

Meeting Date: June 2, 2023

To: Public Works Commission

Through: Carla Short, Interim Public Works Director

From: Albert Ko, Public Works Deputy Director and City Engineer

Subject: Informational presentation and request to approve Interagency

Cooperation Agreement with Transbay Joint Power Authority regarding Public Works Staff's work program and reimbursement of department's

cost related to Phase 2 of the Downtown Rail Extension

Director's Recommendation: The San Francisco Public Works (SFPW) and Transbay Joint Powers Authority (TJPA) desire to memorialize an Interagency Cooperation Agreement (ICA or Agreement) between the two parties to advance the Downtown Rail Extension Phase 2 project.

Recommend consent to the following:

- 1) Delegate authority to Director of Public Works to consent to the final agreement, to be in substantially the same form as that included in the packet, after it is approved by the Board of Supervisors.
- 2) Delegate authority to Director of Public Works or their designee to ministerially approve the Annual Scope and Budget (ASB) each fiscal year during the term of the ICA (reference Section 8 of the ICA).
- 3) Authorize SFPW to act as the lead representative for The City and County of San Francisco (The City) to implement the agreement (reference Section 6(a) of the ICA).
- 4) Accept the TJPA Mitigation Monitoring and Reporting Program (MMRP)

Executive Summary: The purpose of the memorandum is to provide the San Francisco Public Works Commission and the public with information regarding a major regional transportation project in The City known as the Transbay Program, which is led by the Transbay Joint Powers Authority (TJPA). The TJPA is a joint exercise of powers authority created by The City and County of San Francisco, the Alameda-Contra Costa Transit District, the Peninsula Corridor Joint Powers Board, the California High Speed Rail Authority, and Caltrans (ex officio). The TJPA is managed by TJPA staff and is overseen by an eight-member Board of Directors. The Department of Public Works is one of several City departments that have been asked to participate in the project.

As the TJPA prepares to embark on Phase 2 of the project, which will build off the work done during Phase 1 of the project, in which the SFPW also participated, The TJPA is requesting that the San Francisco Public Works Commission, along with all other participating City departments, consent to an interagency cooperation agreement (**ICA**) in advance of performing any work associated with the project. The ICA is a cooperation and reimbursement agreement between the participating City departments and the TJPA which will be administered by the SFPW. As outlined in the ICA, subsequent department actions and/or approvals will be required

as the TJPA carries out the Project. For the SFPW, the anticipated future agreement(s) may involve the acceptance of project improvements in the public right-of-way.

The general form of the consent to the ICA as well as the form of the Annual Scope and Budget are provided as exhibits to this report for reference. The proposed resolution consenting to the recommendation is attached.

BACKGROUND

The Transbay Joint Powers Authority (TJPA) is delivering the Transbay Program, a visionary transportation and housing project that has transformed downtown San Francisco and the San Francisco Bay Area's regional transportation system by creating a world class transportation hub in the heart of a new neighborhood. TJPA has completed Phase 1 of the Transbay Program, construction of the Salesforce Transit Center. The City and County of San Francisco (The City) consulted and cooperated with TJPA in aspects of the planning, design, construction, and financing of Phase 1, including through many intergovernmental agreements and memoranda of understanding between various City agencies and TJPA.

TJPA is actively engaged in delivery of Phase 2 of the Transbay Program, the Downtown Rail Extension (the Project). The Project will connect Caltrain's regional rail system and the California High-Speed Rail Authority's statewide system to the Salesforce Transit Center in downtown San Francisco. The rail alignment will be constructed principally below grade to provide a critical link for Peninsula commuters and travelers on the state's future high-speed rail system.

Under California Public Resources Code section 5027.1, TJPA has primary jurisdiction with respect to all matters concerning the financing, design, development, construction, and operation of the Transbay Program. Nonetheless, the design, construction, and operation of the Project will affect property, improvements, programs, and services of The City and, thus, TJPA requires certain permissions and approvals from The City as the entity that owns and/or has the right to control such items. Moreover, as in Phase 1, TJPA would benefit from the consultation, cooperation, expertise, and experience of The City in certain matters related to the planning, design, and construction of the Project.

The Project will bring direct and indirect benefits to City residents by providing improved regional and statewide rail connections to downtown San Francisco. Easier and more efficient transit options for commuters, tourists, and business travelers will support downtown San Francisco businesses and contribute to the economic revitalization of San Francisco at large and the neighborhoods surrounding the Project in particular. Connecting San Francisco to high-speed rail, which is expected to reduce reliance on intrastate air travel, will contribute to the decarbonization of California's economy.

The Project will be advanced over the course of several years, and TJPA and The City expect the scope of services and work provided pursuant to an Interagency Cooperation Agreement (ICA or Agreement) to change and adjust over time. TJPA and The City intend for the Agreement to provide a flexible mechanism that will accommodate the evolving services and work that will be undertaken by The City for the Project as the Project advances.

DESCRIPTION OF AGREEMENT

The ICA provides for The City's consultation and cooperation with TJPA to facilitate the planning, design, and construction of the Project. The City and the TJPA commit to act cooperatively and in good faith to fulfill their respective roles in the ICA, and to expeditiously advance and implement the Project. The concept of the ICA is to include all involved City departments in one document that will govern The City's process and work on Project matters. Instead of a series of individual agreements with each City agency for Phase 2 of the Transbay Program, the ICA is designed to provide a flexible mechanism that will accommodate the evolving "City Tasks" each department will undertake for the Project as the Project advances and is structured to:

- (1) provide a consistent set of general terms to govern The City Tasks, which terms are set forth in the body of the Agreement;
- (2) provide a mechanism for annual budgeting and agreement on scope of The City Tasks undertaken by City Agencies each year;
- (3) provide a mechanism for reimbursement of Eligible Costs in connection with The City Tasks; and
- (4) provide clarity and flexibility regarding the approval process for amendments to the Agreement, and amendments to and/or replacements of the Annual Scopes and Budgets.

Each City department will enter into its own "Annual Scope and Budget, or ASB" (similar to a Work Order) each fiscal year that will be an appendix to the ICA and will detail:

- (1) the anticipated scope of City Tasks the department will undertake that fiscal year,
- (2) a budget for those City Tasks, and
- (3) any other terms that are unique to that department, The City Tasks to be undertaken, or that will supersede the terms of the ICA body.

It's expected that the SFPW will be among the agencies that will sign the ICA, and the Board of Supervisors will be required to approve the ICA under Charter Section 9.118.

The primary components of the Agreement are summarized as:

- (1) <u>City Property and City Improvements</u>. Installation and construction of the Project improvements will require removal or relocation (temporarily or permanently), protection in place, or restoration of certain Impacted City Improvements in City right-of-way. The Agreement addresses the Project's anticipated temporary occupancy of City right-of-way and City Property depicted in Project map (Attachment 2 Exhibit 1, attached to this staff report); the anticipated documentation and necessary actions and approvals for The City's anticipated street vacation and conveyance of subsurface easements to TJPA (Attachment 2 Appendix A, attached to this staff report); the identification of Impacted City Improvements; and the planning, design, relocation and construction of Modified City Improvements.
- (2) <u>City Consultation and Cooperation</u>. City Tasks will include The City's consultation and cooperation as part of TJPA's Project planning, design, and construction, for the TJPA Improvements and the overall Project, as will be

- described in detail in the Annual Scopes and Budgets (Attachment 3 Appendix B-9, attached to this staff report).
- (3) <u>Costs and Reimbursements</u>. TJPA will reimburse each City department's Eligible Costs in connection with the Agreement, as described in Section 8 of the Agreement.

The term of the Agreement will be ten years unless earlier terminated or the Parties agree to extend the term, subject to approval by the Board of Supervisors.

ENVIRONMENTAL REVIEW

Under the National Environmental Policy Act ("NEPA") and the California Environmental Quality Act ("CEQA"), a final Environmental Impact Statement/Environmental Impact Report for the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project ("EIS/EIR") was prepared and certified in 2004. The FTA issued a Record of Decision ("ROD") under NEPA for the Project in 2005. After the issuance of the 2005 ROD, TJPA identified modifications to the Transbay Program; from 2006 to 2011, TJPA prepared six addenda under CEQA. In 2010, the Federal Railroad Administration ("FRA") conducted an environmental reevaluation in accordance with NEPA to assess the train box design to accommodate potential high speed rail service. The reevaluation analyzed construction of the Transit Center train box as defined by the Transbay Program. The FRA issued a ROD in 2010. In 2018, FTA, in cooperation with FRA and TJPA, issued a final Supplemental EIS/EIR ("SEIS/EIR"), examining changes to Phase 2 of the Transbay Program. In 2019, FTA issued an amended ROD. In 2023, TJPA adopted an addendum to the SEIS/EIR.

City Tasks will include complying with components of the TJPA Mitigation Monitoring and Reporting Program (MMRP) (Attachment 2 - Appendix B-9, attached to this staff report) While the Mitigation Monitoring Program generally outlines the actions, responsibilities, and schedule for mitigation monitoring, it does not attempt to specify the detailed procedures to be used to verify implementation (e.g., interactions between the Project Sponsor – the Transbay Joint Powers Authority, the San Francisco Redevelopment Agency and City departments, use of private consultants, signed-off on plans, site inspections, etc.). Specific monitoring procedures are either contained in approval documents or will be developed at a later date, closer to the time the mitigation measures will actually be implemented.

The majority of the measures will be monitored primarily by the Transbay Joint Powers Authority (TJPA), in consultation with other City and non-City agencies, as part of the site permit, building permit processes or other report.

NEXT STEPS

SFPW staff is bringing forward a resolution authorizing the Director of Public Works, or their designee, to execute the Public Works' consent to the ICA, which will include a scope of work and associated budget that is specific to Public Works as an appendix to the ICA. SFPW will be reimbursed by the TJPA for its actual staff time and expenses related to its work on the Project. The general form of the consent to the ICA as well as the form of the Annual Scope and Budget are attached to this report for reference. The SFPW annual ASB will replaced each fiscal year and will be approved by Director of Public Works, or their designee, as needed.

Once approved by all the Boards and Commissions at the various City departments involved in the Project, the ICA will be referred to the Board of Supervisors for approval via a single resolution, which is expected to occur in early June 2023.

Attachments:

- Attachment 1: Consent to Interagency Cooperation Agreement
- Attachment 2: Final draft of Interagency Agreement (ICA)
 - Appendix A Real Estate
 - o Appendix C TJPA MMRP
 - Exhibit 1 Project Map
- Attachment 3: ICA Appendix B-9 Annual Scope & Budget (ABS)



Attachment 1

See separate file: Attachment 1-ICA Form to Consent - TJPA-SFPW(4-18-23).docx



Attachment 2: Final draft of Interagency Agreement (ICA)

See separate file: Attachment 2-CITY-TJPA ICA (City 4-18-23).docx



Attachment 3: ICA Appendix B-9 – Annual Scope & Budget (ABS)

See separate file: Attachment 3-TJPA-SFPW ASB (4-18-23).docx

PUBLIC WORKS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

WHEREAS, With regard to the Department of Public Works, Charter Section 4.141 empowers the Public Works Commission to exercise all the powers and duties of boards and commissions, except for the authority conferred onto the Sanitation and Streets Commission in Charter Section 4.139, and may take other actions as prescribed by ordinance; and,"

WHEREAS, The Transbay Joint Powers Authority (TJPA) is delivering the Transbay Program, a visionary transportation and housing project that has transformed downtown San Francisco and the San Francisco Bay Area's regional transportation system by creating a world class transportation hub in the heart of a new neighborhood; and,

WHEREAS, TJPA has completed Phase 1 of the Transbay Program, construction of the Salesforce Transit Center. The City consulted and cooperated with TJPA in aspects of the planning, design, construction, and financing of Phase 1, including through many intergovernmental agreements and memoranda of understanding between various City agencies and TJPA; and,

WHEREAS, TJPA is actively engaged in delivery of Phase 2 of the Transbay Program, the Downtown Rail Extension (the Project). The Project will connect Caltrain's regional rail system and the California High-Speed Rail Authority's statewide system to the Salesforce Transit Center in downtown San Francisco. The rail alignment will be constructed principally below grade to provide a critical link for Peninsula commuters and travelers on the state's future high-speed rail system; and,

WHEREAS, Under California Public Resources Code section 5027.1, TJPA has primary jurisdiction with respect to all matters concerning the financing, design, development, construction, and operation of the Transbay Program; and

WHEREAS, As in Phase 1, TJPA would benefit from the consultation, cooperation, expertise, and experience of the San Francisco Public Works in certain matters related to the planning, design, and construction of the Project; and

WHEREAS, The Project will bring direct and indirect benefits to City residents and the Public Trust by providing improved regional and statewide rail connections to downtown San Francisco though easier and more efficient transit options for commuters, tourists, and business travelers will support downtown San Francisco businesses and contribute to the economic revitalization of San Francisco at large and the neighborhoods surrounding the Project in particular; and

WHEREAS, The Project will be advanced over the course of several years, and TJPA and the City expect the scope of services and work provided pursuant to the Agreement to change and adjust over time; and

WHEREAS, The City and TJPA desire to memorialize the interagency cooperation between the parties in an Interagency Cooperation Agreement (ICA or Agreement). The ICA provides for City's consultation and cooperation with TJPA to facilitate the planning, design, and construction of the Project; and

WHEREAS, TJPA and the City intend for the ICA to provide a flexible mechanism that will accommodate the evolving services and work that will be undertaken by the City for the Project as the Project advances; and

WHEREAS, The City and the TJPA commit to act cooperatively and in good faith to fulfill their respective roles in the ICA and to expeditiously advance and implement the Project; and

WHEREAS, The San Francisco Public Works will serve as the liaison for distributing design and improvement plans, coordinating the City's responses to such plans, assisting departments and TJPA with dispute resolution and schedule adherence; and

WHEREAS, On April 22, 2004, by Motion No. 16773, the Planning Commission certified the final Environmental Impact Statement/Environmental Impact Report for the Transbay Program (2004 EIS/EIR) (Planning Department Case No. 2000.048E) in accordance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Cal. Code of Regulations Title 14, sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code; and

WHEREAS, On June 15, 2004, by Motion No. 04-67, the Board of Supervisors affirmed the Planning Commission's certification of the 2004 EIS/EIR; and on September 28, 2004, by Resolution No. 612-04, adopted findings that various actions related to the Transbay Program complied with CEQA; and in 2005 and 2006, by Ordinance Nos. 124-05 and 99-06, adopted additional CEQA findings related to the Transbay Program; and

WHEREAS, Subsequent to the adoption of the Final EIS/EIR, the San Francisco Redevelopment Agency, the Successor Agency to the San Francisco Redevelopment Agency, and the TJPA have approved ten addenda to the 2004 EIS/EIR, and made requisite findings under CEQA; and

WHEREAS, In 2018, the Federal Transit Administration and TJPA prepared a joint Supplemental EIS/EIR to evaluate certain proposed changes to the Transbay Program (2018 SEIS/EIR); and on December 13, 2018, the TJPA certified the 2018 SEIS/EIR, approved certain revisions to the Transbay Program, adopted the additional mitigation measures identified therein, and adopted CEQA findings (2018 Transbay Program CEQA findings), attached to this resolution as Attachment C; and

WHEREAS, On January 12, 2023, the TJPA approved certain revisions to the DTX component of the Transbay Program (DTX Revisions), adopted an Addendum to the 2018 SEIS/EIR, which contains an analysis of the environmental effects that may result from the DTX Revisions, adopted a Revised Mitigation Monitoring and Reporting Program, attached to the ICA as Attachment C, and determined that the DTX Revisions do not require major revisions to the 2018 SEIS/EIR due to new or substantially more severe environmental effects and do not require further environmental review; and

WHEREAS, On June 2, 2023, San Francisco Department of Public Works staff presented an information item to the Public Works Commission, which discussed the proposed terms of the ICA; and

WHEREAS, The San Francisco Department of Public Works staff recommends Public Works consent to the proposed ICA; now, therefore, be it"

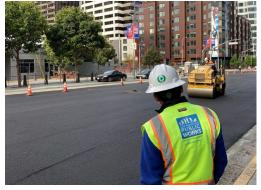
RESOLVED, That the Public Works Commission hereby consents to San Francisco Public Works as the lead representative of the City for implementing the Interagency Cooperation Agreement as described in Section 6(a) of the ICA); and, be it"

FURTHER RESOLVED, That the Public Works Commission authorizes the Director of Public Works or their designee, to consent to the final ICA, to be in substantially the same form as that included in the packet, after it is approved by the Board of Supervisors; and, be it

FURTHER RESOLVED, That the Public Works Commission authorizes the Director of Public Works or their designee, to approve the Annual Scope and Budget each fiscal year during the term of the ICA as provided for in reference Section 8 of the ICA.

, ,,	he foregoing resolution was	adopted by the Public Works Commission at its
meeting of	· · · · · · · · · · · · · · · · · · ·	
		Commission Affairs Manager
		Public Works Commission













June 2, 2023

Transbay Joint Powers Authority and City of San Francisco Interagency Cooperation Agreement – Downtown Rail Extension Phase 2

Albert Ko

Deputy Director of Public Works and City Engineer











TJPA Phase 2 – Downtown Rail Extension

Recommend Commission:

- Delegate authority to the Director of Public Works to consent to the final Interagency Cooperation Agreement (ICA) on behalf of the City of San Francisco to be in substantially the same form as that included in the packet, after it is approved by the Board of Supervisors.
- Delegate authority to the Director of Public Works to approve the Annual Scope and Budget (ASB) under Appendix B-9 each fiscal year during the term of the ICA.
- Authorize Public Works to act as the lead representative for the City to implement the ICA.
- Accept the TJPA Mitigation Monitoring and Reporting Program (MMRP).
- Authorize San Francisco Public Works to implement the ICA to advance the Downtown Rail Extension Phase 2 project.

Amount (FY 23-24): **\$150,000**

Amounts in Subsequent FYs: **TBD**

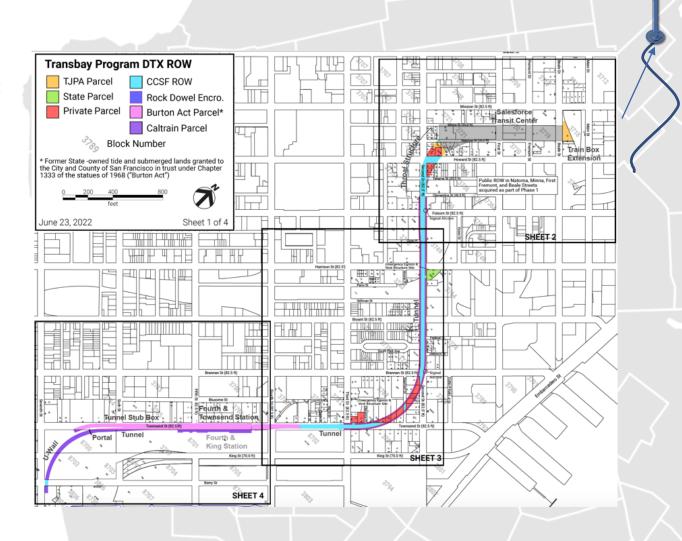
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TJPA Phase 2 – Downtown Rail Extension

District 6

From Salesforce Transit Center:

- west to Second Street
- south to Townsend Street
- west to Seventh Street
- end at Seventh/Berry Streets



Transbay Program DTX/The Portal

May 2023





Transbay Joint Powers Authority

- In 1999, San Francisco voters approved a ballot measure to extend the northern terminus of Caltrain from south of downtown to a new transit station at the site of what was the existing Transbay Terminal
- TJPA was created under state law in April 2001
- The agency is charged with design, construction and operation of a new transit center and associated facilities; ultimately to deliver the Transbay Program
- Joint Powers Authority Member Agencies
 - City & County of San Francisco
 - Alameda-Contra Costa Transit District
 - California High Speed Rail Authority
 - Peninsula Corridor Joint Powers Board
 - City & County of San Francisco
 - San Mateo County Transit/Caltrain
 - Santa Clara Valley Transportation Authority









Transbay Program

- Replace former Transbay Terminal with a multimodal Transit Center
- Create a transit-oriented neighborhood featuring housing (35% affordable housing), open space, offices and shops
- Extend Caltrain and California High Speed Rail service into downtown San Francisco through the Downtown Rail Extension project, also known as The Portal



Phase 1 - \$2.25B Transit Center Complete



Multimodal, six-story facility in downtown San Francisco is operational and providing transit, retail and wellness services. Two-story train box already completed with \$400M in American Reinvestment & Recovery Act funding, found below grade, awaiting rail connections.



Regional Transportation Hub

The Salesforce Transit Center currently connects nine regional and local transit systems, providing job, housing and regional access from the East Bay to the Peninsula and South Bay

Phase 2 – The Portal – will connect Caltrain's 77-mile system to downtown San Francisco and the state's planned high-speed rail corridor





Phase 2: The Portal – Key Regional Connector



- Connects rail service to the Transbay district's 4,000 new housing units, 35% of them designated as affordable
- Creates an essential mega-region link between several federal investments (train box, Caltrain electrification, high speed rail), using universal track into downtown as envisioned under Link21
- Improves sustainability and environmental quality
- Using federal funds and grants. Major funding came from the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and the New Starts initiative

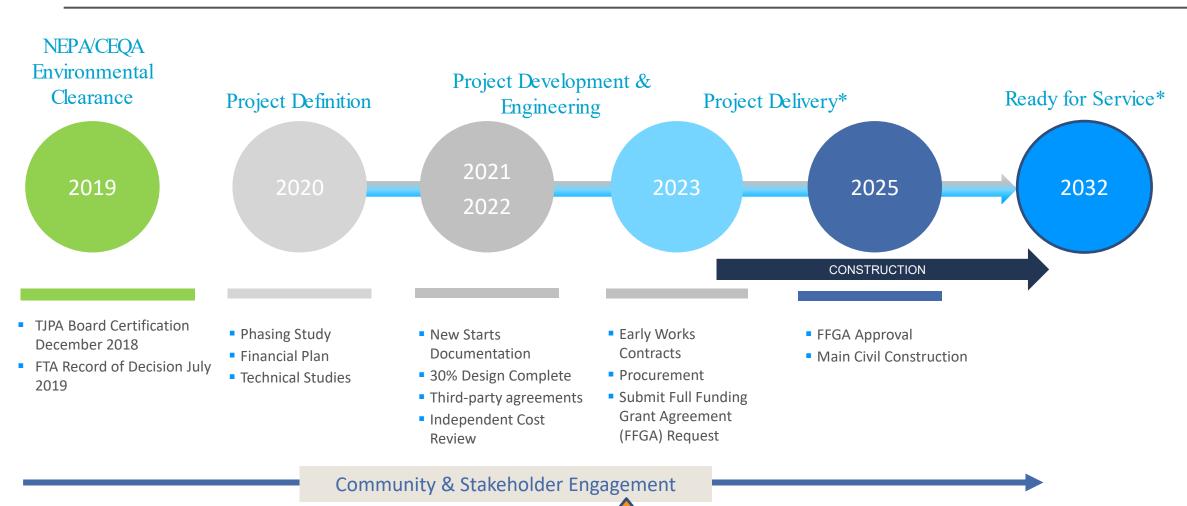


The Portal Benefits



- Enhanced access for 90,000 riders per day with oneseat ride between downtown San Francisco, San Jose and Los Angeles
 - In area of the City with highest expected population growth over the next 30 years and within ½ mile of 10 Historically Disadvantaged Communities and/or Areas of Persistent Poverty
- Promotes seamless transfers between 11 transit providers – BART, Muni and buses serving eight Bay Area counties – in the Transit Center
- Improves air quality and reduces the number of vehicle miles traveled on US 101 by 355 million per year
- Builds two new rail stations Salesforce Transit Center and 4th/Townsend Caltrain station – in areas targeted for investment, new affordable homes and job growth
- Creates an estimated 21,000 jobs regionally, 41,000 nationwide

Project Schedule





Video – Transbay Phase 2 - DTX





Transbay Phase 2 DTX « Transbay Program (tjpa.org)

Downtown Rail Extension Interagency Coordination Agreement



1. The agreement will outline TJPA-City cooperation and City services during Phase 2 of the DTX project. All affected City departments will sign on to the single agreement. Department scopes of work and budgets will be revisited and updated annually.

2. Structure:

- 1. Main Body of Agreement process and coordination, performance measures, contract terms
- 2. Appendix A City right-of-way street coordination
- 3. Appendix B-9 Public Works technical scopes of work and budget guidelines

ICA-TJPA-DTX P2 | Albert Ko

TJPA Phase 2 – Downtown Rail Extension – Appendix B-9

Public Works Annual Scope & Budget (ABS) highlights for FY23-24

Scope

- Implementation of the ICA (including serving as the liaison for distributing design & improvement plans, coordinating the City's responses and assisting departments and TJPA with dispute resolution & schedule adherence).
- Attend monthly Technical Advisory Committee meetings convened by the TJPA Downtown Rail Extension (DTX) team.
- Support utility design team in the study, design analysis and review:
 - Auxiliary Water Supply System relocation
 - Sixth Street sewer relocation.

Budget

- Expenses to be reimbursed quarterly.
- Agreement amount not to exceed \$150,000 for FY23-24.

TJPA Phase 2 – Downtown Rail Extension

Recommend Commission:

- Delegate authority to the Director of Public Works to consent to the final Interagency Cooperation Agreement (ICA) on behalf of the City of San Francisco to be in substantially the same form as that included in the packet, after it is approved by the Board of Supervisors.
- Delegate authority to the Director of Public Works to approve the Annual Scope and Budget (ASB) under Appendix B-9 each fiscal year during the term of the ICA.
- Authorize Public Works to act as the lead representative for the City to implement the ICA.
- Accept the TJPA Mitigation Monitoring and Reporting Program (MMRP).
- Authorize the San Francisco Public Works to implement the ICA to advance the Downtown Rail Extension Phase 2 project.

Amount (FY 23-24): **\$150,000**

Amounts in Subsequent FYs: TBD



QUESTIONS

Attachment 1

CONSENT TO INTERAGENCY COOPERATION AGREEMENT SAN FRANCISCO DEPARTMENT OF PUBLIC WORKS

The San Francisco Department of Public Works ("Public Works") has reviewed the Interagency Cooperation Agreement to which this Consent to Interagency Cooperation Agreement (this "Agency Consent") is attached. Except as otherwise defined in this Agency Consent, initially capitalized terms have the meanings given in the Interagency Cooperation Agreement to which this Agency Consent is attached (as amended from time to time in accordance therewith, the "Interagency Cooperation Agreement").

By executing this Agency Consent, the undersigned confirms that the Department, after considering at a duly noticed public hearing the Interagency Cooperation Agreement consented to:

- 1. The Interagency Cooperation Agreement as it relates to matters under Public Works jurisdiction.
- 2. Subject to TJPA satisfying the Department's requirements for construction, operation and maintenance as provided in the Interagency Cooperation Agreement and the plans and specifications approved by the Department in accordance with the terms of the Interagency Cooperation Agreement, the Department's accepting and then, subject to appropriation, operating and maintaining Department-related Modified City Improvements in accordance with the Interagency Cooperation Agreement and subject to any required acceptance of City's Board of Supervisors
- 3. Authorizing the Director of Public Works, or their designee, under the Interagency Cooperation Agreement, to execute an Agency Scope & Budget for each Fiscal Year in accordance with the terms of the Interagency Cooperation Agreement.
- 4. Consent to Public Works as The City's lead representative for the ICA, as described in the Agreement.
- 5. Adopt CEQA findings and accept MMRP.

CITY AND COUNTY OF SAN FRANCISCO, a
municipal corporation, acting by and through the
San Francisco Department of Public Works