of Economic Analysis released in July 2019 indicated approximately $30 million in annual revenue. After a 2% set aside for administration by CCSF, 50% of the revenues are directed to the San Francisco Municipal Transportation Agency (SFMTA) for transit operations and improvements, and 50% comes to the Transportation Authority for bicycle and pedestrian safety improvements. The ordinance outlines the eligible uses for the Transportation Authority's share of revenues which are specified as pedestrian and bicycle safety improvements, traffic calming, traffic signals, and maintenance. Eligible phases include planning, design, and construction and sponsors can be any public agency that implements eligible projects.

2. Special Circumstances for Fiscal Year 2020/21

Given the nature of this new revenue source, and that it is the first of its kind in California, there is uncertainty around how revenues will perform. In addition to that uncertainty, only two months after revenue collection began on January 1, a shelter-in-place order was issued on March 16 for San Francisco due to the COVID-19 pandemic. The pandemic has drastically reduced travel to and within San Francisco, including demand for trips provided by TNCs. This reduction in travel has severely impacted TNC Tax revenue.

These Program Guidelines reflect the extraordinary circumstances we are in. The policies herein provide guidance to Transportation Authority staff and project sponsors on administration of the TNC Tax program for Fiscal Year (FY) 2020/21. We are establishing four programmatic categories for eligible projects. However, in light of uncertainty about revenue levels brought on by the COVID-19 pandemic, we are recommending programming only $7.5 million of the total $9.9 million forecast to be available by the end of FY 2020/21 to the SFMTA's Vision Zero Quick-Build Program (from the Quick-Builds category). This approach responds to the need to provide high priority safety improvements in the near-term, balanced with the uncertainty about revenue levels. During the year, we will closely monitor revenues, and if they are coming in as projected or higher, we may issue a call for projects to program additional funds later this year. As revenue trends emerge and the economy recovers from the COVID-19 pandemic, we will revise these Program Guidelines to establish the process for programming funds in each of the programmatic categories.

3. Programming

3.1 | FUNDS AVAILABLE

The initial revenue projections for the TNC Tax were based on pre-pandemic conditions during which San Francisco was experiencing significant levels of traffic congestion. Revenue collections began January 1, 2020 and then in mid-March health authorities issued shelter-in-place orders in San Francisco and much of the Bay Area. In the first six months of collection, revenues were 65% lower than projected, generating a total of $2,583,181 for the Transportation Authority's share of the program. Table 1 below compares the projections against actual collections from program inception through June 2020.

Table 1 Projected and Actual TNC Tax Revenues, January to June 2020.

MONTH 2020	ORIGINAL TOTAL REVENUE PROJECTIONS	ACTUAL TOTAL REVENUE COLLECTIONS	TRANSPORTATION AUTHORITY 50% SHARE*
January	$2,500,000	$1,842,117	$902,637
February	$2,500,000	$1,863,898	$913,310
March	$2,500,000	$825,459	$404,475
April	$2,500,000	$164,791	$80,748
May	$2,500,000	$101,212	$49,594
June	$2,500,000	$466,525	$228,597
Total	**$15,000,000**	**$5,271,588****	**$2,583,181****

*Transportation Authority share is 50% of collections, less 2% to CCSF for administration.

**Total revenue collections include $7,641 in interest earned, with the Transportation Authority receiving 50%, or $3,820.

For FY 2020/21, the CCSF Controller's Office is estimating $15 million in revenue from the TNC Tax, with approximately $7.35 million coming to the Transportation Authority. This estimate is based on $500,000 per month from July to September 2020 and $1.5 million per month from October 2020 to June 2021, assuming the economy starts to recover from the pandemic-induced recession.

Table 2 Projected TNC Tax Revenues, July 2020 to June 2021.

REVENUE COLLECTION PERIOD	TOTAL PROJECTED TNC TAX REVENUES	TRANSPORTATION AUTHORITY 50% SHARE*
July 2020 – June 2021	$15,000,000	$7,350,000

*Transportation Authority share is 50% of collections, less 2% to CCSF for administration.

There is continued uncertainty about how this new revenue source will perform this fiscal year due the pandemic and other policy-related decisions about TNC operations in California. As a result, we are taking a conservative approach to both programming and allocations (e.g. we will only allocate funds that have already been collected). Based on funds received through June 2020, we anticipate allocating $2.5 million for the SFMTA's FY21 Vision Zero Quick-Build Program in October 2020. Based on current projections for FY 2020/21 collections, we are programming the first $5 million for the SFMTA's FY22 Vision Zero Quick-Build Program. We will monitor revenues closely and may return to the Board for additional programming and potentially allocation actions this fiscal year, if revenues increase significantly and there is an urgent need for funds.

3.2 | PROGRAMMATIC CATEGORIES

Prior to the COVID-19 pandemic, we developed four programmatic categories to guide the allocation of funds. These categories are based on the eligibility language in the TNC Tax ordinance, stakeholder feedback, and our experience with other fund programs. While we are prioritizing Quick-Builds for the inaugural allocation, we are establishing the four programmatic categories as part of the Program Guidelines and will program and allocate to the additional categories as revenue trends emerge. Descriptions of each programmatic category are below.

QUICK-BUILDS

Quick-Build projects include reversible or adjustable traffic control, such as roadway and curb paint, signs, traffic signal timing updates, transit boarding islands, and parking and loading changes. These projects are focused on safety improvements to the High Injury Network, the 13% of city streets that account for 75% of severe and fatal injuries. Quick-Builds allow near-term implementation of safety improvements while longer-term infrastructure improvements are designed. While the materials and methods used to install improvements makes reversal possible, it is not necessarily the intent that treatments will be reversed. The SFMTA is the project sponsor for this category.

SAFE STREETS

Safe Streets projects include permanent safety improvements, such as protected bike lanes, midblock crossings, traffic calming measures, and safety improvements that may be part of larger projects such as complete streets or corridor-length projects. This category is expected to leverage other funding sources. The Transportation Authority will issue periodic competitive calls for projects for this category. Any public agency may apply for funds from this category.

SIGNALS

Signals projects include new signals, upgraded signals, and signal retiming to improve safety. The SFMTA is the project sponsor for this category.

MAINTENANCE

Maintenance of existing safety infrastructure for pedestrians and cyclists. Projects may include paint, safe hit posts, signal, and other low-cost maintenance needs. The SFMTA is the project sponsor for this category.

3.3 | PRIORITIES FOR FY 2020/21

Programming priorities for FY 2020/21 respond to the need to provide high priority safety improvements in the near-term, balanced with the uncertainty brought on by the COVID-19 pandemic. Programming details are provided below.

- Consistent with the CCSF, 2% of the Transportation Authority's share of revenues will be used for program administration and oversight.
- Building off data collection and analysis efforts that led to development of the TNC Tax as well as feedback received from listening sessions about the proposed TNC Tax guidelines, we will set aside 1% of revenues for systematic data collection and analysis of TNC trips in San Francisco.
- For FY 2020/21, we will not set aside a capital reserve in order to maximize funds available for projects, and because we are only allocating funds after they have been collected. In the future when we are able to project revenues with more confidence, we may begin to allocate funds based on projections (rather than what has been collected) and would then establish a capital reserve of 10%, in line with Transportation Authority fiscal policy.

  Based upon the above programming approach, Table 3 shows the funds available for programming and potential allocation in FY 2020/21.

Table 3 Funds Available for Programming and Potential Allocation for FY 2020/21.

REVENUE COLLECTION PERIOD	STATUS	TRANSPORTATION AUTHORITY 50% SHARE*	ADMINISTRATION / OVERSIGHT (2%)	DATA COLLECTION / ANALYSIS (1%)	AVAILABLE FOR PROGRAMMING / ALLOCATION
January 2020 – June 2020	Actual	$2,583,181	$51,664	$25,832	$2,505,686
July 2020 – June 2021	Estimate	$7,350,000	$147,000	$73,500	$7,129,500

*Transportation Authority share is 50% of collections, less 2% to CCSF for administration.

- The proposed inaugural allocation based on funds received through June 2020 will provide $2,505,686 for the SFMTA's FY 2020/21 Vision Zero Quick-Build Program, which will leverage an anticipated $936,314 in Prop K funds and $810,000 in Prop B General Funds, for a total of $4,252,000.

  In addition to the inaugural allocation of $2.5 million, we will program an additional $5 million in anticipated TNC Tax revenues from FY 2020/21 for the Vision Zero Quick-Build Program.
- We may issue a call for projects to program additional funds for any revenue collected during FY 2020/21 beyond the $5 million prioritized for the SFMTA's Vision Zero Quick-Build Program.

We will closely monitor revenue collection in the coming months and anticipate amending these Program Guidelines in the future to establish the process for programming funds in each of the four programmatic categories: Quick-Builds, Safe Streets, Signals, and Maintenance.

4. Policies

Policies provide guidance to both Transportation Authority staff and project sponsors on the various aspects of managing the TNC Tax program. The policies highlighted here address the allocation and administration of funds and clarify the Transportation Authority's expectations of sponsors to deliver their projects. We anticipate revising these policies in the future as revenue trends emerge and we can more confidently forecast anticipated revenues.

4.1 | ALLOCATION

- Prior to allocation of any TNC Tax funds, projects must be programmed by the Transportation Authority Board. To become programmed, projects must be submitted by project sponsors for Transportation Authority review and approval.
- Allocations of TNC Tax funds will be based on an application package prepared and submitted by the lead agency for the project. The package will be in accordance with application guidelines and formats as outlined in the Transportation Authority's allocation request procedures, with the final application submittal to include sufficient detail and supporting documentation to facilitate a determination that the applicable conditions of these policies have been satisfied.
- Fiscal Year Cash Flow Distribution Schedules will be adopted as part of the allocation approval. The Transportation Authority will not guarantee reimbursement levels higher than those adopted in the original allocation or as amended.
- Funds will be allocated to phases of a project based on demonstrated readiness to begin the work and ability to complete the product. Any impediments to completing the project phase will be taken into consideration, including, but not limited to, lack of a full funding plan for the requested phase(s), failure to provide evidence of necessary inter- and/or intra-agency coordination, evidence of a lack of community support or consensus, or any pending or threatened litigation.
- The project sponsor will provide certification at the time of an allocation request that all complementary fund sources are committed to the project. Funding is considered committed if it is included specifically in a programming document adopted by the governing board or entity with the authority to program (or commit) the funds and recognized by the Transportation Authority as available for the phase at the time the funds are needed.
- In establishing priorities, the Transportation Authority will take into consideration the need for TNC Tax funds to be available for matching federal, state, or regional fund sources for the project or program requesting the allocation.
- Projects with complementary funds from other sources will be given priority for allocation if there are timely use of funds requirements outside of the Transportation Authority's jurisdiction applied to the other fund sources.

- To support cost-effective project delivery, transparency, and prudent management of this pay-as-you-go-program, TNC Tax funds will be allocated to one project phase at a time. The Transportation Authority may consider exceptions to approve multi-phase allocations.
- Allocations of TNC Tax funds for specific project phases will be contingent on the prerequisite milestones shown in Table 4. Exceptions will be considered on a case-by-case basis. Allocation requests will be made prior to advertising for services or initiating procurements for projects funded with TNC Tax funds.

Table 4 Prerequisite Milestones for Allocation.

PHASE	**PREREQUISITE MILESTONE(S) FOR ALLOCATION**
Planning	• Funds programmed by the Board
Design Studies (PS&E)	• Funds programmed by the Board • Approved environmental document • Capital construction phase included in programming document, such as Capital Improvement Program
Construction	• Funds programmed by the Board • Approved environmental document • Right of way certification (if appropriate) • 95% PS&E or substantial completion of design • All applicable permits

- Project phases for which TNC Tax funds will be allocated will be expected to result in a complete work product or deliverable. Table 5 demonstrates the products expected to accompany allocations. Requests for allocations that are expected to result in a work product/deliverable other than that shown in Table 5 for a specific phase shall include a description of the expected work product/deliverable, and are subject to approval by the Transportation Authority.

Table 5 Expected Work Product/Deliverable.

PHASE	**EXPECTED WORK PRODUCT/DELIVERABLE**
Planning	• Final report or memorandum including set of recommendations identified through the planning process
Design Studies (PS&E)	• Evidence of completion of design (e.g. copy of design certifications page and/or work authorization)
Construction	• Constructed improvement

- It is imperative to the success of the TNC Tax program that project sponsors of TNC Tax-funded projects work with Transportation Authority representatives in a cooperative process. It is the project sponsor's responsibility to keep the Transportation Authority apprised of significant issues affecting project delivery and costs. Ongoing communication resolves issues, facilitates compliance with Transportation Authority policies and contributes greatly toward ensuring that adequate funds will be available when they are needed.
- At the time of allocation, priority will be given to projects that:
  - **Benefit Communities of Concern.** Projects that directly benefit disadvantaged communities, whether the project is directly located in a Community of Concern or can demonstrate benefits to disadvantaged communities.
  - **Located on the High Injury Network.** Projects that improve safety on the Vision Zero High Injury Network.
  - **Improve safety for vulnerable populations.** Projects that improve safety for vulnerable populations, including but not limited to projects near schools, senior centers, community centers that improve safety for pedestrians, people on bicycles, children and seniors.
  - **Demonstrate community engagement and support.** Projects with clear and diverse community support and/or developed out of a community-based planning process (e.g., community-based transportation plan, the Neighborhood Transportation Improvement Program, corridor improvement study, campus master plan, station area plans, etc.).
  - **Time sensitive.** Projects that are trying to take advantage of time sensitive construction coordination opportunities and whether the project would leverage other funding sources with timely use of funds requirements.
  - **Leverage other funding.** Projects that can demonstrate leveraging of TNC Tax funds, or that can justify why they are ineligible, have very limited eligibility, or compete poorly to receive Prop K or other discretionary funds.
  - **High priority for project sponsor.** For project sponsors that submit multiple TNC Tax programming requests, the Transportation Authority will consider the project sponsor's relative priority for its requests.
  - **Consider project delivery track record.** The Transportation Authority will consider the project sponsors' past project delivery track record of prior Transportation Authority-programmed funds when prioritizing potential TNC Tax-funded projects. For sponsors that have not previously received Transportation Authority funds, the Transportation Authority will consider the sponsors' project delivery track record for capital projects funded by other means.
  - **Demonstrate geographic equity.** TNC Tax programming will reflect fair geographic distribution that takes into account the various needs of San Francisco's neighborhoods. This factor will be applied program-wide and to individual projects, as appropriate.

4.2 | TIMELY USE OF FUNDS REQUIREMENTS

- Timely-use-of-funds requirements will be applied to all TNC Tax allocations to help avoid situations where funds sit unused for prolonged periods of time. Any programmed project that does not request allocation of funds in the year of programming may, at the discretion of the Transportation Authority Board, have its funding deobligated and reprogrammed to other projects.
- The intent of the TNC Tax program is to expedite delivery of safety improvements. Therefore, implementation of the project phase must commence within 6 months of the date of allocation. Implementation includes issuance of a purchase order to secure project components, award of a contract, or encumbrance of staff labor charges by project sponsor. Any project that does not begin implementation within 6 months of the date of allocation may have its sponsor request a new timely-use-of-funds deadline with a new project schedule, subject to the approval of the Transportation Authority.
- TNC Tax final reimbursement requests and project closeout requests shall be submitted within 12 months of project completion.

4.3 | ADMINISTRATION

- This is a reimbursement-based program.
- TNC Tax funds will be spent down at a rate proportional to the TNC Tax share of the total funds programmed to that project phase or program. The Transportation Authority will consider exceptions on a case-by-case basis (e.g. another fund source is not immediately available or cannot be used to cover certain expenses). Project sponsors should notify the Transportation Authority of the desire for an exception to this policy when requesting allocation of funds.
- Unexpended portions of allocated amounts remaining after final reimbursement for that phase will be returned to the project’s programmed balance if the project is not yet completed and has future funds programmed. If there are no future phases for that project, remaining funds will be returned to the TNC Tax program for reprogramming in any category.
- Retroactive expenses are ineligible. No expenses will be reimbursed that are incurred prior to Board approval of the allocation for a particular project. The Transportation Authority will not reimburse expenses incurred prior to fully executing a Standard Grant Agreement. Exceptions to this policy may be made, including:
  - Where the Transportation Authority has previously approved the scope of a project and that scope has incurred increased costs.
  - Capital costs of a multi-year project to which the Transportation Authority has made a formal commitment in a resolution for out-year costs, although the funds have not been allocated.

While these costs shall be eligible for reimbursement in the situations cited above, the timing and amount of reimbursement will be subject to a Transportation Authority allocation.

- Indirect expenses are ineligible. Reimbursable expenses will include only those expenses directly attributable to the delivery of the products for that phase of the project receiving a TNC Tax allocation.

Appendix I: TNC Tax Ordinance