



Date: February 22, 2022  
 Current Meeting: March 3, 2022  
 Board Meeting: March 3, 2022

## BOARD MEMORANDUM

**TO:** Santa Clara Valley Transportation Authority  
 Board of Directors

**THROUGH:** General Manager/CEO, Carolyn M. Gonot

**FROM:** Chief Financial Officer, Greg Richardson

**SUBJECT:** State Route 17 Wildlife Crossing Project Sponsor Resolution

**Policy-Related Action:** No

**Government Code Section 84308 Applies:** No

## RESOLUTION

### RECOMMENDATION:

Adopt the Project Sponsor resolution for the State Route 17 Wildlife Crossing.

### EXECUTIVE SUMMARY:

- Staff recommends the VTA Board approve the attached Project Sponsor resolution for the State Route 17 Wildlife Crossing.
- This action will enable Federal funding to be programmed for the project and position VTA to deliver it on behalf of the MidPenninsula (MidPen) Open Space District.
- This action is time-critical as the region's Federal programming is about to go into a regularly scheduled cyclical shut-down that will last several months.
- If the VTA Board declines to adopt the resolution, MidPen will need to seek another eligible sponsor, delaying the project and potentially making it ineligible for future Federal construction funding.
- The project and the action align with VTA's strategic plan goals by partnering with other agencies to effectively deliver a capital project with safety benefits that bridges gap in the regional trail network.

## **STRATEGIC PLAN/GOALS:**

This action and the project align with two of VTA's Strategic Plan Business Lines: Delivering Projects & Programs and Transportation System Management. VTA will partner with other agencies to effectively deliver a capital project with roadway safety and congestion benefits that also closes gaps in the regional trail network.

## **FISCAL IMPACT:**

There is no direct financial impact to VTA from this action.

## **BACKGROUND:**

This item responds to VTA Boardmember Chavez' November 4, 2021 referral to Administration - Highway 17 Wildlife and Trail Crossings Project - Project Sponsor and Project Delivery Partner Request.

VTA has been approached by the MidPeninsula Open Space District (MidPen) to deliver a wildlife crossing under State Route (SR) 17 at a top roadkill hotspot on the eastern slope of the Santa Cruz Mountains. This is just south of the Town of Los Gatos, in the vicinity of the Lexington Reservoir. The project also includes up to 5.4 miles of related directional fencing, and a multi-use regional trail overcrossing to close a gap in the planned 550-mile Bay Area Ridge Trail.

MidPen is currently working with Caltrans to environmentally clear this project. MidPen has secured 5 grants totaling \$9.13M for the project's environmental and design phases. The MidPen Board of Directors has allocated \$14M in Measure AA general obligation bond funding for the Project, the majority of which will be used for project construction anticipated to begin in 2025/2026. Current total project cost estimates range from \$31.1M to \$45.3M. Construction phase cost estimates range from \$23.7M to \$30.9M.

MidPen's current funding strategy is to secure external grants totaling \$16M to \$20M with prospective sources identified for local, state, and federal funding to leverage MidPen Measure AA funds. This funding strategy requires Federal environmental clearance, for which Caltrans is the responsible agency. Caltrans will not fulfil this role until Federal funds have been programmed to the project. MidPen and MTC are developing a fund exchange whereby MTC will program \$500,000 in Federal Highway Administration (FHWA) Surface Transportation Program (STP) from the One Bay Area Grant (OBAG) Priority Conservation Area (PCA) program to project construction, and MidPen will provide MTC with \$500,000 in local funds.

VTA's role will be two-fold. VTA will serve as the project sponsor for purposes of programming and using the STP funds on the project. VTA also will serve as the implementing agency, taking the project through final design and construction once it is environmentally cleared.

MidPen would like VTA to serve in these roles for several reasons. VTA has a Master Agreement with Caltrans enabling VTA to use Federal Highway Administration Funding from which OBAG is derived. VTA has the internal infrastructure to process it. VTA has experience designing and constructing complicated infrastructure on and around the State Highway system.

VTA also has pre-existing relationships with Caltrans, County of Santa Clara, Town of Los Gatos and MTC. All these agencies have interest and/or jurisdiction in the project area.

### **DISCUSSION:**

Staff recommends that the VTA Board of Directors adopt the project sponsor resolution of support as attached. This is a time-critical input from VTA for MTC's Federal fund programming process, as MTC will need to temporarily suspend Federal programming actions for several months for the legislatively mandated biennial update of the regional's Federal Transportation Improvement Program (TIP). The VTA Board's action will enable the fund exchange between the MidPen and MTC and provides evidence of future Federal funding needed to initiate the NEPA process. The full sequence of events, with projected dates is as follows:

### **Critical Path Actions**

<b>IT EM NO</b>	<b>ACTION ITEM (DESCRIPTION)</b>	<b>LEAD/ PARTNER AGENCY(S)</b>	<b>TIMING/ ESTIMATED APPROVAL</b>	<b>ACTIONS/APPROVALS</b>
<b>1</b>	<b>Project information provided to MTC for TIP Amendment</b>	MidPen/VTA	January 2022	VTA - Submits project to MTC in FMS MTC - Reviews and incorporates into an upcoming TIP amendment, pending receipt of resolution
<b>2</b>	<b>VTA Project Sponsor resolution</b>	VTA	February 17 & March 3, 2022	VTA - VTA Administration and Finance Committee (A&F), then full Board consider adopting project sponsor resolution
<b>3</b>	<b>OBAG Federal Funds Programming - identify federal funds (PCA Grant) for project</b>	MTC	March 2022	MTC programs federal One Bay Area Grant (OBAG) Priority Conservation Area (PCA) funds to project, naming VTA as sponsor and implementing agency.
<b>4</b>	<b>Transportation Improvement Program (TIP) Amendment</b>	MTC	March 2022	MTC amends Federal Transportation Improvement Program (TIP), adding the project and funding.
<b>5</b>	<b>TIP Amendment State and Federal Approvals</b>	Caltrans/FHWA/FTA	Typically, 60 days	Caltrans, FHWA and FTA approve TIP amendment.
<b>6</b>	<b>MidPen/MTC Funding Exchange Agreement</b>	MidPen/MTC	May/June 2022	MTC and MidPen execute fund exchange agreement.
<b>7</b>	<b>Project Delivery Agreement (Includes Project Sponsor role detail)</b>	MidPen/VTA	May/June 2022	VTA and MidPen execute project delivery agreement.
<b>8</b>	<b>PS&amp;E Caltrans Cooperative Agreement</b>	VTA/MidPen/Caltrans	As Environmental phase nears completion	VTA and Caltrans execute a project program supplement to VTA and Caltrans' Master Agreement for final design phase.

**ALTERNATIVES:**

The Board may decline to adopt the Project Sponsor resolution. In this case, MidPen would need to find another agency to perform the roles.

**CLIMATE IMPACT:**

There is no climate impact from the action requested from the Board today. The final capital project will likely reduce vehicle emissions associated with congestion caused by vehicle/wildlife collisions.

**STANDING COMMITTEE DISCUSSION/RECOMMENDATIONS:**

The Administration & Finance Committee (A&F) received this item at their February 17, 2022, meeting. After minimal discussion, A&F recommended this item for approval.

Prepared by: Marcella Rensi  
Memo No. 8113

**ATTACHMENTS:**

- SR17 - Resolution\_Local\_Support (DOCX)

**Resolution of Local Support**  
**Resolution No. \_\_\_\_\_**

**Authorizing the filing of an application for funding assigned to MTC and committing any necessary matching funds and stating assurance to complete the project**

**WHEREAS**, the Santa Clara Valley Transportation Authority (VTA) (herein referred to as APPLICANT) is submitting an application to the Metropolitan Transportation Commission (MTC) for \$500,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as REGIONAL DISCRETIONARY FUNDING) for the State Route 17 Wildlife Crossing (herein referred to as PROJECT) for the One Bay Area Grant Priority Conservation Area program (herein referred to as PROGRAM); and

**WHEREAS**, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the FEDERAL TRANSPORTATION ACT) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

**WHEREAS**, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

**WHEREAS**, pursuant to the FEDERAL TRANSPORTATION ACT, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

**WHEREAS**, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

**WHEREAS**, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of REGIONAL DISCRETIONARY FUNDING; and

**WHEREAS**, APPLICANT is an eligible sponsor for REGIONAL DISCRETIONARY FUNDING; and

**WHEREAS**, as part of the application for REGIONAL DISCRETIONARY FUNDING, MTC requires a resolution adopted by the responsible implementing agency stating the following:

- the commitment of any required matching funds; and
- that the sponsor understands that the REGIONAL DISCRETIONARY FUNDING is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional REGIONAL DISCRETIONARY FUNDING; and
- that the PROJECT will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
- the assurance of the sponsor to complete the PROJECT as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
- that the PROJECT will have adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and
- that the PROJECT will comply with all project-specific requirements as set forth in the PROGRAM; and
- that APPLICANT has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and

**WHEREAS**, that APPLICANT is authorized to submit an application for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and

**WHEREAS**, there is no legal impediment to APPLICANT making applications for the funds; and

**WHEREAS**, there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and

**WHEREAS**, APPLICANT authorizes its Executive Director, General Manager, or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and

**WHEREAS**, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

**NOW, THEREFORE, BE IT RESOLVED** that the APPLICANT is authorized to execute and file an application for funding for the PROJECT for REGIONAL DISCRETIONARY FUNDING under the FEDERAL TRANSPORTATION ACT or continued funding; and be it further

**RESOLVED** that APPLICANT will provide any required matching funds; and be it further

**RESOLVED** that APPLICANT understands that the REGIONAL DISCRETIONARY FUNDING for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the APPLICANT from other funds, and that APPLICANT does not expect any cost increases to be funded with additional REGIONAL DISCRETIONARY FUNDING; and be it further

**RESOLVED** that APPLICANT understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and APPLICANT has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by APPLICANT; and be it further

**RESOLVED** that PROJECT will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP; and be it further

**RESOLVED** that APPLICANT has reviewed the PROJECT and has adequate staffing resources to deliver and complete the PROJECT within the schedule submitted with the project application; and be it further

**RESOLVED** that PROJECT will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the PROGRAM; and be it further

**RESOLVED** that, in the case of a transit project, APPLICANT agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution No. 3866, revised; and be it further

**RESOLVED** that, in the case of a highway project, APPLICANT agrees to comply with the requirements of MTC's Traffic Operations System (TOS) Policy as set forth in MTC Resolution No. 4104; and be it further

**RESOLVED** that, in the case of an RTIP project, PROJECT is included in a local congestion management plan, or is consistent with the capital improvement program adopted pursuant to MTC's funding agreement with the countywide transportation agency; and be it further

**RESOLVED** that APPLICANT is an eligible sponsor of REGIONAL DISCRETIONARY FUNDING funded projects; and be it further

**RESOLVED** that APPLICANT is authorized to apply for REGIONAL DISCRETIONARY FUNDING for the PROJECT; and be it further

**RESOLVED** that there is no legal impediment to APPLICANT making applications for the funds; and be it further

**RESOLVED** that there is no pending or threatened litigation that might in any way adversely affect the proposed PROJECT, or the ability of APPLICANT to deliver such PROJECT; and be it further

**RESOLVED** that APPLICANT authorizes its General Manager/CEO or designee to execute and file an application with MTC for REGIONAL DISCRETIONARY FUNDING for the PROJECT as referenced in this resolution; and be it further

**RESOLVED** that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application; and be it further

**RESOLVED** that the MTC is requested to support the application for the PROJECT described in the resolution, and if approved, to include the PROJECT in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

**PASSED AND ADOPTED** by the Santa Clara Valley Transportation Authority Board of Directors on March 3, 2022 by the following vote:

- AYES:
- NOES:
- ABSENT:

\_\_\_\_\_  
Charles "Chappie" Jones, Chairperson  
Board of Directors

I HEREBY CERTIFY AND ATTEST that the foregoing resolution was duly and regularly introduced, passed, and adopted by the vote of the Board of Directors of the Santa Clara Valley Transportation Authority, California, at a meeting of said Board of Directors on the date indicated, as set forth above.

Date: \_\_\_\_\_

\_\_\_\_\_  
Elaine Baltao, Board Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Evelynn Tran, General Counsel