

# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
3	09/24/18	Open	Action	09/19/18

Subject: Amending Resolution No. 17-06-0088, Authorizing Staff to Request an Allocation of \$3.5 Million in Prop 1A Funding for the Downtown Riverfront Streetcar Project While Conditioning the Use of the Funds on Future Board Action

## ISSUE

Whether or not to authorize staff to make an allocation request for \$3.5 million in Prop 1A funding from the \$25 million programmed for the Downtown Riverfront Streetcar Project in advance of a Small Starts Grant Agreement with the Federal Transit Administration, while conditioning expenditure of the funding on future Board action.

## RECOMMENDED ACTION

Adopt Resolution No. 18-09-\_\_\_\_\_, Amending Resolution No. 17-06-0088, Authorizing Staff to Request an Allocation of Proposition 1A for the Downtown Riverfront Streetcar Project, and Conditioning the Use of Proposition 1A Funds on Future Board Action.

## FISCAL IMPACT

Budgeted:	Yes	This FY:	\$ 3.5 million
Budget Source:	Capital	Next FY:	\$
Funding Source:	Prop 1A	Annualized:	\$
Cost Cntr/GL Acct(s) or Capital Project #:	Downtown/Riverfront Streetcar	Total Amount:	\$ 3.5 million
Total Budget:	\$ 25 million		

## DISCUSSION

At the September 10, 2018 Board meeting, the SacRT Board discussed a request from the Riverfront Joint Powers Authority (JPA) to authorize the use of \$3.5 million of the \$25 million of Proposition 1A funding that the Board committed to the Downtown Riverfront Streetcar Project (Project) at the June 12, 2017 Board meeting.

In committing Proposition 1A funding to the Project, the SacRT Board conditioned any request for an allocation of funds on the receipt of a Small Starts Grant Agreement (SSGA) from the Federal Transit Administration (FTA). The request from the JPA is that the SacRT Board authorize allocation and expenditure of \$3.5 million of the Proposition 1A funding in advance of receiving the SSGA, which is currently anticipated in the February/March time frame.

In approving the programming of the Proposition 1A funding in Board Resolution No. 17-06-0088, the SacRT Board did so with the understanding that SacRT Staff would work with the City of Sacramento (City) in several areas. The first was to fund the design and construction of the

Approved:

Presented:

Final 09/19/18

General Manager/CEO

Deputy General Manager/COO

J:\Board Meeting Documents\2018\13 September 24, 2018\Downtown Riverfront Streetcar Prop 1A Funding mn edits.doc

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
3	09/24/18	Open	Action	09/19/18

Subject: Amending Resolution No. 17-06-0088, Authorizing Staff to Request an Allocation of \$3.5 Million in Prop 1A Funding for the Downtown Riverfront Streetcar Project While Conditioning the Use of the Funds on Future Board Action

Sacramento Valley light rail station relocation including the associated storage track. A staff level agreement has been reached regarding the location of relocated station and storage track, but agreements to fund the design and construction cost (consistent with the commitments made by the City and Union Pacific in 2005), approximately \$10 million, have not yet been approved by the City Council. Agreement was reached on a new Light Rail Operations and Maintenance Agreement, replacing a prior agreement commonly referred to as the “1985 Agreement.” The old Agreement favored the City of Sacramento in a number of areas. The new Agreement is more balanced, which has the potential to save SacRT considerable expense over the course of future City projects. Finally, the City will work with SacRT to obtain dedicated transit funding for SacRT’s future strategic initiatives. SacRT Staff is very pleased with the working relationship and partnership that has developed with City Staff over the past several years.

The SacRT Board requested that Staff bring this item back as an action item and provide some additional information for the Board’s consideration. This included:

1. A risk assessment reviewing options for mitigating cost if the construction bids received for the Project would cause the project to be over budget.
2. A discussion of the value of the work to date if the Project does not move forward.
3. A discussion of how much of the requested funding would be directly used by SacRT in support of the Project.
4. The issue of SacRT representation on the JPA Board.

Each of these items will be discussed in turn.

## **Risk Assessment**

The primary risk to the Project is the impact of market conditions on the cost of the Project. If the major bid elements of the Project come in either within the Project budget, or can be mitigated such that the cost of the Project remains within budget without changing the Project scope, then Project Staff fully believes that the FTA will approve the SSGA early next year and the Project will proceed. The FTA is indicating a late February/March time frame for the release of the SSGA based upon the Project continuing at its current pace.

If the major bid elements come in over budget and cannot be mitigated without a change in the Project scope, the Project owners will need to reevaluate the Project and decide whether: (1) the Project budget should be increased; (2) the Project should be reduced in scope to remain within budget; or (3) the Project should be stopped. The FTA has indicated that any significant change in scope, primarily defined as routing and level of service, would be considered a new project, which would substantially delay the Project and may threaten the level of federal funding

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
3	09/24/18	Open	Action	09/19/18

Subject: Amending Resolution No. 17-06-0088, Authorizing Staff to Request an Allocation of \$3.5 Million in Prop 1A Funding for the Downtown Riverfront Streetcar Project While Conditioning the Use of the Funds on Future Board Action

committed to the Project. Down scoping options would require a specific and detailed discussion with the FTA to determine the actual effect on the Project and the appropriate path forward.

In a typical major capital project with FTA funding, the FTA Risk Assessment sets the project schedule and budget. Even though the FTA has conducted a Risk Assessment on the Project, and the Risk Assessment report is expected in the next few months, in reality, the construction procurement will produce actual bid numbers that will determine over 60% of the Project budget, adding certainty to the overall Project budget. The Invitation for Bid (“IFB”) for the civil, track and systems portion of the construction work is scheduled for release in October with bids due before the end of the calendar year. Favorable bid results will allow the Project team to request a Risk Assessment update based upon actual bid results. This could reduce or eliminate risk that would take the Project over budget requiring the JPA and cities to identify and commit additional funding to the Project in order to receive the SSGA.

If the construction bids come in high, requiring an increase in the Project budget, the JPA and cities will be basing future decisions on actual bid numbers rather than risk-based numbers assigned by the FTA. The FTA has encouraged Project Staff to expedite the construction bid process to provide budget certainty as the best path forward in advancing the Project.

In managing the budget, Staff has been reviewing the elements of the Project, looking for areas where costs can be reduced without impacting the Project scope. The latest effort was done as a part of submitting additional information to the FTA in support of its Project Risk Assessment and included an updated Project budget based on the Engineer’s Estimate from the 100% design of the civil track and systems construction work. The design consultant, in factoring in current market conditions, developed an estimate that increased the overall Project budget by approximately \$5 million. In a thorough review of the estimate, Project Staff was able to mitigate the majority of the increase by design changes that reduced cost but did not impact the overall scope of the Project. Two major areas considered were the design and cost of the train signaling system, and the design and cost of the additional traction power substations required for the Project. Changes in these two areas reduced the Engineer’s Estimate by approximately \$3 million. This effort is useful in determining where the Project can be trimmed to reduce cost and stay within budget, recognizing that this is not meaningful until the actual bids are received.

Project Staff have also begun to look at more significant reductions in Project scope if the construction bids are much higher than the Engineer’s Estimate. These changes are of a magnitude that they may be considered a change in Project scope by the FTA and/or may be sensitive within the community. Examples include: not relocating light rail from K to H Streets; deferring all or part of the vehicle maintenance facility; and deferring one of the two legs of the system in West Sacramento. The effort to identify and cost these more significant changes are intended to inform the JPA Board of options that may be available if bid results push the Project cost significantly above budget.

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
3	09/24/18	Open	Action	09/19/18

Subject: Amending Resolution No. 17-06-0088, Authorizing Staff to Request an Allocation of \$3.5 Million in Prop 1A Funding for the Downtown Riverfront Streetcar Project While Conditioning the Use of the Funds on Future Board Action

## **Value of the Work to Date**

The work completed on the Project to date involves the procurement effort for the streetcar vehicles, system design for all track, signaling and traction power, and partial design (this work is currently in progress) of the streetcar vehicle maintenance facility and streetcar vehicle storage track. If the Project does not proceed, the primary value of the work done to date would be in the area of design. Absent a Streetcar Project, the vehicle procurement has no residual value. If the contract with the vehicle manufacturer is not executed within the proposal validity period (180 days unless there is a mutually agreed upon extension), the procurement would have to be re-started. The design for track, signaling and traction power could have value if elements of the Project are funded separately, for instance the relocation of light rail from K to H Street, or accommodating light rail trains into West Sacramento. These would be pieces of the larger project that may be viewed as having independent value and funded as a new project. The vehicle maintenance facility and streetcar storage track is specific to the Project and would not be of value if the Project does not proceed. Since the vehicle maintenance facility design is still in progress, a decision to stop the Project could be made before this design work has been completed.

## **SacRT Staff Reimbursement**

Of the \$6.1 million being requested to support the Project through June 30, 2019, of which the \$3.5 million in Proposition 1A funding is a part, it is Staff’s understanding that approximately \$1.3 million would be used to fund SacRT Staff time working directly on the Project. Because SacRT has not hired any Staff specifically dedicated 100% to the Project, there is some value to SacRT in “capitalizing” the costs of Staff salaries that might otherwise be funded by operating dollars; however, that potential benefit has to be counterbalanced by that fact that, due to a number of new funding opportunities, SacRT is approaching a time where support will be needed for SacRT specific capital projects. If the Project is fully-funded, options can be considered to augment existing SacRT Staff for either the Project or SacRT specific capital projects.

## **SacRT Representation on the JPA Board**

The Joint Exercise of Powers Agreement (“JEP”) for the Riverfront Joint Powers Authority and First Amendment thereto, which have been approved and executed by the Cities, establish a 5-member Board. Two members represent the City of West Sacramento and two members represent the City of Sacramento. The fifth member is to be jointly selected by the other four representatives.

In an effort to address FTA concerns over grant administration (with SacRT being the grant recipient) and continuing control, the First Amendment to the JEP requires that one of the two City of Sacramento representatives also be a member of the SacRT Board. Certain actions of the JPA Board require an affirmative vote of the Sacramento/SacRT Board member. In addition, if there is a dispute between the JPA and SacRT as to whether a particular course of action or conduct is in

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
3	09/24/18	Open	Action	09/19/18

Subject: Amending Resolution No. 17-06-0088, Authorizing Staff to Request an Allocation of \$3.5 Million in Prop 1A Funding for the Downtown Riverfront Streetcar Project While Conditioning the Use of the Funds on Future Board Action

compliance with federal or state requirements, and the parties are unable to resolve the dispute after good faith negotiations, the decision of SacRT will be final, subject to the JPA’s right to pursue any available legal remedies. Subrecipient monitoring will be an obligation that SacRT will need to perform throughout the full life of the Project. While it is most intensive during the design and construction phase of the Project, it continues into operations with respect to FTA’s operating requirements related to fare structure, civil rights compliance (ADA/EEO/Title VI), use of assets, service levels for the first five years of the Project, and additional FTA regulatory requirements. SacRT has experience in subrecipient monitoring, currently performing this task for other regional operators whose federal funding passes through SacRT. Subrecipient monitoring is an involved task requiring a focused effort to perform properly. Findings related to subrecipient monitoring are common in FTA triennial audits, and SacRT has received findings mandating improvements in the last three FTA audits.

In discussions related to the adoption of the governance agreements in July and the use of the Proposition 1A funding in September, Board members have raised concern over SacRT not having a direct representative on the JPA Board. SacRT Staff have discussed this with the JPA Executive, but the JPA Board has not taken action on this request.

**Risk to SacRT**

The obvious risk to SacRT in expending this funding in advance of an SSGA is that the funding will not be available to SacRT if the Project does not proceed to completion. SacRT has a number of capital projects that would be eligible for Proposition 1A funding, with the most urgent being the light rail modernization project.

SacRT Staff is also concerned that once the funds are expended, the CTC may determine that all or part of this funding was used in an ineligible manner and require reimbursement or take other punitive action. SacRT Staff is working with the CTC to address this concern, but it may not be resolved prior to Board action on this item.

**Recommended Action**

JPA Project Staff has indicated that the \$2.6 million in additional funding released by the Cities is sufficient to fund the Project through the end of the calendar year. If the SacRT Board chooses to authorize Staff to request the allocation of \$3.5 million in Proposition 1A funding at the October meeting of the California Transportation Commission (CTC), it would be SacRT Staff’s recommendation that the Board restrict the immediate expenditure of the funds and require following subsequent actions be taken before the Board authorizes the expenditure of any of the \$3.5 million:

1. That the Cities and JPA enter into an agreement to reimburse SacRT if the use of any or all of the \$3.5 million of Proposition 1A funding is deemed ineligible by Caltrans or the CTC, requiring SacRT to repay the State for the ineligible portion and to indemnify SacRT

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
3	09/24/18	Open	Action	09/19/18

Subject: Amending Resolution No. 17-06-0088, Authorizing Staff to Request an Allocation of \$3.5 Million in Prop 1A Funding for the Downtown Riverfront Streetcar Project While Conditioning the Use of the Funds on Future Board Action

for any other actions the CTC or Caltrans might take related to use of the funds, including actions that might be taken if the Project is ultimately abandoned.

2. That the JPA Board consider/approve the request of the SacRT Board to add direct SacRT representation to the JPA Board.
3. That, construction bids for the Project are received and either: (a) the bids will allow the Project to be completed within the budgeted amount; or (b) the Cities and the JPA enter into amendments to the governance documents that will fully fund the Project with a revised budget.

If these actions are taken, Staff would return to the Board in January 2019 with an action for the Board to consider approving the expenditure of the Proposition 1A funding. Making the request for the allocation in October does not require the use of the funds and will provide flexibility for the Board to take future action related to the funds.

RESOLUTION NO. 18-09-\_\_\_\_\_

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

September 24, 2018

**AMENDING RESOLUTION NO. 17-06-0088, AUTHORIZING STAFF TO REQUEST AN ALLOCATION OF PROPOSITION 1A FUNDS, AND CONDITIONING THE EXPENDITURE OF PROPOSITION 1A FUNDS ON FUTURE BOARD ACTION.**

WHEREAS, on June 12, 2017, the Board approved Resolution No. 17-06-0088, approving the programming of \$25 Million of Proposition 1A High Speed Rail Funding for the Downtown/Riverfront Streetcar Project with the understanding that the City of Sacramento would work with SacRT to: 1) fund the project costs for the Sacramento Valley Station (SVS) Loop; 2) work with SacRT to find a location for future storage track; and, 3) work with SacRT to obtain dedicated transit funding for SacRT's strategic initiatives; and

WHEREAS, the Resolution specified that Staff may not request an allocation of the Proposition 1A High Speed Rail Funding for the Downtown/Riverfront Streetcar Project until a Small Starts Grant Agreement for the Project has been executed with the Federal Transit Administration (FTA) and \$30 million in funding has been allocated by the California Transportation Commission (CTC) from the Transit and Intercity Rail Capital Program (TIRCP);

WHEREAS, City of Sacramento staff have worked with SacRT cooperatively since that time to resolve a number of issues, including execution of a new light rail maintenance and operations agreement and conceptual agreement on the relocation of the SVS station and storage track; and

WHEREAS, the Riverfront Joint Powers Authority ("JPA") has requested that the Board authorize Staff to request an allocation of \$3.5 million of Proposition 1A funding in advance of the SSGA and allocation of TIRCP funding.

**BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:**

THAT, Resolution No. 17-06-0088 is hereby amended to permit Staff to request an allocation of \$3.5 million in Proposition 1A funds from the California Transportation Commission ("CTC") for the Downtown Riverfront in advance of receipt of a Small Starts Grant Agreement and allocation of TIRCP funding;

THAT, assuming the allocation request is approved by the CTC, SacRT Staff is not authorized to commit or expend any portion of the Proposition 1A funds without a subsequent action by this Board;

THAT, any further Board action to authorize commitment or expenditure of the Proposition 1A funding will be conditioned on the following actions:

1. That the City of Sacramento, City of West Sacramento, and JPA enter into an agreement to reimburse SacRT if the use of any or all of the \$3.5 million of Proposition 1A funding is deemed ineligible by Caltrans or the CTC, requiring SacRT to repay the State for the ineligible portion and indemnify SacRT for any other actions the CTC or Caltrans might take related to use of the funds, including actions that might be taken if the Project is ultimately abandoned.
2. That the JPA Board consider/approve the request of the SacRT Board to add direct SacRT representation to the JPA Board.
3. That, construction bids for the Project are received and either: (a) the bids will allow the Project to be completed within the budgeted amount; or (b) the Cities and the JPA enter into amendments to the governance documents that will fully fund the Project with a revised budget.

\_\_\_\_\_  
PATRICK KENNEDY, Chair

A T T E S T:

HENRY LI, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary