

**Metropolitan Transportation Commission
Programming and Allocations Committee**

October 9, 2024

Agenda Item 2d-24-1010

MTC Resolution No. 3914, Revised

Subject:

Allocation of \$3 million in Assembly Bill (AB) 1171 Bridge Toll capital funds to the Tri-Valley – San Joaquin Valley Regional Rail Authority (TVSJVRRA) for continuation of 30% design, federal environmental review documents, preparation of reports for Caltrans’ Project Approval and Environmental Document (PA&ED) phase, and support of various operations and technical reports/studies on the Valley Link project.

Background:

MTC Resolution No. 3434 commits \$95 million in AB 1171 Bridge Toll capital funds towards Tri-Valley Transit Access Improvements to/from BART. Prior to the establishment of TVSJVRRA, \$11.4 million of these funds were allocated and spent on early planning and environmental efforts in the corridor. In 2017, the TVSJVRRA was established by Assembly Bill 758 “for purposes of planning, developing, and delivering cost-effective and responsive transit connectivity, between BART’s rapid transit system and the Altamont Corridor Express commuter rail service in the Tri-Valley region.” Since 2018, the Commission has approved \$59.9 million in AB 1171 allocations from this category to TVSJVRRA, including:

- \$10.1 million allocated in September 2018 for state environmental documentation and preliminary engineering
- \$3 million allocated in March 2020 for updated 15% engineering plans, project partner cooperative agreements, and project management
- \$46.8 million allocated in June 2020 for a broad scope including 30% design, federal environmental review documents, preparation of reports for Caltrans’ Project Approval and Environmental Document (PA&ED) phase, and support of various operations and technical reports/studies

To date, MTC bridge tolls have accounted for over 80% of the funding for the Valley Link PA&ED phase, and MTC bridge tolls are expected to make up more than half of the funding for final design of the project as well. MTC’s continued investment of regional funds ensures this

key interregional project moves forward; however, substantial commitments from other funding partners will be required for future phases. This is expected to be partially addressed through the interagency funding agreement discussed below.

Valley Link Rail Allocation Request

The timeline for the scope of the \$46.8 million allocation has extended beyond the original schedule due to design changes and the need to re-evaluate the environmental impacts of the preferred alternative. TVSJVRRRA has identified a need for an additional \$3 million to support the Authority's staff and operational costs through completion of the phase. The PA&ED phase is now expected to be completed by June 2025.

The TVSJVRRRA Board of Directors approved this allocation request and the required updated Initial Project Report at their September 18th meeting.

Issues:

1. Interregional Funding Agreement: In 2019, the Commission adopted MTC Resolution No. 4399, the Interregional Project Funding and Coordination Policy, which went into effect in July 2020. This policy applies to projects receiving MTC discretionary funding that are wholly or partially outside of the MTC region. The policy requires the development of an Interagency Agreement between MTC, the applicable MPO (in this case, the San Joaquin Council of Governments), and other entities prior to the programming or allocation of funding, along with requiring compliance with MTC plans, programs, and policies and MTC participation in project development. The preferred alternative for the Valley Link Initial Operating Segment includes service between Mountain House and Dublin/Pleasanton, in addition to the Tracy Operations and Maintenance Facility in San Joaquin County, resulting in a project that will cross regional lines and be subject to the Interregional Project Funding and Coordination Policy. Development of an Interagency Agreement with the San Joaquin Council of Governments will likely take some time to execute. To expedite availability of these bridge toll funds, Staff recommend conditioning the allocation and disbursement of funds on TVSJVRRRA's participation in coordination on this agreement, which MTC will initiate by the end of 2024. The execution of an Interregional Funding Agreement is

likely to be recommended as a condition of any future bridge toll allocations to this project.

2. Transit Oriented Communities Policy Compliance: As a fixed-guideway transit extension project, Valley Link is subject to MTC's Transit Oriented Communities (TOC) policy (Resolution No. 4530, Revised), which applies to the half-mile area around existing and planned fixed-guideway transit stops and stations. Because the proposed allocation is for continuation of environmental and early design work, the station area jurisdictions – the Cities of Dublin, Pleasanton, and Livermore – are required to acknowledge in writing that Valley Link is expected to trigger the TOC policy and that future allocations of funding by MTC will be subject to compliance with the policy. The three cities fulfilled this requirement by submitting a joint acknowledgement letter to MTC on September 19, 2024. The acknowledgement letter is included as Attachment A to this item.
3. Litigation on Project: Similar to previous AB 1171 allocations, this allocation is recommended conditioned on TVSJVRRRA's compliance with the provisions of MTC Resolution No. 3636, Revised, the Regional Measure 2 Policies and Procedures. One such aspect of the Regional Measure 2 Policies and Procedures is the adoption of a board resolution and/or finding of legal counsel that there is no legal impediment to the project sponsor making application for the funds, and that there is no pending or threatened litigation that might in any way adversely affect the proposed projects, or the ability of the project sponsor to carry out such projects.

In *Alameda County Taxpayers' Association, Inc., et al. v. Tri-Valley—San Joaquin Valley Regional Rail Authority, et al.* (Alameda Superior Court Case No. RG2110126), the Plaintiffs contend that TVSJVRRRA has been unlawfully pursuing development of a rail project running between Alameda and San Joaquin Counties, and that MTC has unlawfully allocated bridge toll funds for the project. MTC and co-defendant TVSJVRRRA, et al. deny the Plaintiffs' claims. As to Plaintiffs' claims against TVSJVRRRA, they are set for a writ hearing/court trial on February 11, 2025. No writ hearing or trial date has been set as to Plaintiffs' claims against MTC.

In its board resolution and opinion of counsel, TVSJVRRRA acknowledges this pending litigation. As co-defendant denying Plaintiffs' claims, MTC accepts TVJSVRRRA's

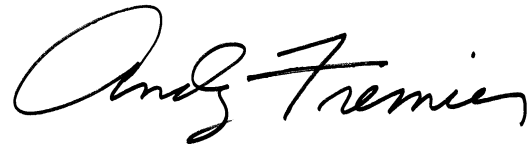
materials as satisfactory relative to this allocation condition.

Recommendations:

Refer MTC Resolution No. 3914, Revised, to the Commission for approval.

Attachments:

- Attachment A: Cities of Dublin, Livermore, and Pleasanton Joint Transit Oriented Communities Policy Acknowledgement Letter
- MTC Resolution No. 3914, Revised
 - Attachment B



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