

# Metropolitan Transportation Commission

November 15, 2023

Agenda Item 11a

## Update to MTC Resolution Nos. 4609, 4612, 4613 and 4614. Allocation of \$154.1 million in Regional Measure 3 (RM3) Capital Funds Update

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### **Subject:**

Update on the recommended allocation of RM3 capital funds to Transbay Joint Powers Authority (The Portal Project).

### **Background:**

At the November 8<sup>th</sup> Programming and Allocations Committee, staff presented its recommendation for the approval of recommended RM3 allocations to three projects, including to the Transbay Joint Powers Authority (TJPA) for “The Portal” Project. Staff had noted that reimbursement of expenses incurred under this allocation would be contingent on: Agreement between MTC and TJPA on the mechanism to ensure the return of RM3 funds used to purchase property for the Project in the event that the Project does not proceed to construction and/or the property in question is not used for the Project.

Staff also noted that further update and/or clarification of this condition would be provided ahead of the Commission’s approval of the recommendation.

To preserve the RM3 investment in the event the property in question is not used for the project, staff further propose that reimbursement of funding for the proposed project is subject to an executed agreement between TJPA and the Commission that includes the following:

"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 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. 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.”

**Next Steps:**

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

**Issues:**

None identified.

**Recommendations:**

Approve MTC Resolution Nos. 4606, 4612, 4613 and 4614.

**Attachments:**

- MTC Resolution No. 4612 Attachment B