

Metropolitan Transportation Commission

July 22, 2020

Agenda Item 7a

Diridon Station Cooperative Agreement

Subject: Diridon Station Cooperative Agreement and Agency Coordination

Background: At the July Programming and Allocations Committee meeting, Commissioners requested additional information regarding how agencies who serve the station, such as BART, Capitol Corridor and Altamont Corridor Express (ACE), are included in the development of the project.

The existing Diridon Integrated Station Concept (DISC) Cooperative Agreement is structured to include primary representation from those agencies that have a unique leadership role as a system and/or property owner, or as a major investor of the Diridon Station. For other agencies that provide service to the Diridon Station, inclusion of these interests occurs primarily at the staff and technical committee levels. Caltrain is the owner of Diridon Station and the surrounding rail corridor and has coordinated directly with its tenant operators including Capitol Corridor and ACE to ensure that both these agencies' plans for growth are incorporated into the Diridon Station concept plan. Outside of the DISC structure, Caltrain is actively working with these agencies, as well as staff from the California High Speed Rail Authority (CA HSR), MTC, Alameda County Transportation Commission (ACTC) and Caltrans Division of Rail to develop shared service analysis and assumptions and operating inputs that can be used to support ongoing planning work related to the station and the region more broadly. Similarly, as the owner and primary capital investor of the new Santa Clara County BART facilities, the Santa Clara Valley Transportation Authority (VTA) has coordinated with BART to incorporate the operating requirements of the BART system in the Concept Plan.

Over the last ten years, the Diridon Station development and related work has been guided by the Diridon Station Joint Policy Advisory Board (JPAB). The JPAB, hosted by VTA, consists of two committee members per operator and/or jurisdiction within Diridon Station and its adjacent corridors. Its purpose is to ensure that the operators and jurisdictions most affected by the major transportation improvement projects converging at Diridon Station are involved in guiding the planning, design, and construction of these projects, including the future station itself. Robert Raburn (representing BART) and Sam Liccardo (representing MTC) currently serve as JPAB Committee Members. Many of the committee members also serve in leadership roles with other related transit operators. For example, both Raul Peralez and Robert Rayburn serve on the Capitol Corridor Joint Powers Board.

As the project structure and station design progresses in future phases of work, involvement from and coordination with additional agencies is anticipated to increase accordingly. In the next year, the project will be evaluating possible governance models, which likely involves mapping out the direct and indirect program of projects related to the Diridon Station. This upcoming organizational assessment work is an opportunity for MTC to actively participate and bring issues of regional interest to project partners, with the goals of a future transit system that is connected and integrated. Staff plans to periodically update and seek input from the Commission on the organizational assessment work and carry forward any requests of the Commission to the Diridon Station Project partners.

Attachment A to this memo is a matrix that summarizes the opportunities that various agencies and the public are able to provide input and guidance to the DISC plan and project.

Attachments: Attachment A: Diridon Integrated Station Concept Plan and Project – Organizational Structures


Therese W. McMillan

Attachment A

Diridon Integrated Station Concept Plan and Project – Organizational Structures

Role	Organizational Structures	Agencies
Advisory Board	<ul style="list-style-type: none">JPAB (Advisory)	<ul style="list-style-type: none">VTACity of San JoseCaltrainEx-Officio (Jim Beall, Rod Diridon)BARTMTC
Property Owners & Funding Agencies	<ul style="list-style-type: none">Board, Council, and CommissionExecutive SteeringLeadership Team	<ul style="list-style-type: none">City of San JoseVTACaltrainCA HSRMTC (anticipated to be added)
Agencies serving the station; Other entities adjacent to station	<ul style="list-style-type: none">Competency Working Groups (Technical)Additional Committees as guided by the Organizational Assessment work	All of the above agencies, including: <ul style="list-style-type: none">ACECapitol CorridorCaltransPG&EDumbarton Rail PartnersCal STA
Residents and Surrounding Communities	<ul style="list-style-type: none">Station Area Advisory Group (SAAG)	

**Metropolitan Transportation Commission
Programming and Allocations Committee**

July 8, 2020**Agenda Item 3b - 20-0810**

Diridon Station Cooperative Agreement

- Subject:** A request for approval to enter into a cooperative agreement with the City of San Jose, Peninsula Corridor Joint Powers Board (Caltrain), Santa Clara Valley Transportation Authority (VTA), and the California High Speed Rail Authority to support the development of the San Jose Diridon Station Program.
- Background:** Planned electrified Caltrain, BART, commuter rail, high-speed rail, light rail, and bus services are all envisioned to meet at and serve the San Jose Diridon Station. The City of San Jose has also adopted plans for substantial transit-oriented development near the station, which would bring thousands of new jobs and residents to the area. With these changes, Diridon Station is poised to become an important intermodal station (see Attachment A). In order 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 (Co-op) in July 2018. The Partner Agencies have been working together on a plan to expand and redesign Diridon Station to provide smooth connections between modes and integration with the surrounding neighborhoods.

Conceptual Design Approved and Next Steps

In Spring 2020, four Partner Agencies approved a conceptual station design and achieved an important milestone for the project. As a next step in the project development, the agencies are currently proceeding with limited, necessary technical work to inform near-term adjacent private development decisions and an organizational structure and governance assessment. In July 2020, the Partner Agencies plan to amend the Co-op to add MTC as a 5th Partner Agency and make minor technical revisions.

Regional Role

The San Jose Diridon Station project is one of several major rail infrastructure projects currently in development. MTC has a significant role to play in major projects to ensure regional coordination in planning and funding and in the delivery of the region’s long range transportation plan. Attachment B summarizes MTC’s role in a number of major regional projects. This attachment was also included in the May 2020 Operations Committee item authorizing staff to enter into a Memorandum of Understanding (MOU) on the Downtown Rail Extension (DTX). The Diridon Co-op request is consistent with the DTX MOU request, although the projects are at different stages of development.

Over the past year, MTC staff has been working with the Partner Agencies’ staff to support the project development and governance structure discussions. The original Co-op (Attachment C) establishes an integrated, multi-agency team composed of the partner agencies. The team includes an Executive Steering Committee and supporting Leadership Teams to guide the policy and technical work plan, resolve conflicts, and make recommendations.

Funding

MTC is a major funding partner through the Regional Measure 3 program and has an endorsement role in various state and federal discretionary programs. In 2018, MTC provided \$1.3 million to the Diridon Integrated Station Concept Plan and Regional Measure 3 includes \$100 million for the project. The Diridon project partners have preliminarily requested consideration for additional MTC planning funds for the project. The project scope and project funding request will be finalized in the coming months and staff anticipates bringing the Diridon Station 2020-2021 work scope and funding request to the Commission for consideration.

MTC staff recommends the Commission authorize the Executive Director to enter into an 18-month Co-op with the Partner Agencies with a focus on supporting and advancing the planning of the San Jose Diridon Integrated Station. The City of San Jose, Caltrain, VTA and the California High Speed Rail Authority are expected to approve the agreement in June and July.

Issues:


The economic impact of COVID-19 appears likely to impact transportation revenue significantly. While restoring transit operations to stable levels is top priority, there is value in continuing to plan for a future transit system that is connected and integrated, as is envisioned in the planning for the San Jose Diridon Station. The work plan under the Co-op is an opportunity for MTC to participate actively in considering the new economic landscape.

Recommendation:

Refer the cooperative agreement with the City of San Jose, Peninsula Corridor Joint Powers Board (Caltrain), Santa Clara Valley Transportation Authority (VTA), and the California High Speed Rail Authority in development of the San Jose Diridon Station to the Commission for approval and authorize the Executive Director to negotiate and enter into an agreement that is substantially in the same form as Attachment C.

Attachments:

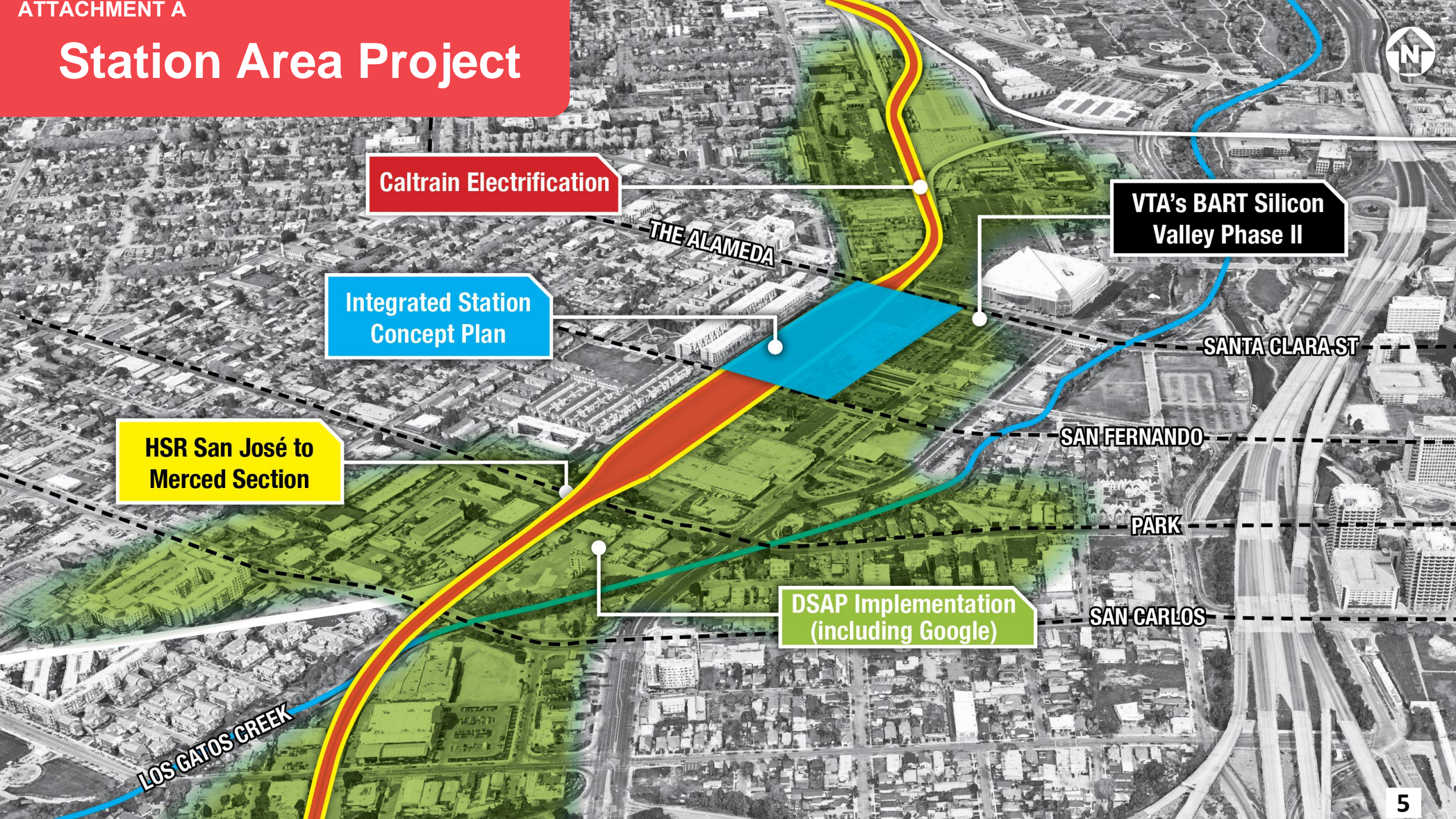
Attachment A – San Jose Diridon Station Program Map
Attachment B – Large Projects with MTC/BATA Participation
Attachment C – Original Cooperative Agreement for San Jose Diridon Station
Attachment D – Draft Amended and Restated Cooperative Agreement for San Jose Diridon Station


Therese W. McMillan

REQUEST FOR COMMISSION APPROVAL

Summary of Proposed Memorandum of Understanding

Work Item No.:	1122
Parties:	City of San Jose, Peninsula Corridor Joint Powers Board (Caltrain), Santa Clara Valley Transportation Authority (VTA), and the California High Speed Rail Authority (“Partner Agencies”)
Work Project Title:	San Jose Diridon Station
Purpose of Project:	Support the Partner Agencies in development of the San Jose Diridon Station Program
Brief Scope of Work:	Participate in an integrated, multi-agency team that will support the initial planning of a San Jose Diridon Integrated Station Concept Plan, project development, and reviewing options for governance.
Motion by Committee:	That the Executive Director or designee is authorized to negotiate and enter into a cooperative agreement with the City of San Jose, Peninsula Corridor Joint Powers Board (Caltrain), Santa Clara Valley Transportation Authority (VTA), and the California High Speed Rail Authority in development of the San Jose Diridon Station as described above and in the Programming and Allocations Committee Summary Sheet dated July 8, 2020.
Commission :	<hr/> Scott Haggerty, Chair
Approved:	July 22, 2020



VTA's BART Silicon Valley Phase II

Integrated Station Concept Plan

HSR San José to Merced Section

DSAP Implementation (including Google)



-THE ALAMEDA

SANTA CLARA ST

SAN FERNANDO

PARK

SAN CARLOS

Large Projects with MTC/BATA Participation in Governance, Risk Management and Delivery

Project	Cost	Current Phase	MTC Roles (in addition to Funding Partner)	Start of MTC's Involvement	Agreements
Regional Rail Projects					
Transbay Terminal Phase 1	\$2 B	Construction Complete	1. Independent cost review 2. Cost Review Committee 3. Peer review of fractured girder	1-2. Cost increase 3. Girder fracture	1. Cost Review conducted by MTC in coordination with TJPA 2. Transbay Project Cost Oversight Agreement 3. Cooperative Agreement
Caltrans Electrification	\$2 B	Under Construction	Change Management Committee	Cost increase	MOU, executed
Peninsula Corridor Rail Program – Downtown Extension	\$4 B	Design	Executive Steering Committee Regional rail planning and funding	Start of design	MOU (subject to MTC approval)
Valley Link	\$2–\$3 B	Environmental	Executive Steering Committee Project Policy Committee	Start of environmental	Funding Agreements (subject to MTC approval)
Diridon Station	TBD	Planning	Executive Committee Policy Director Committee Organizational Subcommittee	Initial studies	TBD
Transbay Rail Crossing	\$30 - \$50 B	Initial Studies	TBD	Initial studies	TBD
Roadway/Bridge Projects					
Toll Bridge Seismic Retrofit Program	\$7 B	Construction Complete	Toll Bridge Program Oversight Committee Project Management Team Risk Management Independent cost and technical reviews	Cost increase	Cooperative Agreement, executed MOU, executed
State Route 37	\$4 B	Environmental	Lead for initial studies Executive Steering Committee Hire project director Lead interim project	Initial studies	MOU, executed

COOPERATIVE AGREEMENT FOR
SAN JOSE DIRIDON STATION

This Cooperative Agreement (AGREEMENT) dated July 12th of 2018, is entered into by and between the Santa Clara Valley Transportation Authority (VTA), Peninsula Corridor Joint Powers Board (PCJPB), California High Speed Rail Authority (HSR), and the City of San Jose (City) (collectively referred to as the "Agencies," and individually as "Agency").

SECTION I – RECITALS

- A. WHEREAS, the San Jose Diridon Station is a major transit hub serving Amtrak, Altamont Commuter Express (ACE), PCJPB, and VTA light rail and bus located in the City of San Jose, on property owned and controlled by Caltrain. With the addition of Bay Area Rapid Transit (BART) and HSR service, and expanded Caltrain, ACE and Amtrak Capitol Corridor and Amtrak service, San Jose Diridon Station will become one of the busiest intermodal stations in North America.
- B. WHEREAS, major employers are planning to build space for tens of thousands of new workers adjacent to the station, which will transform the station district into a preeminent employment center in the Bay Area.
- C. WHEREAS, to effectively accommodate this planned activity and future capacity needs, the station must be completely reconfigured in an integrated fashion that connects all these transit services with each other and with the development surrounding the station.
- D. WHEREAS, the Agencies desire to cooperatively work together to prepare a San Jose Diridon Integrated Station Concept Plan ("Plan"), which will be a plan of a reconfigured San Jose Diridon Station that meets the goals expressed in Recital C. The Plan is a critical building block to achieving the potential of this station, the track envelope, and the surrounding area. Coordination between Agencies is essential to establish an agreed upon plan for the station and to maximize funding to deliver a world-class destination and transportation hub that provides seamless customer experience for movement between transit modes within the station and into the surrounding neighborhoods and Downtown.
- E. WHEREAS, VTA is a special district responsible for public transit services, congestion management, specific highway improvement projects, and countywide transportation planning for Santa Clara County, California.
- F. WHEREAS, PCJPB is a joint powers authority with three member agencies: the City and County of San Francisco, the San Mateo County Transit District, and the Santa Clara Valley Transportation Authority. The PCJPB owns, manages and operates the commuter rail line, and passenger stations, connecting three counties: San Francisco, San Mateo and Santa Clara. It is responsible for the railroad operations, engineering, planning, and maintenance of the rail corridor and stations, including the San Jose Diridon Station, from San Francisco to Tamien, and for rail services from Tamien to Gilroy.

- G. WHEREAS, HSR is responsible for planning, designing, building, and operating the first high-speed rail system in the nation. The system will run from San Francisco to the Los Angeles basin.
- H. WHEREAS, City is a Municipal Corporation and a Charter City in the State of California. The City is responsible for land use regulations and the operation and maintenance of public utilities, such as water, sewer, storm, and streets, within its corporate boundaries.
- I. WHEREAS, the purpose of this AGREEMENT is to establish the framework for the coordination between the four Agencies for the preparation and implementation of the Plan, including defining roles and responsibilities, funding requirements, and schedule. Guiding principles of this AGREEMENT and Plan process are included in Section 2.
- J. WHEREAS, the delivery of the Plan will be performed in two phases. During the first phase, the Contractor will develop a single preferred option (“Phase I”). In Phase II, the Contractor will develop a concept plan for the Station. The estimated cost for the completion of Phases I and II is approximately \$6.5 million, with Phase I estimated at \$3.4 million and Phase II at \$2.5 million.
- K. WHEREAS, VTA intends to issue a Master Services Agreement to Arcadis U.S., Inc. in the amount of \$6.5 million (including a 10 percent contingency) for performing Phase I and Phase II of the Plan.
- L. WHEREAS, the Agencies wish to set forth in this Agreement their commitment and respective obligations in connection with the preparation and implementation of the Plan.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

SECTION II – SCOPE OF AGREEMENT

1. GUIDING PRINCIPLES.

The Agencies shall be guided by the following principles, which shall be applied in the preparation of the Plan:

- Follow the communication and organizational models and decision making process that will be agreed upon in the Plan process.
- Treat the San Jose Diridon Station (“Intermodal Station” or “Station”) area as a singular, urban transit project rather than an overlap of several capital projects, but mutually support each Agency’s endeavor to complete their individual capital projects.
- Plan and design transit and station infrastructure for future capacity needs.

- Delineate the spatial needs of the Station to support the rail and transit operations while focusing on the experience of the transit and station user.
- Focus on the interaction and cohesiveness between transit systems, public space, and private development.
- Emphasize regional interconnectivity to expand and enhance the service provided to customers and its ability to relieve regional traffic congestion.
- Be respectful of the fact that each agency has its own projects, policies, procedures, constraints, opportunities, funding availability and sources, and schedules.
- Develop an integrated community engagement by all Agencies for work related directly to the Intermodal Station.
- Commit to the Plan through the final construction stages once a plan is completed.

Guiding Principles is not intended to pre-commit any of the Agency's discretion to approve its individual projects prior to completing its environmental review process, whether related to the Station or otherwise. In addition, the Agencies recognize and acknowledge that HSR has a grant agreement obligation to the federal government to accomplish, by the end of 2022, environmental clearances for two sections of its statewide project that each will utilize Diridon Station in some capacity/configuration, and these Guiding Principles will be interpreted not to interfere with that obligation.

2. INTEGRATED STATION CONCEPT PLAN WORK PRODUCT.

VTA leads the solicitation process of selecting a contractor that will prepare and deliver the Plan (the "Contractor") under a task order contract, which is a contract for services that does not specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of specific tasks during the period of the contract. Services by the Contractor shall only commence upon the issuance of a specific task-order for the services requested in the specific task order. Once VTA, in collaboration with the Agencies has selected a Contractor, the Agencies, through the working committee as set forth in Section 4, will mutually agree upon the scope of the task orders to be issued to the Contractor for work to be performed. The scope of the task order(s) will generally include, in whole or in part, managing the process of Agencies' decision making, coordinating the short and long term plans and needs of the Agencies for efficient rail and transit service, reviewing intermodal access to the Station, assessing Agencies funding capabilities, strategizing on the environmental clearance process, and providing organization models. The deliverable will include a final Plan that will finalize and visually present Agency commitments, environmental and funding strategies, architectural renderings, cost estimates, and project phasing for the San Jose Diridon Station.

3. ROLES AND RESPONSIBILITIES.

- A. **VTA:** VTA will solicit, contract with, and manage the Contractor that will deliver the Plan on behalf of the Agencies. VTA will be responsible for providing information related to VTA design standards and operational requirements for the BART, light rail, and bus systems within the Diridon Station Area and to actively participate in meetings, document review, and public outreach. VTA will be the signatory to the agreement with the Contractor and shall act as the project manager in connection with the preparation of the Plan. Upon the agreement of the Agencies on the scope of the task order and upon execution of any funding agreements whereby the Agencies contribute toward the cost of the Contractor services, VTA may issue the task order to the Contractor. VTA will have the discretion to not issue any task order to the Contractor if there is insufficient funding to pay for the services in the task order. VTA will endeavor to share in the cost of the Contractor, as set forth in Section 5, Funding.
- B. **PCJPB:** PCJPB is the owner of the current San Jose Diridon Station. The PCJPB operates the Caltrain commuter rail service and is responsible for providing Caltrain design standards and operational requirements within the San Jose Diridon Station Area, including on behalf of its tenants, as well as actively participating in meetings, document review, and public outreach. PCJPB will endeavor to share in the cost to prepare the Plan, as set forth in Section 5, Funding.
- C. **HSR:** HSR will be responsible for providing High Speed Rail design standards and operational requirements within the Station Area, and to actively participate in meetings, document review, and public outreach. HSR will endeavor to share in the cost to prepare the Plan, as set forth in Section 5, Funding.
- D. **CITY:** City is responsible for providing design standards and operational requirements related to City infrastructure, urban guidelines, within the Station Area, specifically transportation-related infrastructure, and to actively participate in meetings, document review, and public outreach. Infrastructure information includes existing capital projects either programmed or anticipated, as required to support station and other development with the Diridon Station Area. City will endeavor to share in the cost to prepare the Plan, as set forth in Section 5, Funding.

4. ORGANIZATION.

In order to facilitate the technical analysis and communication, the Agencies shall establish two committees, as follows:

- i. A steering committee, consisting of one executive-level member from each Agency, shall be responsible to set executive level direction for the Plan effort. Participation in regular meetings (e.g., quarterly) will be required for each member of the steering committee member to ensure the Plan continues to move forward.

- ii. A working committee consisting of one manager-level member from each agency will serve as project level technical management committee for the Plan. The working committee will be available to the VTA project manager upon execution of this agreement, provide direction to the Contractor regarding contractual and performance issues, such as changes in scope and schedule. The working committee is also authorized by each Agency, to review all administrative and final drafts prepared by Contractor and to recommend modifications or acceptance as appropriate.

The Agencies may establish other committees based on the recommendations of the selected Contractor.

5. FUNDING.

- A. The Agencies will endeavor to contribute financially toward the cost of Contractor contracts to prepare the Plan. The goal is for each of the Agencies to equally share in the Contractor cost. The Agencies agree to jointly pursue funding opportunities where applicable. When joint funds are secured, the applicable funds will be utilized to fund the Plan beyond the individual agency shares. Joint funds are not meant to supplement an individual agency's share. Specific funding commitments and funding arrangement will be subject to separate funding agreements between VTA and each Agency. Any and all costs (direct, indirect, or staff time) incurred by the Agencies, with the exception of the costs for Contractor's services, are the responsibility of each respective Agency.
- B. Upon execution of this Agreement, each Agency will endeavor to identify the source of funds to be contributed to the preparation of the Plan and management of the planning and organization process. Any restricted funds must be identified prior to execution of any agreement with the Contractor so the agreement with the Contractor can accommodate all reporting forms and language as may be required. Each Agency is responsible for submission of necessary paperwork and reports to meet contributed funding source requirements. VTA will provide copies of Contractor invoices to each of the Agencies.
- C. Upon execution of this Agreement by the Agencies, each Agency and VTA will endeavor to execute funding agreements for each Agency's funding commitment. Contributions shall be made pursuant to the terms of the Funding Agreement.
- D. VTA may issue task orders to the Contractor for the Contractor to proceed with services upon execution of the Funding Agreements and upon the mutual agreement of the Agencies relating to the scope of the task order. However, VTA may, in its sole discretion, wait for sufficient funding commitments from the Agencies before issuing a task order to ensure that there will be sufficient funds to pay Contractor for services rendered under the task order.

6. TERM.

This Agreement shall become effective upon full execution of the Agreement and shall remain in effect for 24 months, or through June 30, 2020, whichever is later.

7. **TERMINATION.**

Any Agency may terminate this Agreement at any time, for any reason, upon giving thirty (30) calendar days written notice to the other Agencies in compliance with the Notice provision of this Agreement. Upon notice of termination of this Agreement, VTA shall invoice the terminating agency for its pro-rata share of all unpaid Contractor costs for Contractor services rendered up to the date of termination. The remaining Agencies may amend this Agreement to continue with the Preparation of the Plan or to terminate this Agreement.

8. **GENERAL CONDITIONS.**

- A. **Audit and Record Retention.** The representative of each Agency may audit the expenses incurred in the performance of this Agreement. Each Agency shall retain all records related to the performance of this Agreement and the preparation of the Plan for three (3) years after the completion of this endeavor. During this period, Each Agency shall make these records available within a reasonable time to any of the Agencies for inspection upon request.
- B. **Parties' Representatives.** The General Manager of VTA or he designee is hereby made the representative of VTA for all purposes under this Agreement. The City Manager for CITY or the Director's designee is hereby made the representative of CITY for all purposes under this Agreement. The Acting Northern California Director for HSR or his/her designee is made a representative of HSR for all purposes under this Agreement. The Director of Planning for PCJPB or his/her designee is hereby made the representative of CITY for all purposes under this Agreement.
- C. **Indemnification.** Pursuant to Government Code Section 895.4, each of the Agencies hereto shall fully indemnify, defend and hold the other Agencies, their officers, employees and agents, harmless from any damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Agency, its officers, employees or agents, under or in connection with any work, authority or jurisdiction delegated to such Agency under this Agreement. No Agency, nor any officer, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Agencies hereto, their officers, employees or agents, under or in connection with any work, authority or jurisdiction delegated to such other Agency under this Agreement.
- D. **No Waiver.** The failure of any Agency to insist upon the strict performance of any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of any right or remedy that any Agency may have, and shall not be deemed a waiver of its right to require strict performance of all of the terms, covenants, and conditions thereafter.

E. **Notice.** Any notice required to be given by any of the Agency, or which any Agency may wish to give, shall be in writing and sent by U.S. Mail or personal delivery, along with a courtesy copy by email as follows:

To VTA: Santa Clara Valley Transportation Authority
Attention: Chris Augenstein, Director of Planning & Programming
3331 North First Street, Bldg. B-2
San Jose, CA 95134-1906
Email: Chris.Augenstein@vta.org
Telephone: (408) 321-7093

To CITY: City of San Jose
Attention: Dave Sykes, City Manager
200 East Santa Clara Street, 17th Floor
San Jose, CA 95113
Email: Dave.Sykes@sanjoseca.gov
Telephone: (408) 535-8190

To HSR: California High Speed Rail Authority
Attention: Boris Lipkin, Acting Northern California Director
100 Paseo De San Antonio, Suite 206 San
Jose, CA 95113
Email: Boris.Lipkin@HSR.ca.gov
Telephone: 408-277-1085

To PCJPB: Peninsula Corridor Joint Powers Board
Attn: Elizabeth Scanlon, Director of Planning
1250 San Carlos Avenue
San Carlos, CA 94070
Email: ScanlonE@samtrans.com
Telephone: 650-295-6867

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the United States mail.

F. **Dispute Resolution.** If a question arises regarding interpretation of this Agreement or its performance, or the alleged failure of an Agency to perform, the Agency raising the question or making the allegation shall give written notice thereof to the other Agencies. The Agencies shall promptly meet in an effort to resolve the issues raised. If the Agencies

fail to resolve the issues raised, alternative forms of dispute resolution, including mediation or binding arbitration, may be pursued by mutual agreement. It is the intent of the Agencies, to the extent possible, that litigation be avoided as a method of dispute resolution.

- G. Entire Agreement.** This Agreement constitutes the entire Agreement between the Agencies pertaining to the subject matter contained therein and supersedes all prior or contemporaneous agreements, representations and understandings of the Agencies relative thereto.
- H. Amendments.** This Agreement may be amended only by mutual written agreement signed by each of the Agencies.
- I. Warranty of Authority to Execute Agreement.** Each Agency to this Agreement represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this Agreement on behalf of the entity that is a party to this Agreement.
- J. Severability.** If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions and provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- K. Governing Law.** This Agreement shall be construed and its performance enforced under California law.
- L. Venue.** Except for suits involving HSR, if a suit is brought by any party to this Agreement, the Agencies agree that venue shall be exclusively vested in the State courts of the County of Santa Clara or, if federal jurisdiction is appropriate, exclusively in the United States District Court for the Northern District of California, in San José, California. For suits involving HSR, venue shall be governed by Public Utilities Code Section 185038.


WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.

Santa Clara Valley Transportation Authority

“VTA”

Santa Clara Valley Transportation Authority

a public agency

By: 
General Manager and CEO
Nuria I. Fernandez

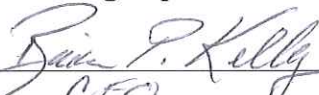
Date: 7/12/18

APPROVED AS TO FORM:

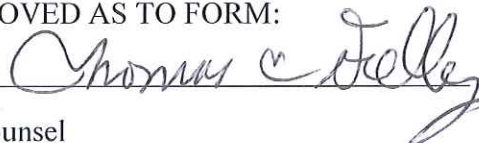
By: 
Counsel

Date: 7/12/18

California High Speed Rail Authority

By: 
Title: CEO
Date: July 6, 2018

APPROVED AS TO FORM:

By: 
Counsel

Date: 6/25/18

City of San Jose

By: [Signature]

Title: Leland Wilcox

Date: Chief of Staff

Office of the City Manager

7/10/18

APPROVED AS TO FORM:

By: [Signature]

Counsel

Date: 7/10/18

Peninsula Corridor Joint Powers Board (Caltrain)

By: [Signature]

Title: JIM HARTNETT, EXECUTIVE DIRECTOR

Date: [Signature]

APPROVED AS TO FORM:

By: [Signature]

Counsel

Date: 6/19/18

MEMORANDUM

TO: Board Chairperson Sam Liccardo
Board Vice Chairperson Teresa O'Neill

FROM: Nuria I. Fernandez *Nuria I. Fernandez*
General Manager/CEO

DATE: July 9, 2018

SUBJECT: Out of Office Notification - Delegation of Authority

I will be away from the area from Monday, July 9 through Monday, July 16, 2018. During my absence, I am delegating my authority to Angelique M. Gaeta, Chief of Staff. Angelique may be reached on her desk phone at (408) 321-7042 or cell phone at (408) 816-6659.

If you need to reach me directly, I will be available by cell phone (408-707-4771) and email.

cc: Executive Team

**AMENDED AND RESTATED COOPERATIVE AGREEMENT FOR
SAN JOSÉ DIRIDON STATION**

DRAFT – June 5, 2020

This Amended and Restated Cooperative Agreement (AGREEMENT) dated _____ of 2020, is entered into by and between the Santa Clara Valley Transportation Authority (VTA), Peninsula Corridor Joint Powers Board (PCJPB), California High Speed Rail Authority (HSR), the City of San José (City), and the Metropolitan Transportation Commission (MTC), (collectively referred to as the "Agencies," and individually as "Agency").

SECTION I- RECITALS

- A.** WHEREAS, the San José Diridon Station is a major transit hub serving Amtrak, Altamont Commuter Express (ACE), PCJPB, and VTA light rail and bus located in the City of San José, on property owned and controlled by Caltrain. With the addition of Bay Area Rapid Transit (BART) and HSR service, and expanded Caltrain, ACE and Amtrak Capitol Corridor and Amtrak service, San José Diridon Station will become one of the busiest intermodal stations in North America.
- B.** WHEREAS, major employers are planning to build space for tens of thousands of new workers adjacent to the station, which will transform the station district into a preminent employment center in the Bay Area.
- C.** WHEREAS, to effectively accommodate this planned activity and future capacity needs, the station must be completely reconfigured in an integrated fashion that connects all these transit services with each other and with the development surrounding the station.
- D.** WHEREAS, the Agencies desire to cooperatively work together to participate in the initial planning for a San José Diridon Integrated Station Concept ("DISC") Plan ("Plan"), which will be a plan for a reconfigured San José Diridon Station that meets the goals expressed in Recital C, and projects that are related to the Plan (hereinafter "Program of Projects"). The Plan is a critical building block to achieving the potential of this station, the track envelope, and the surrounding area. Coordination between Agencies is essential to establish an agreed upon plan for the station and to maximize funding to deliver a world-class destination and transportation hub that provides seamless customer experience for movement between transit modes within the station and into the surrounding neighborhoods and Downtown.
- E.** WHEREAS, VTA is a special district responsible for public transit services, congestion management, specific highway improvement projects, and countywide transportation planning for Santa Clara County, California.
- F.** WHEREAS, PCJPB is a joint powers authority with three member agencies: the City and County of San Francisco, the San Mateo County Transit District, and the Santa Clara Valley Transportation Authority. The PCJPB owns, manages and operates the commuter rail line, and passenger stations, connecting three counties: San Francisco, San Mateo and Santa Clara. It is responsible for the railroad operations, engineering, planning, and maintenance of the rail corridor and stations, including the San José Diridon Station, from San Francisco to Tamien, and for rail services from Tamien to Gilroy.
- G.** WHEREAS, HSR is responsible for planning, designing, building, and operating the first high-speed rail system in the nation. The system will run from San Francisco to the Los Angeles basin.

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- H.** WHEREAS, City is a Municipal Corporation and a Charter City in the State of California. The City is responsible for land use regulations and the operation and maintenance of public utilities, such as water, sewer, storm, and streets, within its corporate boundaries.
- I.** WHEREAS MTC is the federally designated Metropolitan Planning Organization for the nine-county San Francisco Bay Area and is also the state designated regional transportation planning agency for the Bay Area. MTC conducts initiatives that ensure the regional transportation network operates smoothly and efficiently. Every four years, MTC is responsible for adopting a long-range plan to guide transportation and housing for the next twenty-five (25) years for the Bay Area. MTC also endeavors to secure funding required to make the regional plan a reality by helping to shape national and statewide transportation funding programs, as well as bringing regional funding measures before voters.
- J.** WHEREAS on July 12, 2018 VTA PCJPB, HSR, and CSJ entered into a Cooperative Agreement (“Original Agreement”) to establish the framework for the coordination between these four agencies for the preparation and implementation of the Plan, including defining roles and responsibilities, funding requirements, and schedule.
- K.** WHEREAS VTA PCJPB, HSR, CSJ, and MTC now desire to amend and restate the Original Agreement to include MTC as a participating agency and to make additional provisions for the continued advancement of the planning for a San José Diridon Integrated Station Concept Plan and related Program of Projects.
- L.** WHEREAS, the purpose of this AGREEMENT is to establish the framework for the coordination between the five Agencies for the preparation and implementation of the Plan, including defining roles and responsibilities, funding requirements, and schedule. Guiding principles of this AGREEMENT and Plan process are included in Section 2.
- M.** WHEREAS the estimated costs to be shared among the Agencies under the Original Agreement was \$6,500,000.00, and the estimated costs under this Amended and Restated Cooperative Agreement will increase that total estimate to \$11,800,000.00 to further advance and develop the Plan.
- N.** WHEREAS, the Agencies wish to set forth in this Agreement their commitment and respective obligations in connection with the preparation and implementation of the Plan.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

SECTION II- SCOPE OF AGREEMENT

1. GUIDING PRINCIPLES.

The Agencies shall be guided by the following principles, which shall be applied in the preparation of the Plan:

- Follow the communication and organizational models and decision-making process that will be agreed upon in the Plan process.

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- Treat the San José Diridon Station ("Intermodal Station" or "Station") area as a singular, urban transit project rather than an overlap of several capital projects, but mutually support each Agency's endeavor to complete their individual capital projects.
- Plan and design transit and station infrastructure for future capacity needs.
- Delineate the spatial needs of the Station to support the rail and transit operations while focusing on the experience of the transit and station user.
- Focus on the interaction and cohesiveness between transit systems, public space, and private development.
- Emphasize regional interconnectivity to expand and enhance the service provided to customers and its ability to relieve regional traffic congestion.
- Be respectful of the fact that each agency has its own projects, policies, procedures, constraints, opportunities, funding availability and sources, and schedules.
- Develop an integrated community engagement by all Agencies for work related directly to the Intermodal Station.
- Commit to the Plan through the final construction stages once a plan is completed.

Guiding Principles is not intended to pre-commit any of the Agency's discretion to approve its individual projects prior to completing its environmental review process, whether related to the Station or otherwise. In addition, the Agencies recognize and acknowledge that HSR has a grant agreement obligation to the federal government to accomplish, by the end of 2022, environmental clearances for two sections of its statewide project that each will utilize Diridon Station in some capacity/configuration, and these Guiding Principles will be interpreted not to interfere with that obligation.

2. INTEGRATED STATION CONCEPT PLAN WORK PRODUCT.

As provided by the Original Agreement, the Agencies are concluding the development of a Concept Layout for the Plan. This Amended and Restated Cooperative Agreement enables the Agencies to further develop the Concept Layout, and the Agencies intend to solicit and engage with one or more professional and technical services providers ("Contractors") to advance and develop the Plan in phases. The Agencies will endeavor to share in the cost for services provided by the Contractors as set forth in Section 5, Funding.

The Agencies anticipate that the range of services from Contractors will generally include, in whole or in part, managing the process of Agencies' decision making, coordinating the short and long term plans and needs of the Agencies for efficient rail and transit service, reviewing intermodal access to the Station, assessing Agencies funding capabilities, strategizing on the environmental clearance process, providing organization models, and related technical services. The specific scope of services to be provided and work products to be delivered by Contractors will be determined by Agencies as mutually agreed among the members of the Executive Steering Committee as set forth in Section 4.

3. **ROLES AND RESPONSIBILITIES.**

- A. **GENERAL:** Any Agency may solicit, contract with, and manage the Contractors to further develop and advance the Plan. The Agencies will share the costs of Costs sharing such contracting only as provided in section 5 below.
- B. **VTa:** VTA will be responsible for providing information related to VTA design standards and operational requirements for the BART, light rail, and bus systems within the Diridon Station Area and to actively participate in meetings, document review, and public outreach. VTA will endeavor to share in the cost of the Contractor, as set forth in Section 5, Funding.
- C. **PCJPB:** PCJPB is the owner of the current San José Diridon Station. The PCJPB operates the Caltrain commuter rail service and is responsible for providing Caltrain design standards and operational requirements within the San José Diridon Station Area, including on behalf of its tenants, as well as actively participating in meetings, document review, and public outreach. PCJPB will endeavor to share in the cost to prepare the Plan, as set forth in Section 5, Funding.
- D. **HSR:** HSR will be responsible for providing High Speed Rail design standards and operational requirements within the Station Area, and to actively participate in meetings, document review, and public outreach. HSR will endeavor to share in the cost to prepare the Plan, as set forth in Section 5, Funding.
- E. **CITY:** City is responsible for providing design standards and operational requirements related to City infrastructure, urban guidelines, within the Station Area, specifically transportation-related infrastructure, and to actively participate in meetings, document review, and public outreach. Infrastructure information includes existing capital projects either programmed or anticipated, as required to support station and other development with the Diridon Station Area. City will endeavor to share in the cost to prepare the Plan, as set forth in Section 5, Funding.
- F. **MTC:** MTC is responsible for providing coordination, guidance, and assistance to assure the integration of the DISC Plan into regional transportation network, achieve and appropriate organization governance structure, and to attract scarce regional, state and federal funds into the DISC Program. MTC will endeavor to share in the cost to prepare the Plan, as set forth in Section 5, Funding.

4. **ORGANIZATION.**

In order to facilitate the technical analysis and communication, the Agencies shall establish two committees, as follows:

- i. An Executive Steering committee, consisting of one executive-level and one Senior management-level member from each Agency, shall be responsible to set executive level direction for the Plan effort. Participation in regular meetings (e.g., quarterly) will be required for each member of the Executive Steering committee member to ensure the Plan continues to move forward.

- ii. A Leadership Team consisting of one director-level or manager-level member from each Agency who will serve as Policy Director and one manager-level member from each Agency who will serve as a Technical Director. The Leadership Team will be available to provide direction to the Contractors regarding contractual and performance issues, such as changes in scope and schedule. The Leadership Team is also authorized by each Agency, to review all administrative and final drafts prepared by Contractors and to recommend modifications or acceptance as appropriate. The Leadership Team will also be responsible for the formation and the member nomination for functional subcommittees (e.g., organization/governance, outreach), competency working groups, and peer agencies committee, as appropriate.

The Agencies may modify this organizational structure and/or add other committees or working groups by mutual agreement of the Leadership Team.

5. FUNDING.

- A. The Agencies will endeavor to contribute financially toward the cost of Contractors services to further develop and advance the Plan. The goal is for each of the Agencies to equally share in costs for Contractors services for the Plan. The Agencies agree to jointly pursue funding opportunities where applicable. When joint funds are secured, the applicable funds will be utilized to fund the Plan beyond the individual Agency shares. Joint funds are not meant to supplement an individual Agency's share. Specific funding commitments and funding arrangements will be subject to separate funding agreements between VTA and each Agency. Any and all costs (direct, indirect, or staff time) incurred by the Agencies, with the exception of the costs for Contractors services, are the responsibility of each respective Agency.
- B. Upon execution of this Agreement, each Agency will endeavor to identify the source of funds to be contributed to the preparation of the Plan and management of the planning and organization process. Any restricted funds must be identified prior to execution of any agreement with the Contractors so the agreement with the Contractors can accommodate all reporting forms and language as may be required. Each Agency is responsible for submission of necessary paperwork and reports to meet contributed funding source requirements. The contracting Agencies will provide copies of Contractors invoices to each of the other Agencies.
- C. Upon execution of this Agreement by the Agencies, each Agency will endeavor to execute funding agreements with the other Agencies as needed to fund their respective cost sharing commitments. Contributions shall be made pursuant to the terms of the Funding Agreements.
- D. The contracting Agency may issue task orders to the Contractors to proceed with services upon execution of the Funding Agreements and upon the mutual agreement of the Agencies relating to the Contractors services.

6. **TERM.**

This Agreement shall become effective upon full execution of the Agreement and shall remain in effect through December 2021 unless otherwise agreed to in writing by the Agencies.

7. **TERMINATION.**

Any Agency may terminate this Agreement at any time, for any reason, upon giving thirty (30) calendar days written notice to the other Agencies in compliance with the Notice provision of this Agreement. Upon notice of termination of this Agreement, the contracting Agencies shall invoice the terminating agency for its pro-rata share of all unpaid Contractors costs for Contractors services rendered up to the date of termination. The remaining Agencies may amend this Agreement to continue with the preparation of the Plan or to terminate this Agreement.

8. **GENERAL CONDITIONS.**

- A. **Audit and Record Retention.** The representative of each Agency may audit the expenses incurred in the performance of this Agreement. Each Agency shall retain all records related to the performance of this Agreement and the preparation of the Plan for three (3) years after the completion of this endeavor. During this period, each Agency will make these records available within a reasonable time to any of the Agencies for inspection upon request.
- B. **Parties' Representatives.** The General Manager of VTA or her designee is hereby made the representative of VTA for all purposes under this Agreement. The City Manager for CITY or the Director's designee is hereby made the representative of CITY for all purposes under this Agreement. The Northern California Regional Director for HSR or his/her designee is made a representative of HSR for all purposes under this Agreement. The Director of Planning for PCJPB or his/her designee is hereby made the representative of CITY for all purposes under this Agreement.
- C. **Indemnification.** Pursuant to Government Code Section 895.4, each of the Agencies hereto shall fully indemnify, defend and hold the other Agencies, their officers, employees and agents, harmless from any damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Agency, its officers, commissioners, employees or agents, under or in connection with any work, authority or jurisdiction delegated to such Agency under this Agreement. No Agency, nor any officer, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Agencies hereto, their officers, employees or agents, under or in connection with any work, authority or jurisdiction delegated to such other Agency under this Agreement.
- D. **No Waiver.** The failure of any Agency to insist upon the strict performance of any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of any right or remedy that any Agency may have, and shall not be deemed a waiver of its right to require strict performance of all of the terms, covenants, and conditions thereafter.

**AMENDED AND RESTATED COOPERATIVE AGREEMENT FOR
SAN JOSÉ DIRIDON STATION**

DRAFT – June 5, 2020

- E. Notice.** Any notice required to be given by any of the Agency, or which any Agency may wish to give, shall be in writing and sent by U.S. Mail or personal delivery, along with a courtesy copy by email as follows:

To VTA: Santa Clara Valley Transportation Authority
Attention: Deborah Dagang, Director of Planning & Programming
3331 North First Street, Bldg. B-2
San José, CA. 95134-1906
Email: Deborah.Dagang@vta.org
Telephone: (408) 321-7093

To CITY: City of San José
Attention: Dave Sykes, City Manager
200 East Santa Clara Street, 17th Floor
San José, CA. 95113
Email: Dave.Sykes@sanJoseca.gov
Telephone: (408) 535-8190

To HSR: California High Speed Rail Authority
Attention: Boris Lipkin, Northern California Regional Director
100 Paseo De San Antonio, Suite 300
San José, CA 95113
Email: Boris.Lipkin@HSR.ca.gov
Telephone: (408) 277-1085

To PCJPB: Peninsula Corridor Joint Powers Board
Attn: Michelle Bouchard, Chief Operating Officer, Rail
1250 San Carlos Avenue
San Carlos, CA 94070
Email: BouchardM@samtrans.com
Telephone: (650) 508-6420

To MTC: Metropolitan Transportation Commission
Attn: Alix Bockelman, Deputy Executive Director, Policy
Bay Area Metro Center, 375 Beale Street, Suite 800
San Francisco, CA 94105
abockelman@bayareametro.gov
Telephone: (415) 778-5250

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the United States mail.

**AMENDED AND RESTATED COOPERATIVE AGREEMENT FOR
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DRAFT – June 5, 2020

- F. Dispute Resolution.** If a question arises regarding interpretation of this Agreement or its performance, or the alleged failure of an Agency to perform, the Agency raising or making the allegation shall give written notice thereof to the other Agencies. The Agencies shall promptly meet in an effort to resolve the issues raised. If the Agencies fail to resolve the issues raised, alternative forms of dispute resolution, including mediation or binding arbitration, may be pursued by mutual agreement. It is the intent of the Agencies, to the extent possible, that litigation be avoided as a method of dispute resolution.
- G. Entire Agreement.** This Agreement constitutes the entire Agreement between the Agencies pertaining to the subject matter contained therein and supersedes all prior or contemporaneous agreements, representations and understandings of the Agencies relative thereto.
- H. Amendments.** This Agreement may be amended only by mutual written agreement signed by each of the Agencies.
- I. Warranty of Authority to Execute Agreement.** Each Agency to this Agreement represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this Agreement on behalf of the entity that is a party to this Agreement.
- J. Severability.** If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions and provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- K. Governing Law.** This Agreement shall be construed, and its performance enforced under California law.
- L. Venue.** Except for suits involving HSR, if a suit is brought by any party to this Agreement, the Agencies agree that venue shall be exclusively vested in the State courts of the County of Santa Clara or, if federal jurisdiction is appropriate, exclusively in the United States District Court for the Northern District of California, in San José, California. For suits involving HSR, venue shall be governed by Public Utilities Code Section 185038.

**AMENDED AND RESTATED COOPERATIVE AGREEMENT FOR
SAN JOSÉ DIRIDON STATION**

DRAFT – June 5, 2020

WITNESS THE EXECUTION HEREOF the day and year first hereinabove set forth.

Santa Clara Valley Transportation Authority

By: _____ Date _____
Nuria I. Fernandez
General Manager and CEO

APPROVED AS TO FORM:

By: _____ Date _____
Counsel

California High Speed Rail Authority

By: _____ Date _____
Brian Kelly
CEO

APPROVED AS TO FORM:

By: _____ Date _____
Counsel

City of San José

By: _____ Date _____
Dave Sykes
City Manager

APPROVED AS TO FORM:

By: _____ Date _____
Counsel

**Peninsula Corridor Joint Powers Board
(Caltrain)**

By: _____ Date _____
Jim Hartnett
Executive Director

APPROVED AS TO FORM:

By: _____ Date _____
Counsel

Metropolitan Transportation Commission

By: _____ Date _____
[—Therese W. McMillan]
[Executive Director]

APPROVED AS TO FORM:

By: _____ Date _____
Counsel

From: Roland Lebrun
Sent: Tuesday, July 7, 2020 4:50 PM
To: MTC Info
Cc: Kimberly Ward; Martha Silver
Subject: Programming and Allocations Item 3b Diridon Station Cooperative Agreement
Attachments: A&F item 17 Diridon cooperative agreement.pdf

External Email

Dear Chair Josefowitz and Commissioners,
Further to my letter of May 21 (attached)

http://santaclaravta.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=3128&MediaPosition=&ID=7402&CssClass=,

I would like to take this opportunity to introduce you to key points of a letter I will be writing to the full Commission prior to the July 22 Meeting.

- Strong support of MTC involvement including modeling the governance of the Diridon project after that of the Caltrain Downtown extension
- Improved project synergy through the merging of the Diridon and Caltrain Downtown Extension Executive Steering Committees (ESCs)
- Increased oversight through monthly ESC meetings
- Expansion of ESC membership to include BART and the Capitol Corridor
- Establishment of MTC as the lead agency for both projects, **including responsibility for awarding contracts and issuing task orders and/or work directives**
- Complete timeline of the project so far including a **potentially illegal consultant contract award** and **how Phase I ended up delivering half a station one year late and 100% over budget**

Sincerely,

Roland Lebrun

From: Roland Lebrun
Sent: Thursday, May 21, 2020 3:04 AM
To: VTA Board Secretary <Board.Secretary@vta.org>
Cc: MTC Info <info@bayareametro.gov>; Caltrain Board <board@caltrain.com>; CHSRA Board <boardmembers@hsr.ca.gov>
Subject: A&F item 17 Diridon cooperative agreement

Dear Chair Carr,

MTC's addition to the DISC cooperative agreement is a long overdue and welcome development which should prevent a repeat of the first phase catastrophe.

Background

The first phase of the DISC was a \$5.6M 3-year textbook VTA disaster which produced a disjointed "concept plan" with a "kit of parts" scattered all over the northern half of the DSAP central zone (between West Santa Clara to the North and West San Fernando to the south) and culminated in a BART section buried at the end of the final report:

7.7 BART

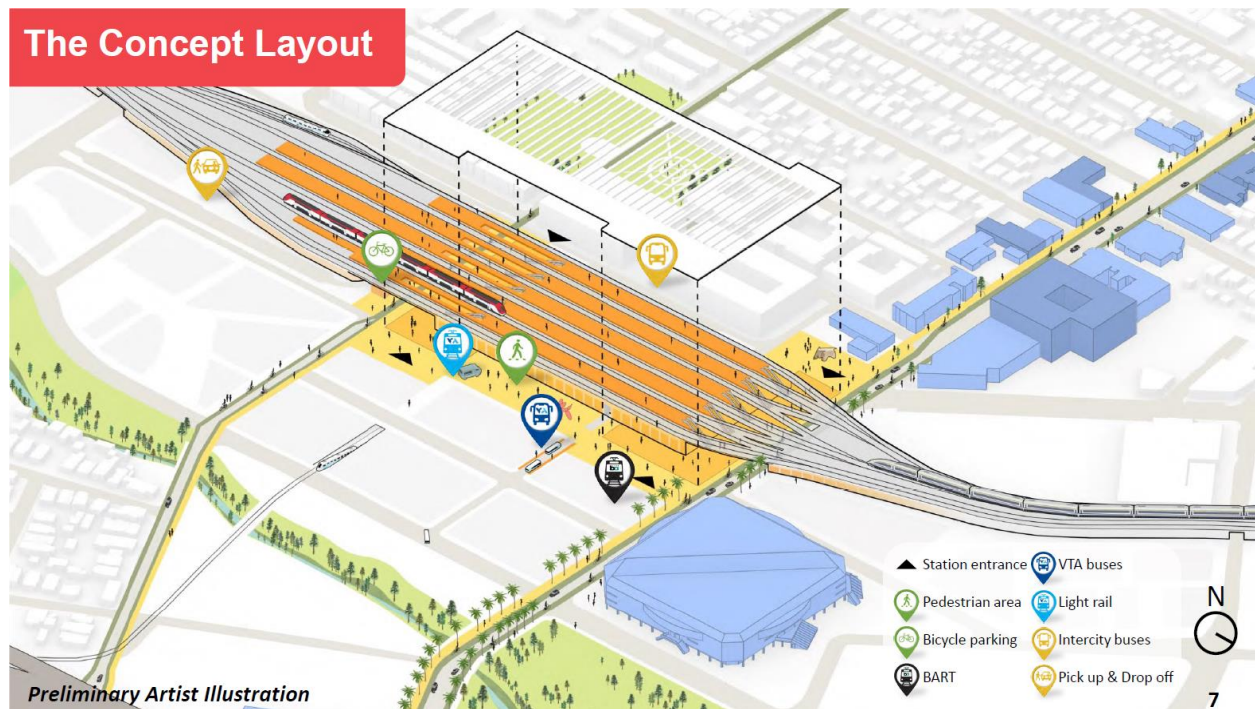
"Both the Partner Agencies and the public indicated that a short, direct, and intuitive connection to and from BART was a top priority for the spatial layout.

As such, the Concept Layout proposes a direct, at grade connection to the BART station from the primary station hall.

The Partner Agencies recognize the potential phasing challenges between the two projects, as BART is projected to be in operation before the station and intermodal

hub are constructed. Given the projects would be physically separated, it is assumed there will be no phasing issues."

https://static1.squarespace.com/static/5c38bcfdcc8fedd5ba4ecc1d/t/5de6f458639be22007e7a43f/1575416952426/2019.11.22_DISC_Layout+Development+Report_FINAL.pdf (page 52)



Following this precedent, it is unclear why anyone would expect that “*Asking the VTA to perform related procurement actions for professional services on behalf of the participating agencies*” should deliver anything other than yet another 3-year \$5.6M textbook VTA disaster.

The Solution:

The San Francisco County Transportation Authority (SFCTA) and MTC have just gone through an 18-month exercise addressing nearly identical issues with the TJPA’s dysfunctional management of the Transbay Transit Center and developed a multi-jurisdictional MOU intended to avoid a repeat of the same management issues during the design and construction of the Downtown Extension (DTX) and the new Transbay Crossing (attached).

Over the past several months, MTC staff has been working with staff from SFCTA, Transbay Joint Powers Authority (TJPA), City and County of San Francisco,

Caltrain, and the California High-Speed Rail Authority to develop a Memorandum of Understanding and draft work plan. MTC staff recommends the Commission

authorize the Executive Director to enter into an MOU with the project partners to execute the two-year work plan with a focus on:

(1) seamless integration with local transit and regional transit services, including a potential future Transbay rail crossing;

(2) providing an equitable transit system that works for all residents of the Bay Area; and

(3) anticipating and managing risk through design and delivery.

The draft MOU (Attachment C) establishes an integrated, multi-agency team composed of the partners. The team includes an executive steering committee to oversee the work plan, resolve conflicts, and make recommendations to the TJPA. As part of the integrated program management team, MTC would participate in the technical work, including defining a fundable and deliverable initial phase and associated funding plan, developing a project delivery strategy, and reviewing options for governance and oversight during construction. MTC staff would have a role producing work products and making key recommendations that protect the regional investment.

*Given the current, profound economic impacts of COVID-19, the effort focused on phasing and funding will be particularly important. In addition, MTC would be well-positioned to ensure coordination of the Downtown Rail Extension project with a future Transbay rail crossing. **The MOU recognizes the importance of coordinating with BART** and the Capital Corridor Joint Powers Authority, **and the partners acknowledge potential for them to join the MOU in the future.***

Recommendation

Adopt the governance approach taken by MTC and the SFCTA and replicate it at Diridon starting with the appointment of MTC as the lead agency responsible for awarding consultant contracts as and when needed.

Respectfully submitted for your consideration.

Roland Lebrun

cc

MTC Commissioners

Caltrain Board

CHSRA Board of Directors

Metropolitan Transportation Commission Operations Committee

May 8, 2020

Agenda Item 5b

San Francisco Peninsula Rail Program Memorandum of Understanding

Subject: A request for approval of a Memorandum of Understanding (MOU) with the 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 to support the Transbay Joint Powers Authority in development of the Downtown Extension Rail Program.

Background: The Downtown Rail Extension project 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 (see map in Attachment A). The project, which completed supplemental environmental review in mid-2019, is estimated to cost nearly \$4 billion and involves significant technical complexities including tunneling under San Francisco. Regional Measure 3 includes \$325 million for the Downtown Rail Extension project.

In October 2019, the San Francisco County Transportation Authority (SFCTA) released the Downtown Rail Extension Peer Review Panel's Final Report on Governance, Oversight, Management, and Project Delivery. MTC staff participated in the report through stakeholder workshops. The expert panel recommended project partners undertake a two-year work plan focusing on funding, project design and integration with existing and planned transit projects, and potential management and governance structures.

The Downtown Rail Extension project is one of several major rail infrastructure projects currently in development. MTC has a significant role to play in major projects to ensure regional coordination in both planning and funding, to ensure delivery of the region's long range transportation plan, and as a major funding partner since the projects often rely on Federal New Starts and bridge toll funds. Attachment B summarizes MTC's role in a number of major regional projects.

Historically, MTC has provided a degree of oversight for all phases of projects with Regional Measure funds. For more complex projects and those with significant risks, MTC has engaged technical consultants or supported peer reviews to address specific challenges as they arise. However, this involvement has often occurred after critical decisions have been made and when sponsors seek additional funds from MTC to address cost increases. At its January Workshop, MTC directed staff to explore ways to get more involved in the early stages of project delivery as a means to manage risk, control costs and ensure the most effective regional planning. This role is more akin to BATA's role in the Toll Bridge Seismic Retrofit Program where BATA staff and consultants served as part of an integrated project team, deeply involved in design, engineering decisions and risk management.

Over the past several months, MTC staff has been working with staff from SFCTA, Transbay Joint Powers Authority (TJPA), City and County of San Francisco, Caltrain, and the California High-Speed Rail Authority to develop a Memorandum of Understanding and draft work plan. MTC staff recommends the Commission authorize the Executive Director to enter into an MOU with the project partners to execute the two-year work plan with a focus on: (1) seamless integration with local transit and regional transit services, including a potential future Transbay rail crossing; (2) providing an equitable transit system that works for all residents of the Bay Area; and (3) anticipating and managing risk through design and delivery.

The draft MOU (Attachment C) establishes an integrated, multi-agency team composed of the partners. The team includes an executive steering committee to oversee the work plan, resolve conflicts, and make recommendations to the TJPA. As part of the integrated program management team, MTC would participate in the technical work, including defining a fundable and deliverable initial phase and associated funding plan, developing a project delivery strategy, and reviewing options for governance and oversight during construction. MTC staff would have a role producing work products and making key recommendations that protect the regional investment. Given the current, profound economic impacts of COVID-19, the effort focused on phasing and funding will be particularly important. In addition, MTC would be well-positioned to ensure coordination of the Downtown Rail Extension project with a future Transbay rail crossing. The MOU recognizes the importance of coordinating with BART and the Capital Corridor Joint Powers Authority, and the partners acknowledge potential for them to join the MOU in the future.

TJPA, SFCTA, Caltrain and the California High Speed Rail Authority approved the MOU in April, and the The City/County of San Francisco is expected to execute the agreement in May.

Issues:

The economic impact of COVID-19 appears likely to impact transportation revenue significantly. While restoring transit operations to stable levels is top priority, there is value in continuing to plan for a future transit system that is both connected and seamless, such as that afforded by the Downtown Rail Extension. The work plan under the MOU affords an opportunity for MTC to participate actively in a considering the new economic landscape.

In addition, COVID-19 economic impacts will likely affect MTC's level of engagement in this project and other similar projects, at least in the near term. Over the next two months, the partners will develop a work plan in detail and identify the staffing and funding for each agency's participation. While it remains important that MTC participate in the project leadership and work plan for reasons stated above, MTC anticipates initiating this work with current staff as opposed to hiring new, in-house expertise. Staff expects MTC's less intensive approach is reflective of the resources other partners can bring to the table and of a somewhat slower paced schedule in the near-term. MTC may wish to procure supplemental rail expertise to advise on specific technical matters. The same team of MTC staff and consultants could support similar work on other major regional rail projects if MTC elected to participate in those efforts in a similar manner. Such decisions would be subject to future review and approval by the Commission.

For all of the projects, staff proposes that MTC's efforts beyond typical Regional Measure oversight would appropriately be funded through project funds – in the case of the Downtown Rail Extension, San Francisco Proposition K and Regional Measure 3 funds (subject to resolution of litigation).

Recommendation: Refer the MOU with the Transbay Joint Powers Authority, Peninsula Corridor Joint Powers Board (Caltrain), San Francisco County Transportation Authority, City/County of San Francisco, and the California High Speed Rail Authority to support the Transbay Joint Powers Authority in development of the Downtown Extension Rail Program to the Commission for approval and authority for the Executive Director to negotiate and enter into the MOU in substantially the same form as Attachment C.

Attachments: Attachment A – San Francisco Downtown Extension Program Map
Attachment B – Large Projects with MTC/BATA Participation
Attachment C – San Francisco Peninsula Rail Program Memorandum of Understanding



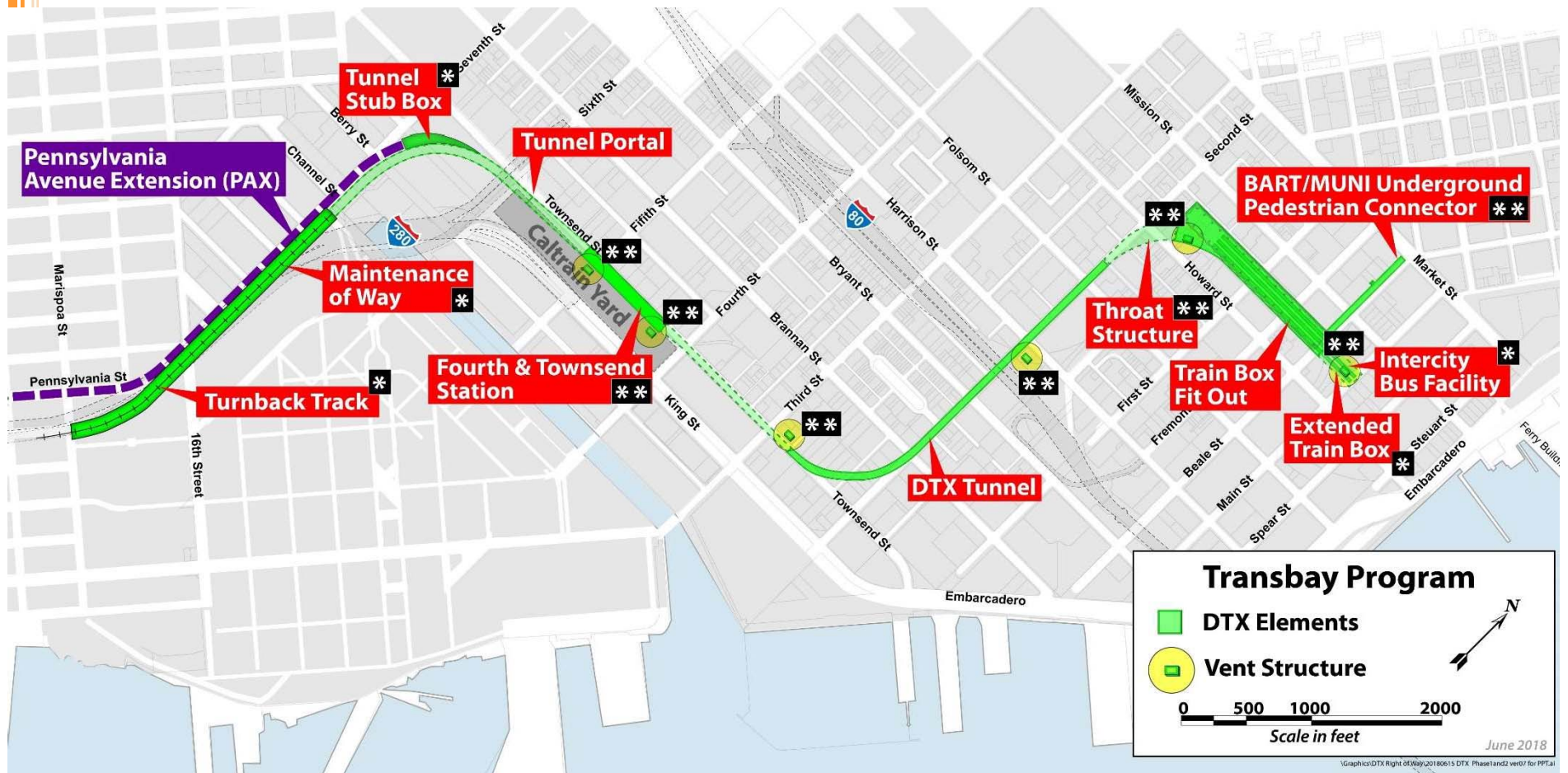
Therese W. McMillan

REQUEST FOR COMMISSION APPROVAL

Summary of Proposed Memorandum of Understanding

Work Item No.:	1251
Parties:	Transbay Joint Powers Authority, Peninsula Corridor Joint Powers Board (Caltrain), San Francisco County Transportation Authority, City/County of San Francisco, and the California High Speed Rail Authority
Work Project Title:	Development of the Downtown Extension Rail Program
Purpose of Project:	Support the Transbay Joint Powers Authority in development of the Downtown Extension Rail Program
Brief Scope of Work:	Participate in an integrated, multi-agency team that will undertake project development, including defining a fundable and deliverable initial phase and associated funding plan, developing a project delivery strategy, and reviewing options for governance and oversight during construction.
Motion by Committee:	That the Executive Director or designee is authorized to negotiate and enter into a memorandum of understanding with the Transbay Joint Powers Authority, Peninsula Corridor Joint Powers Board (Caltrain), San Francisco County Transportation Authority, City/County of San Francisco, and the California High Speed Rail Authority to support the Transbay Joint Powers Authority in development of the Downtown Extension Rail Program as described above and in the Operations Committee Summary Sheet dated May 8, 2020.
Commission :	<hr/> Scott Haggerty, Chair
Approved:	May 27, 2020

Phase 2 Scope



Element added (*) or modified (**) in the SEIS/EIR

Large Projects with MTC/BATA Participation in Governance, Risk Management and Delivery

Project	Cost	Current Phase	MTC Roles (in addition to Funding Partner)	Start of MTC's Involvement	Agreements
Regional Rail Projects					
Transbay Terminal Phase 1	\$2 B	Construction Complete	1. Independent cost review 2. Cost Review Committee 3. Peer review of fractured girder	1-2. Cost increase 3. Girder fracture	1. Cost Review conducted by MTC in coordination with TJPA 2. Transbay Project Cost Oversight Agreement 3. Cooperative Agreement
Caltrans Electrification	\$2 B	Under Construction	Change Management Committee	Cost increase	MOU, executed
Peninsula Corridor Rail Program – Downtown Extension	\$4 B	Design	Executive Steering Committee Regional rail planning and funding	Start of design	MOU (subject to MTC approval)
Valley Link	\$2–\$3 B	Environmental	Executive Steering Committee Project Policy Committee	Start of environmental	Funding Agreements (subject to MTC approval)
Diridon Station	TBD	Planning	Executive Committee Policy Director Committee Organizational Subcommittee	Initial studies	TBD
Transbay Rail Crossing	\$30 - \$50 B	Initial Studies	TBD	Initial studies	TBD
Roadway/Bridge Projects					
Toll Bridge Seismic Retrofit Program	\$7 B	Construction Complete	Toll Bridge Program Oversight Committee Project Management Team Risk Management Independent cost and technical reviews	Cost increase	Cooperative Agreement, executed MOU, executed
State Route 37	\$4 B	Environmental	Lead for initial studies Executive Steering Committee Hire project director Lead interim project	Initial studies	MOU, executed

San Francisco Peninsula Rail Program MOU

This San Francisco Peninsula Rail Program Memorandum of Understanding (MOU), effective _____, 2020 is between the Transbay Joint Powers Authority (TJPA); the Metropolitan Transportation Commission (MTC); the San Francisco County Transportation Authority (SFCTA); the Peninsula Corridor Joint Powers Board (Caltrain); the California High Speed Rail Authority (CHSRA); and the City and County of San Francisco (CCSF) (each a “Partner” and collectively the “Partners”).

1. Definitions:

DTX Rail Program: Activities directed toward the advancement of the environmentally cleared Downtown Rail Extension Project (DTX)

SF Peninsula Rail Program: A program of projects comprised of the DTX and Related Projects

Related Projects: Pennsylvania Avenue Extension (PAX), Railyards Development, and 22nd St Station Study

Regional and State Rail Efforts: Related regional and state rail efforts including the ongoing development of Caltrain and CHSRA programs, the State Rail Plan, New Transbay Rail Crossing, and others, including any future regional rail planning or funding programs

Ready-for-Procurement: All work in planning and engineering is advanced to a level consistent with the contract(s) delivery method(s), has completed all required planning and National Environmental Policy Act/California Environmental Quality Act, and applicable other permit/approval requirements, has secured necessary funding, has obtained or identified Right-of-Way and/or easements and permits, and is ready to proceed to bid.

2. Purpose:

The Partners recognize that the DTX is a critical rail link in the Bay Area, mega-region, and state transportation system and that it will be more efficiently and effectively developed through a multi-agency partnership among local, regional, and state stakeholder agencies with expertise in developing, funding, and implementing major infrastructure projects.

The Partners also recognize that – and nothing in this MOU is intended to imply otherwise – state law and the TJPA’s 2001 Joint Powers Agreement (as amended) currently provide that the TJPA has primary jurisdiction over and will implement all aspects of the DTX that will connect the new Salesforce Transit Center (STC) to the regional rail system.

This MOU describes a new organizational structure that will support the efforts of the TJPA in the development of the DTX to a Ready-for-Procurement status and would make direct recommendations to the TJPA Board based on a set of activities outlined below. These activities will be undertaken by an integrated multi-agency project team, comprised of senior staff of the signatory agencies to this agreement, as shown in Attachment 1, who will oversee the Work Program shown in Attachment 2.

3. Structure

The new organizational structure described by this MOU is summarized below and depicted in the Organization Charts in Attachment 3.

Executive Steering Committee (ESC):

By virtue of this MOU, an Executive Steering Committee (ESC) will be instituted to support the TJPA in project development efforts for the DTX as described in Attachment 2, and empowered to implement this MOU. The ESC is responsible for making recommendations to the TJPA Board regarding the scope of efforts under this MOU. The TJPA Board will maintain its ultimate authority over the DTX. Accordingly, it may accept or reject recommendations of the ESC, and it may act in the absence of a recommendation from the ESC.

The ESC will consist of the executives (or their designee) of the TJPA, MTC, SFCTA, Caltrain, CHSRA, and the CCSF (for CCSF the executive will be the Mayor or her designee). The initial and alternate members of the ESC are named on Attachment 1. Each Partner may change its appointment to the ESC by providing written notice to the ESC. The ESC will meet at least monthly, sufficiently in advance of the TJPA Board's regularly scheduled meetings that the ESC will have an opportunity to provide a progress update or to present items to the TJPA Board; a majority of authorized representatives shall constitute quorum. The ESC will elect a Chair and Vice-Chair as a first order of business. At the request of the TJPA Board Chair, the ESC Chair or Vice-Chair will report to the TJPA Board on a monthly basis on the status of the program. The ESC will be responsible for the DTX work program as summarized in Attachment 2, which specifies which elements of the DTX work program must be brought to the TJPA Board for information and/or approval. The ESC will also help resolve conflicting areas of work among the Partners. While the ESC will attempt to reach consensus, it will make recommendations to the TJPA Board by a majority vote of the representatives present. The ESC may also serve as a coordinating forum for the SF Peninsula Rail Program and other relevant regional or statewide rail system planning and development efforts.

Integrated Program Management Team (IPMT):

For the DTX Rail Program, the ESC will be supported by an IPMT consisting of representatives with relevant experience in large complex projects from each of the Partners, as designated by their corresponding executive. In addition, the IPMT may also be supplemented with relevant qualified personnel from within their own agencies or their supporting consultancy organizations.

Project Director (PD):

The PD should have proven leadership, organizational acumen and relevant experience in delivering all aspects of mega rail projects and tunneling. The ESC, or a sub-committee thereof, will recruit and recommend a short list of the PD candidates to the TJPA Board for final selection. The TJPA prefers that the PD be a TJPA employee or direct consultant. However, the TJPA may also consider PD candidates as a consultant seconded to the TJPA through one of the Partners; in such case, a separate agreement between the TJPA and the Partner would be required. The PD will lead the IPMT.

The PD will report to his/her hiring entity for purposes of administrative matters and report to the ESC for purposes of coordination of the IPMT. The PD will coordinate the IPMT in its development of recommendations to present to the TJPA Board as to the delivery of the Work Program (Attachment 2). The PD will be responsible for the day-to-day management of those portions of the DTX work program identified for TJPA to lead, reporting on those matters to the TJPA's Executive Director. The PD shall also be responsible for directing TJPA DTX staff and consultants as needed. To the extent another Partner is identified as assuming a lead role for portions of the DTX work program, that Partner will be responsible for day-to-day management of its tasks.

The PD will coordinate with other IPMT members leading other tasks, as well as with the SF Peninsula Rail program of projects. The PD may also coordinate with other relevant Regional and State Rail Projects as needed.

4. Scope/Responsibilities

SF Peninsula Rail Program Group of Projects:

The DTX is part of a set of regional rail projects within San Francisco that will provide valuable connectivity for the Bay Area and mega-region rail network.¹ A subset of these, called "Related Projects" for the purpose of this MOU, is covered under a separately executed San Francisco 4th/King Railyard MOU (Railyards MOU)², which describes cooperative planning and project development activities for the Related Projects.

Whereas the DTX Rail Program will be managed as described in this MOU, the Related Projects are coordinated in accordance with the Railyards MOU and managed according to their own responsible agency's individual governance. For the Related Projects, the ESC will serve in an advisory and supporting role.

While the Partners recognize that coordinating activities can improve their planning and delivery in order to maximize public benefit for the region as a whole, the Partners confirm

¹ Additional regional rail system planning, and coordination is being undertaken for potential BART and standard gauge Transbay rail crossings with BART, Capitol Corridor, Caltrain and the California State Transportation Agency (CalSTA).

²San Francisco 4th/King Railyard MOU dated June 3, 2019 between Caltrain, Prologis, CCSF/SFCTA, and TJPA

that each project within the SF Peninsula Rail Program has independent utility from every other project.

Summary of Work Elements Under this MOU:

DTX Rail Program:

The following are the main activities that comprise the DTX work program.

DTX Project Development -- anticipated activities include, but are not limited to, developing a phasing strategy that addresses both Caltrain and CHSRA needs, conducting industry reviews, performing design of the phased project to a level that will allow for a reliable bottom-up cost estimate, updating the right-of-way plan, conducting robust risk assessment, implementation planning, and developing the project delivery strategy to advance the DTX to a Ready-for-Procurement status.

Coordination for Regional Planning and Funding— this effort will focus on articulating the regional context for the DTX and integrating the planning and funding of the DTX with broader regional, mega-regional, statewide plans, and funding programs. This includes helping to design and advance DTX funding strategies and analyzing implementation options in coordination with other regional and statewide entities and efforts.

A Summary Work Program is attached (Attachment 2) that includes detailed description of the roles and responsibilities for each participating agency. The Summary Work Program consists of the following main tasks, for which the ESC will develop recommendations to the TJPA Board for decision:

- Establish and Initiate New Management Structure
- Define a Fundable and Deliverable Initial Phase of the DTX Project
- Select the Project Delivery Strategy
- Undertake a Governance and Oversight Review
- Prepare for Procurement

Select work elements under the Railyards MOU:

Pennsylvania Avenue Extension (PAX)– Led by the SFCTA, this project will perform scoping and pre-environmental engineering to affect an underground rail grade separation at 16th Street and Mission Bay Drive by means of a tunnel following the general alignment of Pennsylvania Avenue, with a special focus on the interface with the DTX at 4th/Townsend rail station and the transition to the mainline at its southern end.

4th and King Railyard Studies – Led by Caltrain, in coordination with Prologis, Inc. (the property owner), this project will perform studies to determine Caltrain's needs within San Francisco, develop railyard alternatives, determine storage, service,

station, and maintenance requirements, among others, in accordance with the agreement set forth in the Railyards MOU for the possible development of the railyard.

22nd Street Station Study – Led by SF Planning, in close coordination with Caltrain, this project will study the options for improving or relocating the current 22nd Street Station.

Railyard Site Land Use and Development Study – Led by Prologis, Inc., this work will examine the feasibility of various development options at the 4th and King railyards; options will consider DTX, PAX, and/or the undergrounding of some or all of the current railyard.

5. External Resources and Engagement:

The Partners will work together to identify the necessary resources to support their respective activities to carry out the DTX work program. Some agencies' budgets have identified sources, while others are to be confirmed. Within two months after signing the MOU, the Partners will develop a more detailed work plan, identify a budget for the total resource requirement (staffing and contractor) for each agency and in total, and confirm funding sources. Notwithstanding the above, this MOU commits the Partners to consider providing funding or resources, but does not commit any Partner to provide any resources other than those the agency already has funded and programmed to support DTX or to provide any funding.

These resources may include, among others, on-call consultants and legal counsel. Actual staffing and support from each agency will be based on their designated roles and responsibilities. This MOU commits the Partners to participation in the ESC/IMPT process but does not constitute a commitment of financial resources.

The Partners recognize that other state, regional and local government agencies, such as BART, Capitol Corridor, California State Transportation Agency, and Caltrans, have an interest in and/or expertise regarding the matters contemplated in the Summary Work Program. Accordingly, the Partners agree to work collaboratively to engage those agencies as appropriate during implementation of the Summary Work Program.

6. Work Plan:

A Summary Work Program, delineating the scope of efforts to be executed under this MOU, is attached (Attachment 2). Once the MOU is executed and the ESC and IPMT instituted, the first order of business will be the development of a comprehensive Work Plan, for presentation and approval by the TJPA Board, building upon the activities of the Summary Work Program. The Detailed Work Plan will detail all the necessary tasks, their relationships, schedule, and responsible Partner to take the project to start of construction. The Detailed Work Plan should be completed within 2 months.

As defined in the Summary Work Program, the ESC will work to develop an initial operating phase that provides the necessary capacity to operate a reliable blended system to the Salesforce Transit Center at the earliest practicable date and with consideration of reasonably available funding. Any proposed initial operating phase recommended by the ESC must have prior concurrence of Caltrain and CHSRA members of the ESC.

7. NEPA/CEQA:

Any recommendations regarding modifications to the DTX resulting from the work under the MOU is intended to be consistent with and not require any material modification of the existing DTX NEPA/CEQA documentation.

8. Funding:

The Partners recognize that Federal funding programs require demonstration of strong local financial capacity and commitment and intend to collaborate on strengthening project funding plans.

9. Principles for Collaboration:

- Follow the decision-making processes and communication models established by the ESC and IPMT
- Share information and resources to assist with the successful and timely completion of tasks and follow-on studies
- Respond and provide input within agreed-upon response times
- Design meetings as small working sessions and provide appropriate staff to focus on the outcomes required, in accordance with the roles and responsibilities established in the attached Summary Work Program
- Seek to make decisions by consensus when possible, by majority vote otherwise

10. Policy Recommendations:

Policy recommendations of the ESC to the TJPA Board for the DTX will require majority support of the ESC. Policy recommendations are expected to include, but are not limited to:

- Phasing Plan for the Initial Operating Segment
- Adoption of a new Funding Plan
- Project Delivery Plan, including ROW acquisition plan, project delivery method(s), contracting strategy
- Final institutional arrangement for project delivery through initial operating segment as proposed in the Summary Work Program
- Significant design decisions

11. No Adjudication of Rights:

The MOU does not adjudicate legal rights with respect to the development of the DTX or provide the Partners with any rights with respect to the revenues derived therefrom.

12. Other MOUs:

The Partners acknowledge that there are other agreements already entered into by the Partners or which may be entered in the future related to the SF Peninsula Rail Program, including but not limited to operating and maintenance agreements between the TJPA (or another entity designated to carry out the DTX) and Caltrain and the California High-Speed Rail Authority; MOU between the TJPA the Federal Railroad Administration related to the allocation of \$400 million for the construction of the train box at the STC; and the Railyards MOU. This MOU is separate from and does not modify or replace any other MOU or other agreement between the Partners regarding the DTX.

13. Term

13.1 The term of this MOU shall be 36 months or when the DTX reaches Ready-for-Procurement status, whichever is earlier.

13.2 The Partners may amend, conclude or extend this MOU by mutual agreement; such agreement shall be evidenced in writing. Notwithstanding the foregoing, the TJPA may terminate this MOU in its discretion by action of the TJPA Board; prior to any such proposed termination, the TJPA shall meet and confer with the other Partners in a good faith effort to resolve any concerns and avoid the need for termination. Any other Partner may withdraw from this MOU in its discretion, following a meet and confer with the other Partners in a good faith effort to resolve any concerns and avoid the need for withdrawal

14 General Conditions

14.1 Each Partner will conduct its activities under this MOU in accordance with applicable federal, state, and local laws, regulations, and standards.

14.2 Each Partner will ensure that personnel assigned by it to conduct activities under this MOU are appropriately qualified or licensed to the perform the tasks assigned to them.

14.3 Each Partner will hold all administrative drafts and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for the activities under this MOU in confidence to the extent permitted by law. Where applicable, the provisions of California Government Code section 6254.5(e) shall protect the confidentiality of such documents in the event that said documents are shared between the Partners. The Partners will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete the activities under this MOU without the written consent of the Partner authorized to release

them, unless required and authorized to do so by law. If a Partner receives a public records request pertaining to activities under this MOU, that Partner will notify the other Partners within five (5) working days of receipt and make the other Partners aware of any intent to disclose public documents. The Partners will consult with each other prior to the release of any public documents or statements related to the activities under this MOU. Nothing herein shall require any Partner to waive any attorney-client privileges or other protections it otherwise has a right to assert.

14.4 The Partners do not intend this MOU to create a third-Partner beneficiary or define duties, obligations, or rights in Partners not signatory to this MOU.

14.5 The Partners will not assign or attempt to assign their rights or obligations under this MOU to parties not signatory to this MOU without an amendment to this MOU.

14.6 The following documents are **Attachments** hereto:

Attachment 1: Initial members of the ESC

Attachment 2: Summary DTX Rail Program -- Work Program

Attachment 3: Organization Chart

IN WITNESS WHEREOF, the Partners have executed this MOU as of the date first written above.

Transbay Joint Powers Authority

Metropolitan Transportation Commission

By: _____
TJPA Board Chair

Address:

By: _____

Address:

San Francisco County Transportation
Authority

Peninsula Corridor Joint Powers Board

By: _____

Address:

By: _____

Address:

California High Speed Rail Authority

City and County of San Francisco

By: _____

By: _____

Address:

Address:

DTX MOU Attachment 1 Initial ESC and IPMT Membership		
Executive Steering Committee	Member	Alternate
Caltrain	Jim Harnett	Michelle Bouchard
CCSF	Paul Supawanich	TBD
CHSRA	Boris Lipkin	Simon Whitehorn
MTC/BATA	Andrew Fremier	Lisa Klein
TJPA	Mark Zabaneh	Erin Roseman
SFCTA	Tilly Chang	Eric Cordoba
Integrated Program Management Team		
Caltrain	Sebastian Petty	Anthony Simmons
CCSF	Doug Johnson	Anna Harvey
CHSRA	Simon Whitehorn	Paul Hebditch
MTC/BATA	Stephen Wolf	Trish Stoops
TJPA	TBD	TBD
SFCTA	Eric Cordoba	Luis Zurinaga

		project delivery plan; and other tasks necessary to bring the DTX Rail Program to bid, and assign responsibilities (b) Determine staffing levels, budgets and funding for delivering the tasks (c) Develop a Master Schedule							
Task No	Task	Sub-task Description	Caltrain	CCSF	CHSRA	MTC/BATA	SFCTA	TJPA	To TJPA Board For
7	Develop a re-branding strategy to reposition the DTX Rail Program	Develop a plan for re-branding of the Program with updated graphics and messaging based on economic benefits for the region, state, and nation	Contribute	Contribute	Contribute	Contribute	Concur	Lead	Approval
8	Perform public outreach by engaging external stakeholders, advocacy groups, and the public at large, and perform public outreach	(a) Develop external outreach plan (b) Conduct public outreach (c) Conduct advocacy group outreach (d) Maintain clear records of stakeholder engagement (e) Coordinate with adjacent developments, related and interconnected plans and projects by other agencies, such as Transbay rail planning, and stakeholder business plans	Contribute	Contribute	Contribute	Contribute	Contribute	Lead	Reporting
B.	Define a Fundable and Deliverable Initial Phase of the DTX Project								
9	Develop operational plans for near-term and long-term rail operations at the STC	(a) Develop a consolidated set of service assumptions (b) Develop operational objectives, timetables, track usage, and platform distribution. (c) Perform all necessary modeling, including perturbation analysis, to assure reliable, smooth operations at the STC and the Peninsula	Co-Lead	Contribute	Co-Lead	Contribute	Contribute	Contribute	Reporting
10	Conduct planning for DTX	(a) Identify the full extent of the Salesforce Transit Center users, currently planned and future, direct and indirect, and existing relevant plans and studies (b) perform ridership forecasts, and coordinate with Caltrain and CHSR based on their current/updated Business Plans; transit users; and, New Transbay Crossing based on 2018 State Rail Plan, regional rail plan, and current BART/CCJPA planning study	Concur	Contribute	Concur	Concur	Lead	Concur	Reporting

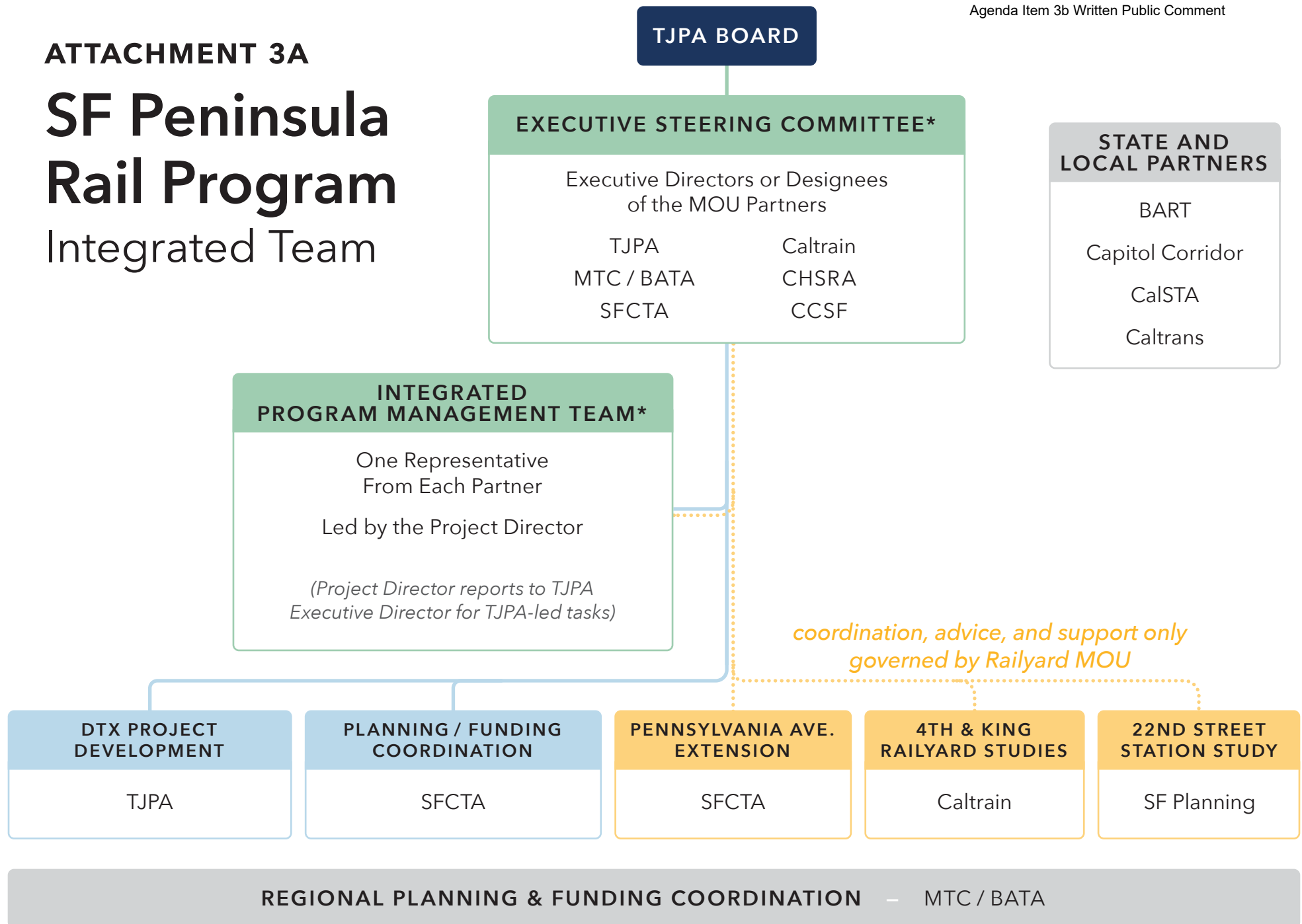
Task No	Task	Sub-task Description	Caltrain	CCSF	CHSRA	MTC/BATA	SFCTA	TJPA	To TJPA Board For
11	Perform technical studies and design to re-define and deliver a DTX initial operating phase as soon as possible	(a) Engineering studies to achieve project re-definition and initial operating phase (b) Utilizing input from the operational plans developed under task 9, perform demand vs capacity scenario analysis over time and side-by-side comparison of options in terms of benefits (economic, riders, housing, etc.), costs, schedules, operations, etc. (c) Perform design of the phased project to a level that will allow for the reliability of the tasks below (d) Develop detailed cost estimates, schedules, and extensive risk register and analysis based on structured workshops, including risk management program and independent reviews (e) Develop plans for utility relocations and ROW acquisition requirements, including risk management and insurance plans, early works packages, and third-party agreements as needed (f) Resolve critical operational issues for all users of the initial operating phase, conduct operational analysis, and coordinate operators' plans and requirements	Concur	Contribute	Concur	Contribute	Concur	Lead	Approval
12	Prepare a preferred Phasing Plan conforming with technical studies and policy direction on realistic amounts/timing of funding and stakeholder delivery date expectations -with an explicit goal to deliver rail service to the STC as soon as possible	(a) Utilizing input from tasks 9, 10, 11 and 13, prepare Rail Program phasing options in response to rail service scenarios, funding sources and availability, and stakeholder requirements (b) Develop detailed risk management and assurance plans including ownership, staffing, independent strategic advisor / independent engineer, and management processes (c) Develop Business Case for the phased project (d) Revisit Detailed Work Plan to assure compatibility with preferred phasing plan	Concur	Concur	Concur	Concur	Concur	Lead	Approval
13	Develop and confirm Funding Plan strategy for the DTX Rail Program based on achievable funding assumptions and securing adequate capital funding and O&M revenues enough for the initial phase	(a) Develop funding plan for construction and operations, inter-agency responsibilities, securing commitments, schedule of availability, and tasks to enter FTA funding process (b) Conduct assessment of high/ low confidence sources of funding with focus on funding initial operating phase and funding strategy of subsequent phases (c) Develop new/innovative funding and financing sources including joint development (e.g., Railyards) enabled by project re-definition strategy (d) Develop funding plan strategy for operations phase, including funding agreements and commitments to support initial operating phase operating costs	Contribute	Contribute	Contribute	Concur	Lead	Concur	Approval

Task No	Task	Sub-task Description	Caltrain	CCSF	CHSRA	MTC/BATA	SFCTA	TJPA	To TJPA Board For
14	Prepare the project to enter the federal New Starts Program	(a)Develop all the documentation required by the FTA to enter the New Starts Program (b) Engage with the FTA to develop a road map to the Full Funding Grant Agreement	Concur	Concur	Concur	Concur	Concur	Lead	Report on progress and approval of final documents
C.	Select the Project Delivery Strategy								
15	Conduct industry outreach to validate construction methodology and contracting strategy	Conduct market sounding through engagement with the infrastructure industry and update the qualitative delivery options analysis previously completed.	Contribute	Contribute	Contribute	Contribute	Contribute	Lead	Report
16	Develop a project delivery and contracting strategy	(a) Analyze project delivery options analysis based on a business case and risk-adjusted financial analysis, including input from the market sounding (b) Analyze legal framework and issues for delivery options, procurement, and development of contracts (c) Develop a strategic implementation roadmap including a procurement and contracting plan, risk management plan, and organizational requirements (d) Conduct workshops to allocate risk based on risk analysis performed under tasks above, and develop analysis and plans for insurance (e) Scope pre-procurement engineering and early works contracts tailored to the delivery options	Contribute	Contribute	Contribute	Concur	Co-Lead	Co-Lead	Approval
17	Develop an O&M plan with roles and responsibilities	(a) Prepare a 20-year financial plan for Operations and Maintenance (b) Review and identify the ownership and governance of project elements for construction, operations, and maintenance (c) Develop and execute agreements for Operations and Maintenance	Concur	Consulted	Concur	Concur	Concur	Lead	Approval
D.	Undertake a Governance and Oversight Review and Transition								
18	Explore the best institutional arrangement and governance for the delivery of the DTX Rail Program thru construction and make recommendations to TJPA Board	(a) Detailed study to identify the governance structure to enable stakeholder alignment, effective mega-project delivery, oversight, independent strategic advice, and assurance (b)Stress-test options to maximize opportunities for Federal, State, and Regional funding as a Project of Regional and National Significance. Recommend governance/project delivery structure for delivery (c) Develop management structure, briefs with roles and responsibilities, staffing qualifications, reporting and communication protocols, contracting, and staffing plan (d) Conduct assessment with strategic, economic, commercial, financial, management cases and consider	Contribute	Contribute	Contribute	Co-Lead	Co-Lead	Concur	Approval

		responsibilities for O&M of new trackage and the rail portion of STC (e) Develop outcome-based performance and sourcing management system, regime of Key Performance Indicators (KPIs), and stage-gated decision-making protocols							
Task No	Task	Sub-task Description	Caltrain	CCSF	CHSRA	MTC/BATA	SFCTA	TJPA	To TJPA Board For
19.	Select lead agency for Construction. Should an alternate structure be adopted by the TJPA Board as a result of the above task, effect transition to final institutional arrangement and organization	Execution and implementation of Task 18 outcomes in coordination with the selected project delivery method.	Concur	Concur	Concur	Concur	Concur	Lead	Approval
E.	Prepare for Procurement								
20	Start procurement tasks as applicable based on final institutional agreement, selected project delivery method, and scoping	(a) Finalize Plans, Specifications, and Estimates (PS&E) to the level required by the contracting strategy and delivery method(s) (b) Develop draft Commercial Terms and Conditions as appropriate for each contract (c) Conduct additional industry outreach to create interest and create a competitive environment (d) Develop draft bid documents for each contract	Concur	Concur	Concur	Concur	Concur	Lead	Report on Progress Approval to begin procurement

ATTACHMENT 3A

SF Peninsula Rail Program Integrated Team

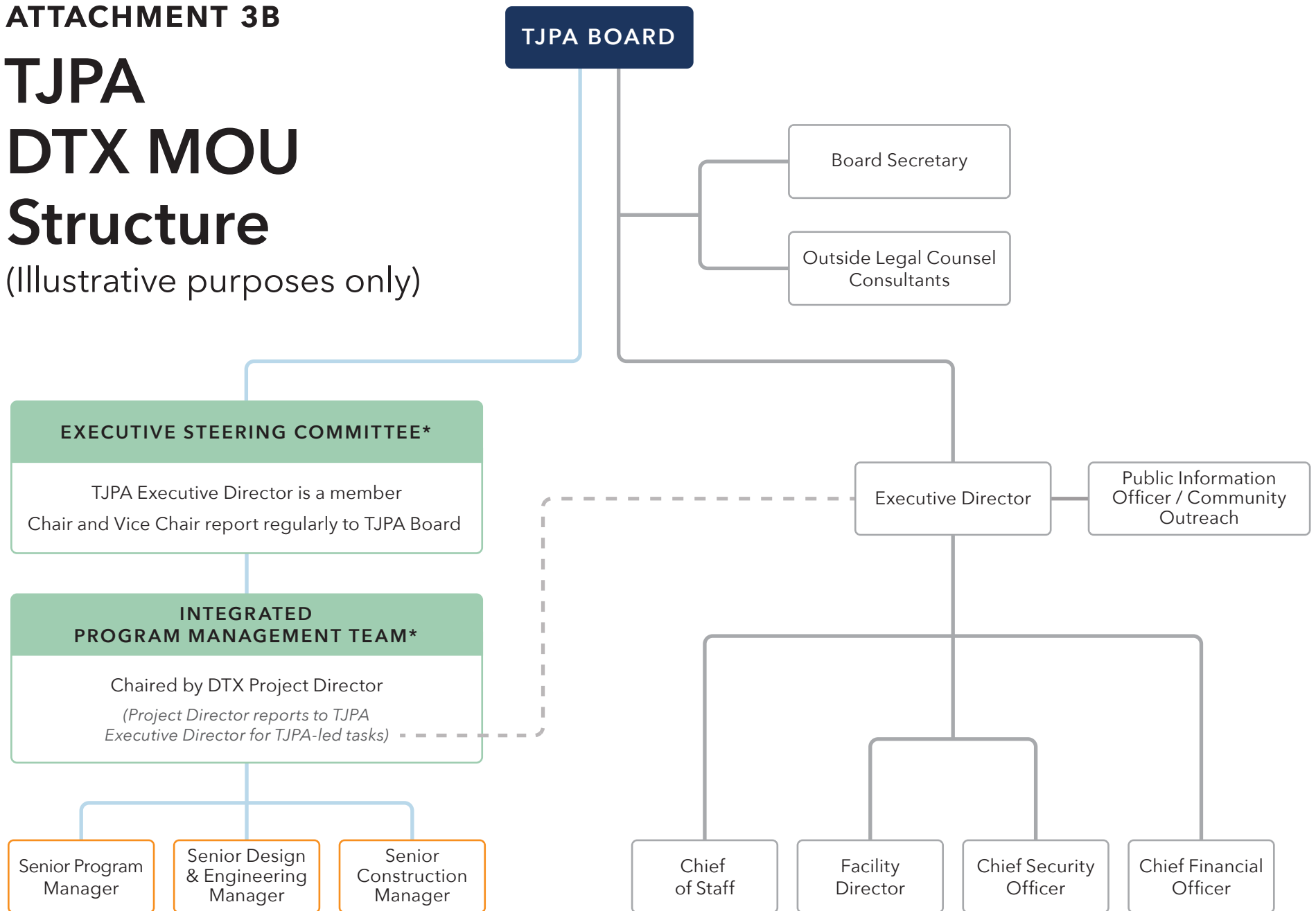


* Consistent with and limited to the Summary Work Program (Attachment 2) defined by the San Francisco Peninsula Rail Program MOU approved by TJPA Board on April 9, 2020

ATTACHMENT 3B

TJPA DTX MOU Structure

(Illustrative purposes only)



* Consistent with and limited to the Summary Work Program (Attachment 2) defined by the San Francisco Peninsula Rail Program MOU approved by TJPA Board on April 9, 2020