



JPB Advocacy and Major Projects (AMP) Committee
Meeting of October 30, 2024

Correspondence as of October 30, 2024

Subject

1. October 30 AMP Committee Item 7 Draft Diridon Cooperative Agreement

From: [Roland Lebrun](#)
To: [Public Comment](#)
Cc: [Board \(@caltrain.com\)](#); [Michelle Bouchard](#); [Harrison, James \[JHarrison@olsonremcho.com\]](#); [Lee Wilcox](#); [Jessica Zenk](#); [Andrew Fremier](#); [abockelman@bayareametro.gov](#); [legal@hsr.ca.gov](#); [northern.california@hsr.ca.gov](#)
Subject: October 30 AMP Committee Item 7 Draft Diridon Cooperative Agreement
Date: Wednesday, October 30, 2024 2:02:11 AM
Attachments: [Item 7 Diridon Cooperative Agreement.pdf](#)
[MTC Resolution No. 4608 Revised.pdf](#)
[Diridon RM3 Funding Agreement - Santa Clara Valley Transportation Authority.pdf](#)

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Dear Chair Heminger,

Please find attached my comments on the [Draft Diridon Cooperative Agreement](#) summarized as follows:

- There is a \$1,463,825 funding gap in the \$7.8M budget for the pre-environmental phase caused by VTA's misappropriation of \$500M from the city of San Jose and \$1M in RM3 funds allocated by MTC through [Resolution No. 4608 Revised 7/24/24-C](#) (attached for your convenience).
- The size of the steering committee should be reduced from 8 to 7 (or 5) members to avoid split votes.
- MTC should replace VTA on the chair/vice chair roster.
- The Steering Committee should meet monthly
- The Steering committee should be administered by SamTrans, the agency responsible for Caltrain administration.
- The MTC principal should be responsible for regional legislative advocacy, long-term governance and funding strategies, the legislative advocacy plan, as well as project and regional network coordination.
- The VTA Principal should be responsible for the relocation of the existing bus and light rail facilities into an integrated station designed collaboratively by the partners to provide safe and seamless intermodal transfers to and from the surrounding rail infrastructure.

Respectfully presented for your consideration.

Roland Lebrun

Dear Chair Heminger and Committee Members,

Thank you for the opportunity to comment on the Draft Diridon Cooperative Agreement as follows:

4. Budget and Funding

4.b “The budget for the Pre-Environmental Phase shall not exceed \$7.8 million.
- San José shall contribute Five Hundred Thousand dollars (\$500,000).
- VTA shall contribute One Million dollars (\$1,000,000) of Measure B funds.
- MTC shall contribute Six Million Three Hundred Thousand dollars (\$6,300,000) of RM3 funds.”

The above matches MTC Resolution No. 4608 Revised 7/24/24-C (attached for your convenience) which rescinded \$6,181,474 misappropriated by VTA for the [scandalous acquisition of 32-60 Stockton](#) which resulted in the [resignation of VTA’s Director of real estate in December 2023](#).

Unfortunately, VTA’s raiding of the \$100M in Diridon RM3 funds continues unabated. Specifically, the FY25 Capital Budget Amendment approved at the September 23 Finance Committee meeting shows that **\$1M of MTC’s \$6.3M allocation disappeared** (leaving \$5.3M) **and the \$500,000 from the City of San Jose disappeared entirely leaving a \$1,463,825** (\$7,800,000 - \$6,336,175) **funding gap in the \$7.8M pre-environmental phase budget**

FY2025 Capital Budget Amendment

Project	Funding Source	Amount
Middle Avenue Undercrossing	City of Menlo Park	\$2,000,000
Diridon Business Case	Regional Measure 3 VTA Measure B	\$5,300,000 \$1,036,175
Stadler Repair of Damaged EMU Cars	Insurance Proceeds	\$5,335,224
San Francisco Railyards Preliminary Business Case	Prologis	\$250,000
Total		\$13,921,399

Adopted FY2025 Capital Budget : \$132,702,653

Amended FY2025 Capital Budget : \$146,624,052



This misappropriation is confirmed in the [Diridon RM3 Funding Agreement presented at the September 19 VTA Administration and Finance meeting](#) (attached for your convenience) which states:

*“In July 2024, MTC approved the allocation of \$6.3 million for the Diridon project. The \$5.3 million that is part of this funding agreement will be paid for using this RM3 allocation. **The remaining \$1 million in RM3 allocation will be used by VTA to fund other Diridon related activities.**”*

Once again, **the City of San Jose’s \$500K is missing in its entirety.**

5. Steering Committee

5.c “The Steering Committee shall have eight appointed members: two appointed by Caltrain; two appointed by San José; two appointed by VTA; one appointed by MTC; and one appointed by CHSRA.”

It is unclear how the Steering Committee would handle a split vote, so an obvious solution would be to reduce the number of members to seven, specifically: two appointed by Caltrain; two appointed by San José; **one appointed by VTA**; one appointed by MTC; and one appointed by CHSRA. **Another solution could be to reduce the number of appointees to 5** (one appointee per member agency).

5.d “The Steering Committee shall have a Chair and Vice Chair. These positions shall rotate every calendar year between Caltrain, San José, and VTA. The Chair and Vice Chair shall not be held by members from the same Party, unless there is unanimous agreement between Caltrain, San José, and VTA. Caltrain, San José, and VTA shall not be left out of the rotation of these offices, unless the Party chooses otherwise.”

There is compelling evidence that the 15+-year Diridon JPAB fiasco was entirely of VTA’s own making so it is unclear how a VTA chair and/or vice chair could possibly not be detrimental to the Steering Committee. Conversely, MTC have an outstanding track record of establishing and leading the Caltrain Downtown Extension (DTX) Executive Steering Committee and should be given the opportunity to share their expertise at the leadership level.

It is therefore recommended that the AMP Committee consider amending section 5.d as follows:

*“The Steering Committee shall have a Chair and Vice Chair. These positions shall rotate every calendar year between Caltrain, San José, and **MTC**. The Chair and Vice Chair shall not be held by members from the same Party, unless there is unanimous agreement between Caltrain, San José, and **MTC**. Caltrain, San José, and **MTC** shall not be left out of the rotation of these offices, unless the Party chooses otherwise.”*

5.f The Steering Committee shall be public and meet **monthly** (just like the DTX ESC), not quarterly which was the root cause behind the ineffectiveness the Diridon JPAB.

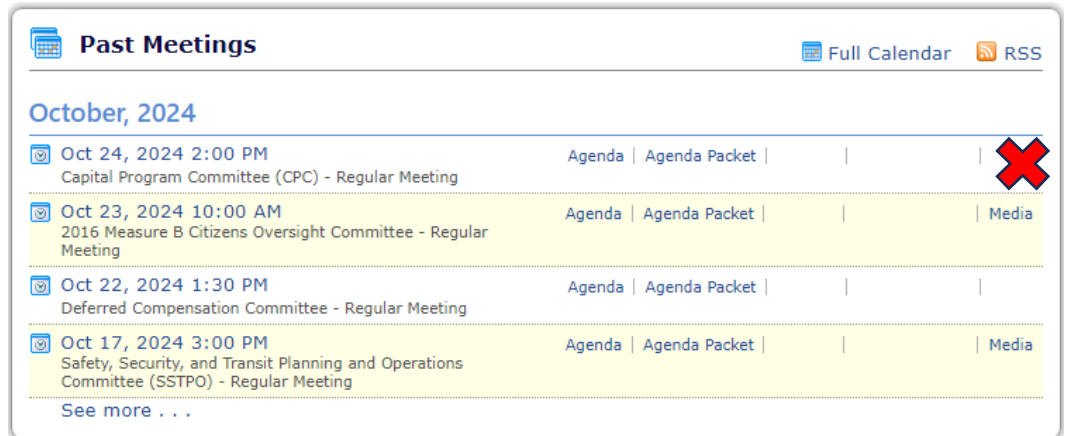
5.g The Steering Committee shall be administered by **SamTrans** (NOT VTA) staff.

Rationale:

- Caltrain is the lead agency for the project (see Section 6 below)
- SamTrans serves as Caltrain’s managing agency
- **SamTrans is the agency responsible for the administration of the JPB-TJPA Joint Ad Hoc Committee Meeting**
- VTA staff have been instructed to intercept comments from members of the public on multiple occasions, including at least one unsolicited proposal from an engineering firm (copies of internal VTA emails available on request).
- VTA have a poor track record of posting meeting video recordings in a timely fashion while SamTrans staff post recordings by close of business on the day of the meeting

Examples:

- o The May 15 Diridon JPAB video was not posted until 5 weeks after the meeting.
- o VTA had not posted the link to the October 24 Capital Program Committee meeting by close of business on October 29 (see screenshot below)



- o **VTA occasionally direct staff to omit posting meeting video recordings on a permanent basis**

7. Principals

Given VTA’s extensive track record of misappropriations of RM3 funds (Section 4 Budget and Funding above), [TWO scathing audits by the California State Auditor for dysfunctional governance](#), a multi-decades-long refusal to integrate the “Diridon BART station” with the “Diridon Caltrain station” and the abysmal “DISC concept” scattering of transit facilities on both sides of West Santa Clara, it is unclear why

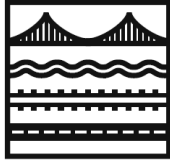
“The Principal for VTA, as the transportation authority of Santa Clara County, shall lead the long-term governance and funding strategies, the legislative advocacy plan, and project coordination in the station area.”

It is therefore recommended that

- 1) The role of the Principal for MTC, as the regional metropolitan planning organization, be enhanced from *“shall lead regional legislative advocacy, funding, and network coordination”* to *“shall lead regional legislative advocacy, the long-term governance and funding strategies, the legislative advocacy plan, as well as project and regional network coordination in the station area.”*
- 2) The role of the Principal for VTA, as the transportation authority of Santa Clara County, be refocused to ***“shall lead the relocation of the existing bus and light rail facilities into an integrated station designed collaboratively by the partners to provide safe and seamless intermodal transfers to and from the surrounding rail infrastructure.”***
- 3) Upon approval of Caltrain as the lead agency by the partners, MTC should identify Caltrain as the RM3 project sponsor and rescind any VTA [“responsibility for the stewardship of all RM3 expenditures for this project”](#).

Respectfully presented for your consideration

Roland Lebrun



Regional Measure 3 Allocation of Funds Allocation Summary

RM3 Project Number	16
Project Title	San Jose Diridon Station
Project Sponsor	Santa Clara Valley Transportation Authority

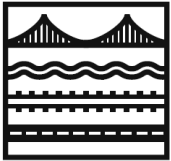
Activities to be funded with Allocation #1:					
This allocation will fund planning and early property acquisition for the San Jose Diridon Station Project in Santa Clara County. LONP approved for the PS&E and right-of-way phases for \$30,000,000 on November 16, 2022. <i>7/24/24: Savings from Right of Way purchase rescinded</i>					
Funding Information:					
Allocation Instruction No.	Approval Date	Phase	Reimbursement Year	Expiration Date	Allocation Amount
24460801	25-Oct-23	ROW	FY 2023-24	30-Jun-26	\$ 30,000,000
24460801	24-Jul-24	ROW	FY 2023-24	30-Jun-26	\$ (6,181,474)

Cumulative Total - Allocation 1	\$ 23,818,526
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Activities to be funded with Allocation #2:					
The scope will include engineering, outreach, and project management services needed to begin the environmental clearance process.					
Funding Information:					
Allocation Instruction No.	Approval Date	Phase	Reimbursement Year	Expiration Date	Allocation Amount
25460802	24-Jul-24	PA/ED	FY 2024-25	30-Jun-25	\$ 6,300,000

Cumulative Total - Allocation 2	\$ 6,300,000
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Cumulative Total - Project 16	\$ 30,118,526
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Regional Measure 3

Allocation of Funds

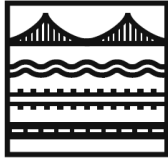
Conditions of Allocation

RM3 Project Number	16
Project Title	San Jose Diridon Station
Project Sponsor	Santa Clara Valley Transportation Authority

The allocation and reimbursement of RM3 funds for the above project are conditioned upon the following:

Conditions of Allocation #1	
1	<p>This allocation is contingent upon completion of the following:</p> <p>Agreement between MTC and VTA 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.</p> <p>The Agreement shall include the following language: "For the project above, the Santa Clara Valley Transportation Authority submitted an Initial Project Report stating that Project Design would be completed by 2026 and Project Construction would begin in 2028. If Project Design is not completed by December 31, 2028, then the Santa Clara Valley Transportation 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, 2030 or the project is abandoned prior to such date, then the Santa Clara Valley Transportation Authority shall repay any Regional Measure 3 funds to the Commission inclusive of interest equal to the change in the Consumer Price Index for the San Francisco Bay Area from the date of MTC funding until the date of repayment, unless this agreement is amended to revise these milestone dates. Such repayment shall be made from any/all generally available funds of the Santa Clara Valley Transportation Authority and shall be made no later than one year after the abandonment of the Project or the earlier specified date of December 31, 2030 or such later date as may be agreed upon mutually by the parties. Any modifications must be in writing and approved by the respective boards or their delegates. A restrictive covenant shall be recorded against the parcel purchased using RM3 funds restricting its use to the project purposes. That covenant will be removed upon the earlier of the project's completion or repayment of RM3 advances as described in this paragraph."</p> <p><i>Note 7/24/2024: This condition was satisfied via the execution of Amendment No. 1 to the Master Funding Agreement between MTC and VTA for Planning, Programming, Transportation, Transit, Land Use or Other Projects, and Supplement No. 9 to the Master Funding Agreement.</i></p>

Conditions of Allocation #2	
1	None.

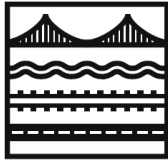


Regional Measure 3

Allocation of Funds

IPR Review (Project and Subproject Details, Funding Plan, and Schedule)

RM3 Project Number	16	
Project Title	San Jose Diridon Station	
Lead Sponsor(s)	Other Sponsor(s)	Implementing Agency
Santa Clara Valley Transportation Authority		VTA
Legislated Project Description	RM3 Legislated Funding (in \$1,000s)	
(16) San Jose Diridon Station. Redesign, rebuild, and expand Diridon Station to more efficiently and effectively accommodate existing regional rail services, future BART and high-speed rail service, and Santa Clara Valley Transportation Authority light rail and buses. The project sponsor shall consider accommodating a future connection to Norman Y. Mineta San Jose International Airport and prioritizing non-auto access modes. The project sponsor is the Santa Clara Valley Transportation Authority. ☐ ☐	\$100,000	
Sponsor Programming and Allocation Request Action		
The VTA Commission adopted a resolution for the first RM3 allocation request at its meeting on June 1, 2023. The VTA Commission adopted a resolution for the second RM3 allocation request at its meeting on June 6, 2024.		
Detailed Project/Subproject Description		
The San Jose Diridon project will redesign, rebuild, and expand the existing Diridon Station. The redesigned station will more effectively accommodate existing regional rail services, future BART and California High-Speed Rail service, and VTA Light Rail and bus services. Santa Clara Valley Transportation Authority (VTA) is requesting \$30M to fund planning and early property acquisition for the San Jose Diridon Station Project.		



Regional Measure 3

Allocation of Funds

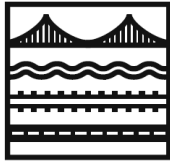
IPR Review (Project and Subproject Details, Funding Plan, and Schedule)

RM3 Project Number	16
Project Title	San Jose Diridon Station
Project Sponsor	Santa Clara Valley Transportation Authority

Project Funding Plan

Project Schedule

Phase	Funding Source	Committed? (Yes/No)	Total Amount (\$1,000s)	Start	End
PA/ED	RM-3	Yes	\$ 6,300	1-Jul-24	30-Jun-28
	VTA Measure B	Yes	\$ 1,000		
	City of San Jose Local Funds	Yes	\$ 500		
			\$ 7,800		
ENV	TBD		TBD	TBD	TBD
			\$ -		
PSE	TBD		TBD		
ROW	RM-3	Yes	\$ 23,818	25-Oct-23	TBD
	TBD				
			TBD		
CON	TBD		TBD		
Capital Funding Total			TBD		



Regional Measure 3 Allocation of Funds Cash Flow Plan

RM3 Project Number	16
Project Title	San Jose Diridon Station
Project Sponsor	Santa Clara Valley Transportation Authority

Cash Flow Plan for RM3 Deliverable Segment(s) - Funding by planned year of expenditure

Funding Source	Phase	Prior	2023-24	2024-25	2025-26	2026-27	Future committed	Total Amount (\$ thousands)
RM-3	PA/ED			\$ 6,300				\$ 6,300
Measure B	PA/ED		\$ 800	\$ 200				\$ 1,000
City of San Jose	PA/ED		\$ 500					\$ 500
PA/ED Subtotal			\$ 1,300	\$ 6,500	\$ -	\$ -	\$ -	\$ 7,800
								\$ -
								\$ -
								\$ -
ENV Subtotal			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
								\$ -
								\$ -
PSE Subtotal			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
RM-3	ROW		\$ 23,818					\$ 23,818
								\$ -
								\$ -
ROW Subtotal			\$ 23,818	\$ -	\$ -	\$ -	\$ -	\$ 23,818
								\$ -
								\$ -
CON Subtotal		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
RM 3 Funding Subtotal		\$ -	\$ 23,818	\$ 6,300	\$ -	\$ -	\$ -	\$ 30,118
Capital Funding Total		\$ -	\$ 25,118	\$ 6,500	\$ -	\$ -	\$ -	\$ 31,618



Board Action
9256

Diridon RM3 Funding Agreement

Information

Department:	Dept - Transportation Planning	Sponsors:	Chief Planning and Programming Officer Deborah Dagang
Category:	Agreements	Functions:	Fiscal Impact, Legal Review Required

Attachments

[Printout](#)
VTA-Caltrain RM3 Agreement - Draft for BOD (This file has not yet been converted to a viewable format)
[Attachment A](#)

Financial Impact

This action in itself has no direct effect on the existing VTA budgets, This request will be funded through an existing RM3 allocation VTA has with MTC.

Recommendation

Authorize the General Manager/CEO to execute a funding agreement with Caltrain to fund the advancement of the Diridon project.

Item Discussion

EXECUTIVE SUMMARY:

- VTA is entering into a funding agreement with Caltrain to fund the next phase of the Diridon Business Case Analysis.
- This funding agreement will be funded through an existing RM3 allocation VTA has with MTC.

STRATEGIC PLAN/GOALS:

This funding agreement aligns with VTA’s Strategic Plan Business Line 2: Delivering Projects and Programs. This will advance the Diridon Project.

Body

BACKGROUND:

The San José Diridon Station is a major transit hub located within downtown San José, the nation’s 10th largest city and the state’s third-largest. The station area has a long transit history and today supports many modes of transit including Caltrain, Amtrak long distance, Capitol Corridor Joint Powers Authority (CCJPA), Altamont Commuter Express (ACE), VTA light rail and bus service, and regional bus service coming from Santa Cruz

county. with the addition of Bay Area Rapid Transit (BART) and California High Speed Rail Service (CAHSR) and with expanded Caltrain, ACE, and Capitol Corridor and Amtrak service, the future Station is expected to become one of the busiest intermodal stations in North America.

As a result, VTA, Caltrain, City of San José, CAHSR, and the Metropolitan Transportation Commission (MTC) have formed a public agency “partnership” to coordinate their respective capital projects in a manner that realizes the potential for both the transit station facilities and the surrounding development area in a holistic and integrated fashion. Planning efforts have been on-going for some time and VTA and its partners are committed to the planning and reinventing of the Station to reflect the cutting edge of urban design, mixed-use/commercial development, and transportation.

Caltrain, in partnership with VTA, city of San José, MTC, and CAHSR, had previously hired a consultant to conduct a business case analysis. This generally includes engineering, alternatives analysis, quantitative and qualitative assessments of alternatives, outreach support, and other related contractor support to progress the program. The Partner Agencies have completed Phase 1 of the Business Case analysis and this funding agreement will help progress phase 2 which includes additional design refinement, stakeholder review, public engagement, and a cost benefits analysis.

The Diridon project has been funded by various sources in the past including partner agency contributions, grants, VTA 2016 Measure B, and Regional Measure 3 (RM3). As the RM3 project sponsor, VTA is responsible for the stewardship of all RM3 expenditures for this project. Out of the original \$100 million of RM3 funding designated for the Diridon project, \$23.6 have previously been expended on other project-related activities, which leaves a balance of \$76.4 million in available RM3 funding.

Previous phases of the Diridon project have been funded by various sources including grants and contributions from all the partner agencies.

DISCUSSION:

VTA and Caltrain are proposing a funding agreement for up to \$5.3 million in RM3 funding to advance the project. This phase of work will last approximately from October 2024 to April 2025. This phase of work will also be supplemented with funding from other sources including VTA 2016 Measure B.

In July 2024, MTC approved the allocation of \$6.3 million for the Diridon project. The \$5.3 million that is part of this funding agreement will be paid for using this RM3 allocation. The remaining \$1 million in RM3 allocation will be used by VTA to fund other Diridon related activities.

ALTERNATIVES:

The Board could direct staff to negotiate a more limited agreement or may choose to reject the recommendation and request further analysis or defer a decision to another time. However, this would greatly impact and delay the ongoing work related to this project.

CLIMATE IMPACT:

There is no anticipated climate impact as part of this funding agreement.

STANDING COMMITTEE DISCUSSION/RECOMMENDATION:

The item was heard at the Administration & Finance Committee on September 19, 2024. There were no comments from the Committee on this item. The Committee recommended Board approval and placed the item on the Board's consent agenda for October 3, 2024.

Sep 19, 2024 12:00 PM Media

**Administration &
Finance
Committee** **Regular Meeting**

 **Draft**

Jason Kim, Senior Transportation Planner, provided a brief overview of the staff report.

Upon inquiry, Mr. Kim briefly clarified where the funding will be coming from to fund the agreement.

Member Chavez returned to the meeting at 12:25 p.m. and a quorum was established.

M/S/C (Chavez/Lopez) to recommend that the VTA Board of Directors authorize the General Manager/CEO to execute a funding agreement with Caltrain to fund the advancement of the Diridon project.

RESULT: RECOMMENDED

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