

## **Metropolitan Transportation Commission**

**October 25, 2023**

**Agenda Item 7b - 23-1155**

### **Update to MTC Resolution Nos. 4606, 4607 and 4608. Allocation of \$43.8 million in Regional Measure 3 (RM3) Capital Funds Update**

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**Subject:**

Update on the recommended allocation of RM3 capital funds to Santa Clara Valley Transportation Authority (San Jose Diridon Station Project).

**Background:**

At the October 12 Programming and Allocations Committee, staff presented its recommendation for the approval of recommended RM3 allocations to three projects, including to the Santa Clara Valley Transportation Authority (VTA) for the San Jose Diridon Station Project. Staff had noted that reimbursement of expenses incurred under this allocation would be contingent on several factors including:

- Satisfaction of the requirement that appropriate determinations under CEQA/NEPA have been made by the lead agency prior to disbursement of RM3 funds;
- That the project is deemed in compliance with the requirements of the Transit-Oriented Communities (TOC) Policy contained in MTC Resolution 4530;
- Agreement between MTC and VTA on the mechanism to ensure the return of RM3 funds used to purchase property for the Project in the event that the Project does not proceed to construction and/or the property in question is not used for the Project.

Staff also noted that further update and/or clarification of these contingencies would be provided ahead of the Commission's approval of the recommendation.

Staff recommends removal of two of the three contingencies by finding that:

- 1) The requirement that appropriate determinations under CEQA/NEPA be made by the lead agency prior to disbursement of RM3 funds had been satisfactorily addressed by VTA's filing of a notice of exemption from CEQA requirements for the purchase of the properties.

- 2) MTC is in receipt of a letter from the City of San Jose addressing compliance with the TOC Policy contained in MTC Resolution 4530, Revised. Staff believe that the letter satisfies the TOC Policy requirement and thus can remove this contingency.

Related to the contingency that seeks to protect the RM3 investment in the event the property in question is not used for the project, staff further propose that reimbursement of funding for the proposed project is subject to an executed agreement between the Santa Clara Valley Transportation Authority and the Commission that includes the following:

“For the project above, the Santa Clara Valley Transportation Authority submitted an Initial Project Report stating that Project Design would be completed by 2026 and Project Construction would begin in 2028. If Project Design is not completed by December 31, 2028, then the Santa Clara Valley Transportation Authority shall notify the Commission of the status of the project and revised dates for completion of Project Design and start date of Project Construction. If Project Construction does not begin by December 31, 2030 or the project is abandoned prior to such date, then the Santa Clara Valley Transportation Authority shall repay any Regional Measure 3 funds to the Commission inclusive of interest equal to the change in the Consumer Price Index for the San Francisco Bay Area from the date of MTC funding until the date of repayment, unless this agreement is amended to revise these milestone dates. Such repayment shall be made from any/all generally available funds of the Santa Clara Valley Transportation Authority and shall be made no later than one year after the abandonment of the Project or the earlier specified date of December 31, 2030 or such later date as may be agreed upon mutually by the parties. Any modifications must be in writing and approved by the respective boards or their delegates. A restrictive covenant shall be recorded against the parcel purchased using RM3 funds restricting its use to the project purposes. That covenant will be removed upon the earlier of the project's completion or repayment of RM3 advances as described in this paragraph.”

Attachment B to the proposed MTC Resolution No. 4608 has been revised accordingly.

**Next Steps:**

Upon Commission approval, staff will work with VTA staff to execute the appropriate agreement outlined above prior to reimbursement of any expenses related to the allocation in question.

**Issues:**

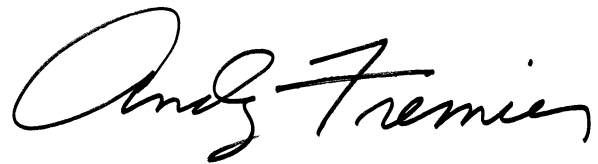
None identified.

**Recommendations:**

Approve MTC Resolution Nos. 4606, 4607 and 4608.

**Attachments:**

- Attachment A: MTC Resolution No. 4608, Attachment B

A handwritten signature in black ink, reading "Andrew B. Fremier". The signature is fluid and cursive, with the first name "Andrew" written in a large, looping script, and "B. Fremier" following in a similar but slightly more compact style.

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Andrew B. Fremier