

Metropolitan Transportation Commission
Programming and Allocations Committee

October 9, 2024

Agenda Item 2g-24-1207

MTC Resolution No. 4612, Revised. Revisions to the Regional Measure 3 (RM3) Allocation to the Transbay Joint Powers Authority (TJPA) for the Caltrain Downtown Extension (“The Portal”).

Subject:

Revisions to the Regional Measure 3 (RM3) Allocation to the Transbay Joint Powers Authority (TJPA) for the Caltrain Downtown Extension (“The Portal”).

Background:

MTC Resolution No. 4404, Revised, establishes policies and procedures for the implementation of the RM3 Expenditure Plan, specifying the allocation criteria and project compliance requirements for RM3 funding. RM3 Project 9, the Downtown Rail Extension (“The Portal”) is identified under the RM3 expenditure plan and is eligible to receive RM3 funding as identified in Streets and Highways Code Sections 30914.7(a).

On November 15, 2023, the Commission approved MTC Resolution No. 4612, an RM3 capital allocation for RM3 Project 9 in the amount of \$100,700,000 for the right of way (ROW) and property acquisition phase and to fund relocations from those properties. The allocation was conditioned on completion of an agreement between MTC and TJPA on a mechanism to ensure the return of RM3 funds used to purchase property in the event that the project does not proceed to construction and/or the property in question is not used for the project. The condition specified language to be included in such agreement. To date, MTC and TJPA have not entered into an agreement on this matter; this recommended action will revise the condition specifying the language to be included in the agreement. TJPA reports that it has incurred minor costs against this allocation in preparation for the purchase of properties but has not yet purchased any of the listed properties.

Resolution No. 4612 Revisions

Two key revisions to the allocation are recommended:

- List of properties to be acquired: the current allocation scope lists eight properties to be acquired with RM3 funds. MTC staff recommends modifying the scope to state that *up to* eight properties will be used with the \$100.7 million in RM3 funds to account for a

slowed ROW acquisition plan and to clarify that it is not a requirement of the allocation to purchase all eight listed properties.

- Condition of allocation: The current condition specifies language that the agreement between MTC and TJPA should include regarding the mechanism to ensure the return of RM3 funds used to purchase property for the project in the event that the project does not proceed to construction and/or the property in question is not used for the project. This proposed action would revise this condition to specify that TJPA shall compensate MTC for RM3 funds provided to TJPA under this allocation under certain circumstances, and that MTC and TJPA shall establish a mutually agreed upon method for this compensation, which may include but shall not be limited to repayment from TJPA to MTC of the funds or a quit claim deed on one or more of the properties. Finally, it would remove the specified ninety-day timeframe to satisfy the compensation obligation.

Proposed additions and deletions are shown below in bold and strikethrough:

*For the project above, the Transbay Joint Powers Authority submitted an Initial Project Report stating that Project Design would be completed by 2025 and Project Construction would begin in 2025. If Project Design is not completed by December 31, 2028, then the Transbay Joint Powers Authority shall notify the Commission of the status of the project and revised dates for completion of Project Design and start date of Project Construction. If Project Construction does not begin by December 31, 2028 or the project is abandoned prior to such date, **then TJPA shall compensate MTC for RM3 funds provided to TJPA under this allocation** ~~then TJPA shall repay MTC in the amount of the RM3 advances from any available sources of funds or quit claim to MTC the parcels acquired with RM3 funds~~, unless this agreement is amended to revise these milestone dates. **If one or more properties purchased with RM3 funds is not used for the Project, then TJPA shall likewise compensate MTC for RM3 funds provided to TJPA for those properties. In the event that any of these obligations are triggered, MTC and TJPA shall establish a mutually agreed upon method to compensate MTC for the RM3 funds, which may include but shall not be limited to repayment from TJPA to MTC of the funds or a quit claim deed on one or more of the properties.***

This repayment or quit claim obligation shall be satisfied no later than ninety (90) days after the triggering event. Any modifications to this agreement must be in writing and approved by the respective boards or their delegees. A restrictive covenant shall be recorded against the parcels purchased using RM3 funds restricting their uses to the project purposes. That covenant will be removed upon the earlier of the project's completion or satisfaction of the repayment or quit claim obligation as described in this paragraph.

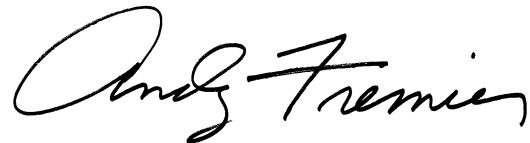
Following the revision to this resolution, MTC staff will work with TJPA staff to complete the agreement, at which point TJPA may begin invoicing for costs incurred against this allocation following its approval in November 2023. TJPA will also continue to pursue acquisition of the listed properties.

Recommendations:

Refer MTC Resolution No. 4612, Revised to the Commission for approval.

Attachments:

- MTC Resolution No. 4612, Revised
 - Attachments A – D



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