**Metropolitan Transportation Commission**
**Programming and Allocations Committee**

**December 11, 2024** **Agenda Item 3a-24-1012**

**Co-operative Agreement with Project Partners and Memorandum of Understanding with Project Sponsor and Funding Partners for two Bay Area Megaprojects**

**i. Diridon Station**

**ii. Transbay Joint Powers Authority (TJPA)**

## Subject:

A request to authorize the Executive Director to enter into the Diridon Station Co-Operative Agreement with project partners and the Transbay Joint Powers Authority (TJPA) (The Portal) Memorandum of Understanding with project sponsor and funding partners to establish roles and responsibilities for the next phase of these projects.

## Background

### Regional Role in Mega Projects

The San Jose Diridon Station and The Portal project are two of several major infrastructure projects currently in development in the region, including projects such as VTA's BART to Silicon Valley Phase II Project, the BART Transbay Core Capacity Program, and Valley Link. MTC has a significant role to play in major projects to ensure regional coordination in planning, funding, and decision making to help facilitate the delivery of Plan Bay Area. Based on discussion emerging from the 2022 Commission workshop focused on the challenges and opportunities of delivering major projects in the region, the Commission expressed the importance of better managing risk throughout project lifecycles and developing funding strategies to prioritize and sequence funding requests, leading to the adoption of MTC's Major Project Advancement Policy.

### Diridon Station

To plan for the substantial growth of Diridon Station, the City of San Jose, the Peninsula Corridor Joint Powers Board (Caltrain), Santa Clara Valley Transportation Authority (VTA), and the California High-Speed Rail Authority, (the "Partner Agencies") formed a public agency partnership via a cooperative agreement in July 2018, which MTC joined in July 2020. Since that time, the Partner Agencies have been working together on a plan to redesign Diridon Station

to provide smooth connections between transit and active modes, as well as integration with the surrounding neighborhoods.

In June 2021, MTC contributed $2 million to complete a Preliminary Business Case to analyze design alternatives to better understand costs, benefits, risks, and various project implementation strategies. The Business Case will ultimately identify a recommended alternative and propose near-term and long-term governance structures to guide the project from environmental through construction. In July 2024, the Commission allocated $6.3 million in Regional Measure (RM) 3 funds to support pre-environmental work. A previous RM3 Commission action allocated $23.8 million for a project-related Right of Way purchase. RM3 includes a total of $100 million for this project.

The initial co-op agreement established integrated partner agency engagement at the executive, policy and technical levels. Elected officials participate on the Diridon Joint Policy Advisory Board (JPAB), with Commissioner Mahan representing MTC.

**Diridon Station Co-op Agreement**

The new co-op agreement (Attachment B) continues to engage the Partner Agencies in a similar manner as the existing agreement, but with emphasis on advancing the project forward to environmental analysis. Key changes include:

- Evolve the advisory JPAB into a decision-making Steering Committee, which will continue to include one MTC member
- Delegate authority to the Steering Committee to hire a project director (through Caltrain), take actions and make recommendations
- Identify areas of lead responsibility for each partner agency
- Structure the integrated project team with appropriate levels of staff and subject matter consultants that enables thorough deliberation, quality work products, and efficient resolution.

The term of the agreement is up to four years, beginning in winter 2024/25, which includes the environmental phase of the project.

**The Portal**

The Portal will extend Caltrain commuter rail and future California High-Speed Rail service from the current Caltrain terminus at Fourth and King streets to the new Transbay Transit Center. The project, which completed supplemental environmental review in mid-2019, is estimated to cost approximately $8.2 billion and involves the significant technical challenge of tunneling under San Francisco. Regional Measure 3 includes $325 million for The Portal.

The previous San Francisco Peninsula Rail Program Memorandum of Understanding, effective from June 5, 2020, included Transbay Joint Powers Authority (TJPA), Peninsula Corridor Joint Powers Board (Caltrain), San Francisco County Transportation Authority (SFCTA), City/County of San Francisco, and the California High-Speed Rail Authority, (the "Partner Agencies"). This agreement has allowed MTC to participate in discussions regarding project cost and funding, schedule, risk management, and contracting strategy. Most notably, MTC helped to author the Portal Governance Blueprint ("Blueprint"), a policy document approved by the TJPA Board of Directors in August 2023.

**The Portal Project Implementation Memorandum of Understanding (MOU)**

As the project transitions from a planning to a delivery phase, the new MOU follows the framework defined in the Blueprint. A new Portal Board Committee will be convened by the TJPA Board and consist of three members for which MTC will have one non-voting representative. Additionally, MTC will serve on several new bodies convened by the TJPA Executive Director:

- Executive Working Group: Consists of chief executives or delegates from each agency.
- Change Control Board (CCB): Consists of a member from each agency for reviewing and decision-making on contract changes over a certain value. Details will be defined in the forthcoming CCB Charter.
- Integrated Management Team: Advises the Project Director on management issues. Consists of a member and alternate member from each agency.

This new MOU provides continuity for the project by maintaining a partnership that has proven successful and provides a new governance structure as the project transitions into procurement

and construction. The term of the agreement will be approximately 9 years, or the start of the testing and commissioning phase, at which point a new MOU will be developed to transition the project into the close-out phase.

As a separate issue raised at the July 2024 PAC, the Commission approved a request to perform an evaluation of the Major Project Advancement Policy stage gate evaluation. While this is a separate piece of work, the approval of this MOU by all parties will demonstrate a commitment to the project and strengthened governance structure, which is an important consideration and risk management factor in the stage gate evaluation.

**Next Steps:**

The Diridon Station project anticipates that environmental analysis will begin in 2025 following Steering Committee approval of a design alternative identified in the Business Case. As noted, the project is also exploring a longer-term governance approach, formalizing an entity to lead the delivery stage of the project. The team has assessed several models, with promise towards creating a delivery authority/transportation commission for a finite period during the project construction phase. Based on Commission discussion and direction emerging from the 2022 Commission workshop focused on mega project delivery in the region, MTC staff have an interest in this potential delivery model, not only for the delivery of the Diridon Station project, but for the possibility that the entity could extend beyond the Diridon project to deliver other major projects in the region. This approach would, however, create another transportation entity in the region adding to the many existing transportation authorities and should be considered in the discussion. The Steering Committee will further evaluate long-term governance in 2025.

The Portal will be initiating a series of contracts as the project enters pre-construction activities in 2025. Prior to issuing these contracts, the various committees defined by the MOU must be established. The project team must also develop the Change Control Board Charter, which will define thresholds and protocols used by the Change Control Board. As the project develops the team will be continually applying for grants and exploring opportunities for cost savings. The target FTA Full Funding Grant Agreement date is July 2027.

**Issues:**

None identified.

**Recommendations:**

Request committee approval for the Executive Director to enter into a) the Diridon Station Co-Operative Agreement with project partners that is substantially in the same form as Attachment B, and b) the Transbay Joint Powers Authority (TJPA) (The Portal) Memorandum of Understanding that is substantially in the same form as Attachment C, which establish roles and responsibilities for the next phase of both of these projects.

**Attachments:**

- Attachment A – PowerPoint Presentation
- Attachment B - Cooperative Agreement for San Jose Diridon Station
- Attachment C – The Portal MOU

Andrew B. Fremier