

**STAFF REPORT FOR CALENDAR ITEM NO.: 12**  
**FOR THE MEETING OF: February 9, 2023**

**TRANSBAY JOINT POWERS AUTHORITY**

**BRIEF DESCRIPTION:**

Authorize the Executive Director to execute a Memorandum of Agreement (MOA) between the Transbay Joint Powers Authority (TJPA) and the Peninsula Corridor Joint Powers Board (“Caltrain”), authorizing reimbursement from TJPA to Caltrain for Caltrain consultant efforts to advance DTX Enabling Works Planning in an amount not to exceed \$595,000 and a term expiring no later than March 31, 2024.

**EXPLANATION:**

To build the DTX, the TJPA will be required to acquire the fee, easements, or use rights for property (ROW) owned or controlled by private entities and project stakeholders, including the State, the City and County of San Francisco, and Caltrain.

Caltrain’s ROW serves as the location of Caltrain’s current San Francisco terminal at Fourth and King Streets, and the location of Caltrain’s northern rail yard where trains are stored and maintained. Delivery of the DTX requires, among other things, the reconstruction of Caltrain’s current rail yard and the construction of the Fourth and Townsend station on the northern portion of the yard. Caltrain’s ROW is critical to Caltrain’s operation. Its facilities will continue to be used by Caltrain both during construction and once DTX is completed. Thus, careful planning and close coordination between TJPA and Caltrain is essential for all DTX project work on Caltrain’s ROW.

The TJPA, in cooperation with stakeholders, has developed an Accelerated Work Plan, leading to an August 2023 submittal of a Full Funding Grant Agreement request to the Federal Transit Administration (FTA) under the Capital Investment Grants (CIG) program.

As required by FTA’s CIG program, the TJPA and Caltrain are developing a Master Cooperative Agreement (MCA) that outlines each agency’s responsibility to deliver the entire DTX project, with an expected execution date of summer 2023.

In the interim period before the MCA can be fully negotiated and presented to the agencies’ boards for approval, however, the TJPA requires information sharing, design, operational input, and other coordination with Caltrain to ensure the TJPA meets critical milestones in the Accelerated Work Plan. In particular, the TJPA has been coordinating with Caltrain on work relating to advancing design for enabling works sitework and infrastructure relocation on Caltrain ROW (“Enabling Works Planning”). The division of work between TJPA and Caltrain for the design and project management of this Enabling Works Planning at the 4<sup>th</sup> & King Railyard has been the subject of regular coordination between the agencies in recent months.

To assist with planning and managing this extremely complex work, Caltrain will be required to dedicate certain staff resources and retain a consultant(s) to coordinate with TJPA on Caltrain’s behalf. After careful consideration, TJPA staff concurs it is appropriate for Caltrain to require

certain expert advice and assistance, given the potential impact the enabling works may have on Caltrain's critical operations at and approaching the rail yard and existing Caltrain Station. Caltrain's requirement is similar to the requirements of other similarly-situated stakeholders that have permitted work related to delivery of the Transbay Program on their right of way and affecting their operations and improvements, such as Caltrans's requirements for Transbay Program work on Caltrans ROW and affecting Interstate 80 and Bay Bridge related improvements, and the City and County of San Francisco's requirements for Transbay Program work on City ROW and affecting City streets, sidewalks, and utilities.

In 2019, through a competitive procurement process, Caltrain identified a bench of pre-qualified consultants to provide On-Call Program Management Oversight (PMO) Services (Caltrain contract number 18-J-P-042). In December 2022, consistent with its procurement procedures, Caltrain engaged a qualifications-based competitive selection process to identify the consultant to provide the required services to Caltrain for the Enabling Works Planning. Caltrain has received and is evaluating proposals from its bench. Caltrain anticipates recommending award of a contract to its Board in early March.

Caltrain requires funding to pay for the consultant services related to the Enabling Works Planning. The parties negotiated the attached MOA, which would reimburse Caltrain for the actual cost of the consultant services plus the ICAP multiplier at an amount not to exceed \$595,000 and a term expiring no later than March 31, 2024. If the MOA is approved by the TJPA Board today, the Caltrain Board is expected to consider the MOA at its Board meeting in early March.

Separately, the parties agreed that TJPA would reimburse Caltrain up to \$200,000 for Caltrain staff time incurred in supporting the Enabling Works Planning. That reimbursement for Caltrain staff time is addressed under the July 14, 2022 Letter of Agreement between the parties Regarding Reimbursement for Activities Undertaken in Support of the DTX, as amended consistent with the Executive Director's delegated authority under the Procurement Policy to provide adequate budget for the Enabling Works Planning services.

The TJPA had initially anticipated providing all of the Enabling Works Planning services with its own forces or through its consultants. Accordingly, the budget under this MOA was already anticipated as a program cost, and is being transferred from TJPA to Caltrain.

Staff continues to work with Caltrain in development of the MCA and expects to bring the item before the Board in the summer of 2023.

**RECOMMENDATION:**

Staff recommends that the Board authorize the Executive Director to execute an MOA in the form attached, authorizing reimbursement from TJPA to Caltrain for Caltrain consultant efforts to advance DTX Enabling Works Planning in an amount not to exceed \$595,000 and term expiring no later than March 31, 2024.

**ATTACHMENTS:**

1. Resolution
2. Memorandum of Agreement

**TRANSBAY JOINT POWERS AUTHORITY  
BOARD OF DIRECTORS**

**Resolution No. \_\_\_\_\_**

WHEREAS, The Transbay Joint Powers Authority (TJPA) is a joint powers agency organized and existing under the laws of the State of California; and

WHEREAS, Pursuant to state law and the Joint Powers Agreement creating the TJPA, dated April 4, 2001, the TJPA has primary jurisdiction over and will implement all aspects of the Transbay Program, including the portion of the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project commonly referred to as Phase 2/Downtown Rail Extension (DTX); and

WHEREAS, The TJPA is actively engaged in developing the DTX; and

WHEREAS, To build the DTX, the TJPA will be required to acquire the fee, easements, or use rights for property (ROW) owned or controlled by private entities and project stakeholders, including the State, the City and County of San Francisco, and the Peninsula Corridor Joint Powers Board (“Caltrain”); and

WHEREAS, Caltrain’s ROW serves as the location of Caltrain’s current San Francisco terminal at Fourth and King Streets, and the location of Caltrain’s northern rail yard where trains are stored and maintained. Delivery of the DTX requires, among other things, the reconstruction of Caltrain’s current rail yard and the addition of the Fourth and Townsend station on the northern portion of the yard. Caltrain’s ROW is critical to Caltrain’s operation. Its facilities will continue to be used by Caltrain both during construction and once DTX is completed. Thus, careful planning and close coordination between TJPA and Caltrain is essential for all DTX project work on Caltrain’s ROW; and

WHEREAS, The TJPA, in cooperation with stakeholders, has developed an Accelerated Work Plan, leading to an August 2023 submittal of a Full Funding Grant Agreement request to the Federal Transit Administration (FTA) under the Capital Investment Grants (CIG) program. Consistent with the Accelerated Work Plan, TJPA staff has determined that enabling works on Caltrain’s ROW at the rail yard are critical to meeting that objective of early delivery; and

WHEREAS, As required by FTA’s CIG program, TJPA and Caltrain are developing a Master Cooperative Agreement (MCA) that outlines each agency’s responsibility to deliver the entire DTX project, with an expected execution date of summer 2023; and

WHEREAS, In the interim period before the MCA can be fully negotiated and presented to the agencies’ Boards for approval, the TJPA requires information sharing, design, operational input, and other coordination with Caltrain to ensure the TJPA meets critical milestones in the Accelerated Work Plan. In particular, the TJPA has been coordinating with Caltrain on work relating to advancing design for enabling works sitework and infrastructure relocation on Caltrain ROW (“Enabling Works Planning”); and

WHEREAS, To assist with planning and managing this extremely complex work, Caltrain will be required to dedicate certain staff resources and retain a consultant(s) to coordinate with the TJPA on Caltrain's behalf; and

WHEREAS, Through a competitive procurement process, Caltrain expected to identify a qualified consultant to provide the consultant services related to the Enabling Works Planning; and

WHEREAS, Similar to the requirements of other similarly-situated stakeholders that have permitted work relative to delivery of the Transbay Program on their ROW and affecting their operations and improvements, Caltrain requires reimbursement of the actual consultant costs plus ICAP multiplier related to the Enabling Works Planning; and

WHEREAS, TJPA and Caltrain have negotiated a Memorandum of Agreement (MOA), presented herewith, authorizing reimbursement from TJPA to Caltrain for such efforts, while the parties negotiate a longer-term MCA; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorize the Executive Director to execute the MOA between the TJPA and Caltrain, in the form presented, authorizing reimbursement from TJPA to Caltrain for Caltrain consultant efforts to advance DTX Enabling Works Planning in an amount not to exceed \$595,000 and a term expiring no later than March 31, 2024.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of February 9, 2023.

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Secretary, Transbay Joint Powers Authority

**DTX RAIL PROGRAM  
ENABLING WORKS PLANNING  
MEMORANDUM OF AGREEMENT**

This Enabling Work Planning Memorandum of Agreement (“Agreement”), dated as of \_\_\_\_\_, 2023, is between the Transbay Joint Powers Authority, a joint powers authority (“TJPA”) and the Peninsula Corridor Joint Powers Board (“Caltrain”) (collectively, the “Parties”).

**RECITALS**

- A. The TJPA is a joint exercise of powers authority created by the City and County of San Francisco (“City”), the Alameda-Contra Costa Transit District, Caltrain, the California High Speed Rail Authority (“CHSRA”), and Caltrans (ex officio). The TJPA is responsible for the financing, design, development, construction, and operation of the Transbay Program (the “Program”). In particular, the Program includes (a) the design, development, construction, and operation of the Salesforce Transit Center, including open space on the roof, a bus ramp, a bus storage facility, and the core and shell of an underground train box (Phase 1); (b) the extension of rail tracks from the current Caltrain San Francisco terminus at Fourth and King Streets (the “Downtown Rail Extension” or “DTX”) to a new underground terminus beneath the transit center to accommodate Caltrain and CHSRA (Phase 2); and (3) in coordination with the Office of Community Investment and Infrastructure, the successor agency to the former San Francisco Redevelopment Agency, certain transit infrastructure activities related to implementation of the Redevelopment Plan for the Transbay Redevelopment Project Area.
- B. To build the DTX, the TJPA will be required to acquire the fee, easements, or use rights for property (“ROW”) owned or controlled by private entities and project stakeholders, including the State, the City, and Caltrain. The attached map at Appendix A summarizes the current anticipated ROW requirements for the DTX. (The design of the DTX and associated ROW requirements are subject to refinement. The expected ROW requirements may also require refinement based on further due diligence related to title conditions, surveys, environmental conditions, and other factors.)
- C. Particular to Caltrain ROW and existing Caltrain railroad improvements, delivery of the DTX requires the “reconstruction of the current storage yard” and “the addition of a new underground Caltrain station on the northern portion [of the storage yard] near Townsend and Fourth Streets.” (FEIS/EIR at 2-25).
- D. Caltrain’s ROW at Fourth and King is critical to Caltrain’s operation. It is the location of Caltrain’s current San Francisco terminal and is also the location of Caltrain’s northern rail yard where trains are stored and maintained. Both facilities will continue to be used by Caltrain both during construction and once DTX is completed. Finally, there is also a concurrent planning effort to determine how Prologis, a private company, may potentially redevelop the rail yard site in conjunction with Caltrain.
- E. In June 2020, the TJPA and Caltrain, together with the San Francisco County Transportation

Authority (“SFCTA”), Metropolitan Transportation Commission (“MTC”), CHSRA, and the City entered into a Memorandum of Understanding (“MoU”), describing a new organizational structure that will support the efforts of the TJPA in the development of the DTX to a ready-for-procurement status.

- F. The MoU commits the parties to participation in a process outlined in the MoU, but does not constitute a commitment of financial resources, and the parties acknowledged that they would need to work together to identify the necessary resources to support their respective activities to carry out the DTX work program.
- G. The TJPA, as project sponsor, and Caltrain, as rail operator and partner, have a unique relationship to the DTX and each other, and the TJPA and Caltrain are developing a Master Cooperative Agreement (“MCA”) that outlines each agency’s responsibility to deliver the entire DTX project, with an expected execution date of summer 2023.

As contemplated by the MoU, the TJPA, in cooperation with the parties to the MoU, has developed an Accelerated Comprehensive Work Plan, leading to an August 2023 submittal of a Full Funding Grant Agreement (“FFGA”) request to the Federal Transit Administration. The Accelerated Work Plan identifies certain tasks and activities to achieve the objective to “Perform technical studies and design to re-define and deliver a DTX initial operating phase as soon as possible” (Task 11). TJPA staff has determined that enabling works at the Fourth and King Yard are critical to meeting that objective of early delivery and will consult on this criticality with Caltrain to jointly determine and coordinate an agreed optimal approach for planning, design, and delivery of the enabling works.

- H. In the interim period before the MCA can be presented to the agencies’ boards for approval, the TJPA requires information sharing, design, operational input, and other coordination with Caltrain to ensure the TJPA meets critical milestones in the Accelerated Work Plan.
- I. All efforts for the enabling works must lead to interim and final outcomes that are fully compatible and integrated into the electrified Caltrain system during and after construction.
- J. The TJPA has been coordinating with Caltrain on work relating to advancing design for enabling sitework and infrastructure relocation on Caltrain ROW (“Enabling Works Planning”). Caltrain is committed to supporting the TJPA in the implementation of the Accelerated Work Plan and advancing the Enabling Works Planning. The work will utilize a multi-stage construction program to allow Caltrain to maintain continuous operations. To assist with planning and managing this complex work, Caltrain needs to dedicate certain staff resources and retain a consultant(s) responsible for developing, managing, and administering the DTX work located in Caltrain’s ROW in coordination with the TJPA. Caltrain requires funding to pay for these dedicated resources.
- K. The TJPA has certain limited resources to reimburse Caltrain for certain of its staff and consultant costs in support of the Enabling Works Planning.
- L. The TJPA receives federal, state, and local funding and all reimbursements contemplated in

this Agreement must meet certain federal, state, and local requirements.

- M. To the extent the Parties reach agreements hereunder related to the Enabling Works Planning before the MCA can be completed, such agreements will be binding on the Parties once approved by their respective boards and until superseded by the MCA.

## AGREEMENT

ACCORDINGLY, in consideration of the public benefits and other matters described in the foregoing recitals, the obligations contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the TJPA and Caltrain agree as follows:

1. **Agreement Purpose.** The purpose of this Agreement is to outline roles and responsibilities of the TJPA and Caltrain with respect to the administration and funding of the Enabling Works Planning.
2. **Scope.** This Agreement is limited to the Enabling Works Planning set forth in Appendix B.
3. **Budget.** This Agreement will be for a not-to-exceed amount of Five Hundred Ninety Five Thousand Dollars (\$595,000). This amount shall be revised, if necessary, by agreement of the parties, each in their sole discretion. If the budget exceeds the total amount of \$595,000 and no such agreement is reached, the parties will cease work and the parties will not perform any further work or services beyond those described in Appendix B. The parties shall adhere to the budget and invoicing procedures set forth in Appendix C. Any changes to the budget and invoicing procedures may only be made pursuant to Section 7, Modification, of this Agreement.
4. **Term.** The term of this Agreement shall commence on March 2, 2023. The term of this Agreement shall terminate on the earliest of: (a) the execution of the MCA between the Parties; (b) termination by either Party pursuant to Section [10]; or (c) March 31, 2024.
5. **Indemnification; Insurance**
  - A. Caltrain shall indemnify, defend, and hold harmless TJPA, its Board of Directors, representatives, agents or employees from and against all claim, injury, suits, demands, liability, losses, damages and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), arising from acts carried out by Caltrain pursuant to this Agreement, its officers, employees or agents in connection with this Agreement, except those arising by reason of the sole negligence or willful misconduct of TJPA, its officers, employees and agents.
  - B. The TJPA shall indemnify, defend, and hold harmless Caltrain, its Board of Directors, representatives, agents or employees from and against all claim, injury, suits, demands, liability, losses, damages and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), arising from acts carried out by TJPA pursuant to this Agreement, its officers, employees or agents in connection with this

Agreement, except those arising by reason of the sole negligence or willful misconduct of Caltrain, its officers, employees and agents.

- C. The foregoing provisions regarding indemnification are included pursuant to the provisions of Section 895.4 of the Government Code and are intended by the parties to modify and supersede the otherwise applicable provisions of Chapter 21, Part 2, Division 3.6, Title I of the Government Code.
- D. Caltrain shall ensure that its consultant(s) retained for the Enabling Works Planning names the TJPA as an additional insured in the same form and manner as Caltrain requires the consultant to provide for Caltrain.

6. **Notices.** Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

TJPA: Executive Director  
Transbay Joint Powers Authority  
425 Mission Street, Suite 250  
San Francisco, CA 94105  
E-mail: [avandewater@tjpa.org](mailto:avandewater@tjpa.org)

Caltrain: Executive Director, cc: General Counsel  
Peninsula Corridor Joint Powers Board  
1250 San Carlos Avenue  
San Carlos, CA 94070  
E-mail: [bouchardm@caltrain.com](mailto:bouchardm@caltrain.com), with a copy to [jharrison@olsonremcho.com](mailto:jharrison@olsonremcho.com)

Any notice of default must be sent by registered mail.

- 7. **Modification of Agreement.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.
- 8. **Agreement Made in California; Venue.** The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.
- 9. **Audit and Inspection of Records.** The Parties agree to maintain and make available to each other, during regular business hours, accurate books and accounting records relating to their work under this Agreement and the work of any third parties performing work on the Operations Analysis. The Parties will permit each other to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. The Parties shall maintain such data and records in an accessible location and condition for a period of not less than three years after Caltrain receives final payment from the TJPA. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have

the same rights conferred upon the Parties by this Section.

10. **Termination for Convenience/Cause/or Suspension.** Either Party may for any reason (convenience or cause) terminate or suspend this Agreement, in whole or in part, at any time by written notice to the other Party. Upon termination of this Agreement, Caltrain and its consultant shall cease performing the services described in Appendix B. Caltrain's consultant shall be paid its costs for work performed up to the termination of this Agreement, plus any costs reasonably necessary to effect the termination, if termination is for convenience. If the Agreement is terminated or suspended for cause, Caltrain shall be paid expenses actually incurred by Caltrain in accordance with the terms of the Agreement as of the effective date of termination. Sections [5, 6, and 9] shall survive termination or expiration of this Agreement.
11. **Compliance with Laws.** The parties shall keep themselves fully informed of all federal, state, and local laws in any manner affecting the performance of this Agreement, and must at all times comply with such laws, as they may be amended from time to time.
12. **Relationship of the Parties.** Caltrain shall at all times treat all persons working for or under the direction of Caltrain as agents or employees of Caltrain, and not as agents or employees of the TJPA.
13. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties with respect to its subject matter and supersedes any prior oral or written understanding on the same subject.
14. **Electronic Signature.** Unless otherwise prohibited by law or policy, the Parties agree that an electronic copy of this Agreement, or an electronically signed Agreement, has the same force and legal effect as the Agreement executed with an original ink signature. The term "electronic copy of this Agreement" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of the original signed agreement in a portable document format. The term "electronically signed Agreement" means the Agreement that is executed by applying an electronic signature using technology approved by the TJPA and Caltrain.

**IN WITNESS WHEREOF**, The Parties have executed this AGREEMENT on the date set forth above:

TRANSBAY JOINT POWERS AUTHORITY

By: \_\_\_\_\_  
Adam Van de Water, Executive Director

APPROVED AS TO FORM:

By: \_\_\_\_\_  
TJPA Legal Counsel

Transbay Joint Powers Authority  
Board of Directors  
Resolution No. \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Attest:

\_\_\_\_\_  
Secretary, TJPA Board

PENINSULA CORRIDOR JOINT POWERS BOARD

By: \_\_\_\_\_  
Michelle Bouchard, Executive Director

APPROVED AS TO FORM:

By: \_\_\_\_\_  
PCJPB Legal Counsel

**APPENDIX A**  
**Map of Anticipated DTX ROW**

# Transbay Program DTX ROW

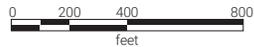
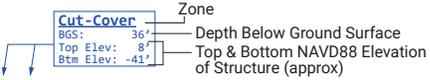
Transit Center (Phase 1)

Public ROW in Natoma, Minna, First, Fremont, and Beale Streets acquired as part of Phase 1

- TJPA Parcel
- CCSF ROW
- State Parcel
- Rock Dowel Encro.
- Private Parcel
- Burton Act Parcel
- Parcel w/ Rock Dowel Encro.
- Caltrain Parcel

Block Number

### Elevation Data



Oct 05, 2022

Sheet 1 of 4

For planning purposes only. All elements subject to change. Measurements provided for information but should not be relied on.

**Salesforce Transit Center**

**Train Box Extension**

**SHEET 2**

**SHEET 3**

**SHEET 4**

**Tunnel Stub Box**

**Fourth & Townsend Station**

**Fourth & King Railyards**

**Portal**

**Tunnel**

**Station Entrance on Fifth St**

**Station**

**Station**

**Tunnel**

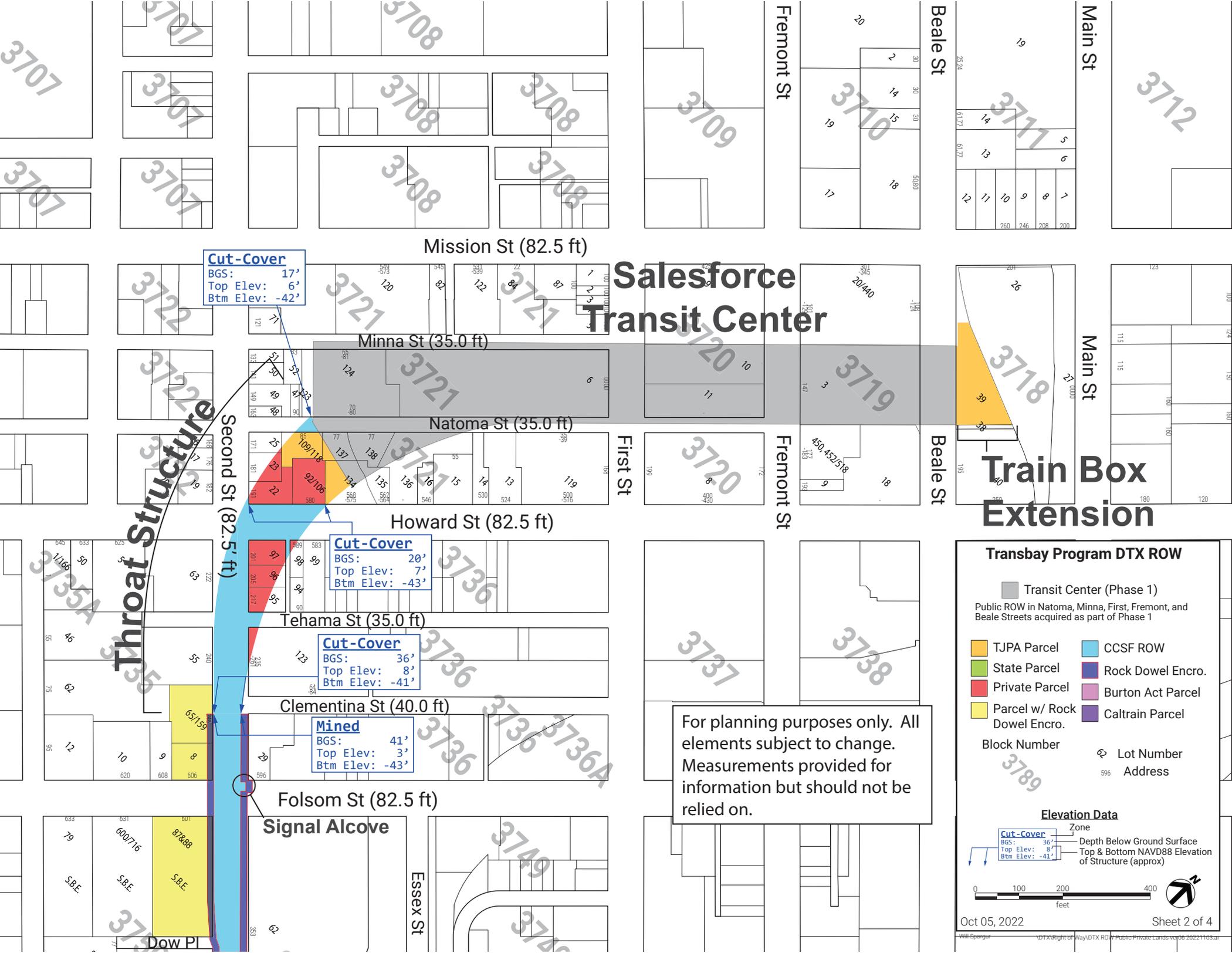
**Mined**

**Mined**

**Tracks at Grade**

**Emergency Egress & Vent Structure Site**

**Mined**



**Cut-Cover**  
 BGS: 17'  
 Top Elev: 6'  
 Btm Elev: -42'

**Cut-Cover**  
 BGS: 20'  
 Top Elev: 7'  
 Btm Elev: -43'

**Cut-Cover**  
 BGS: 36'  
 Top Elev: 8'  
 Btm Elev: -41'

**Mined**  
 BGS: 41'  
 Top Elev: 3'  
 Btm Elev: -43'

# Salesforce Transit Center

# Train Box Extension

For planning purposes only. All elements subject to change. Measurements provided for information but should not be relied on.

**Transbay Program DTX ROW**

- Transit Center (Phase 1)
- Public ROW in Natoma, Minna, First, Fremont, and Beale Streets acquired as part of Phase 1
- TJPA Parcel
- State Parcel
- Private Parcel
- Parcel w/ Rock Dowel Encro.
- CCSF ROW
- Rock Dowel Encro.
- Burton Act Parcel
- Caltrain Parcel

Block Number      Lot Number  
 Address

**Elevation Data**

Zone  
 Depth Below Ground Surface  
 Top & Bottom NAVD88 Elevation of Structure (approx)

0 100 200 400 feet



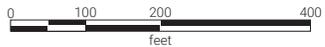
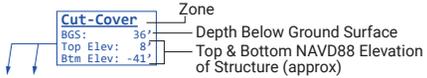
# Transbay Program DTX ROW

Transit Center (Phase 1)  
 Public ROW in Natoma, Minna, First, Fremont, and Beale Streets acquired as part of Phase 1

- TJPA Parcel
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- Parcel w/ Rock Dowel Encro.
- CCSF ROW
- Rock Dowel Encro.
- Burton Act Parcel
- Caltrain Parcel

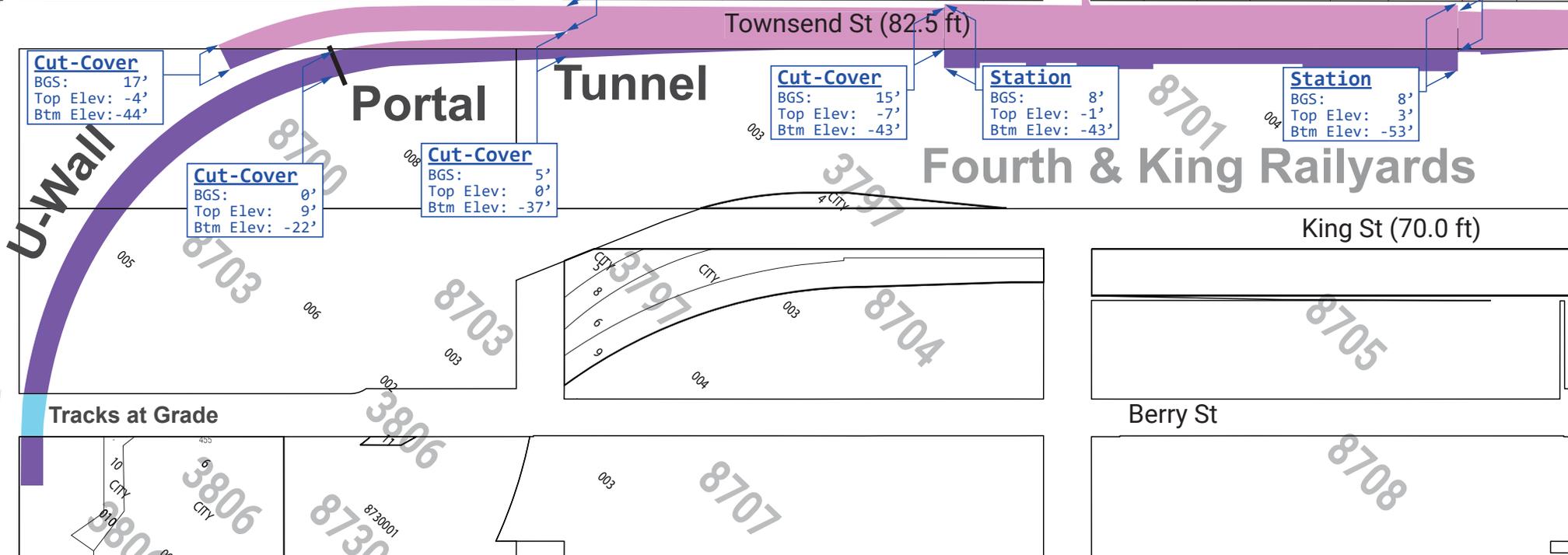
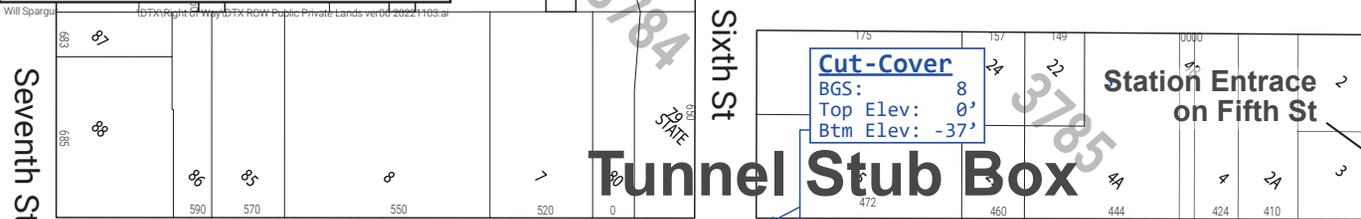
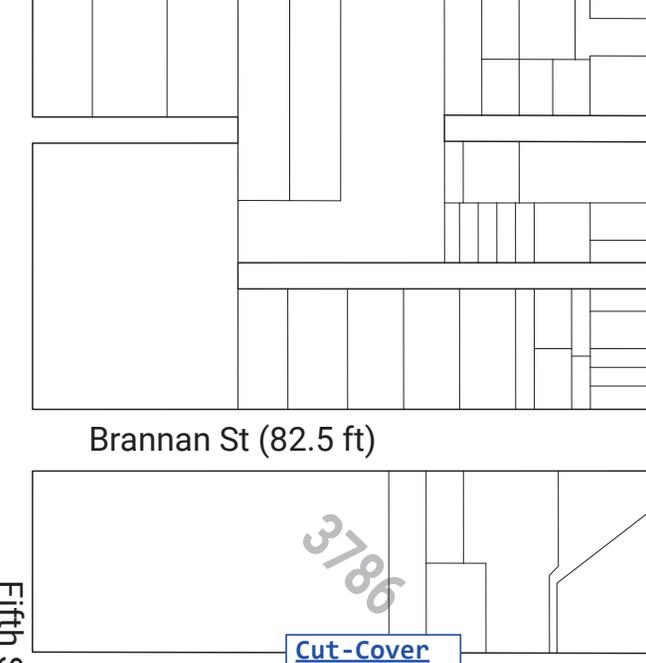
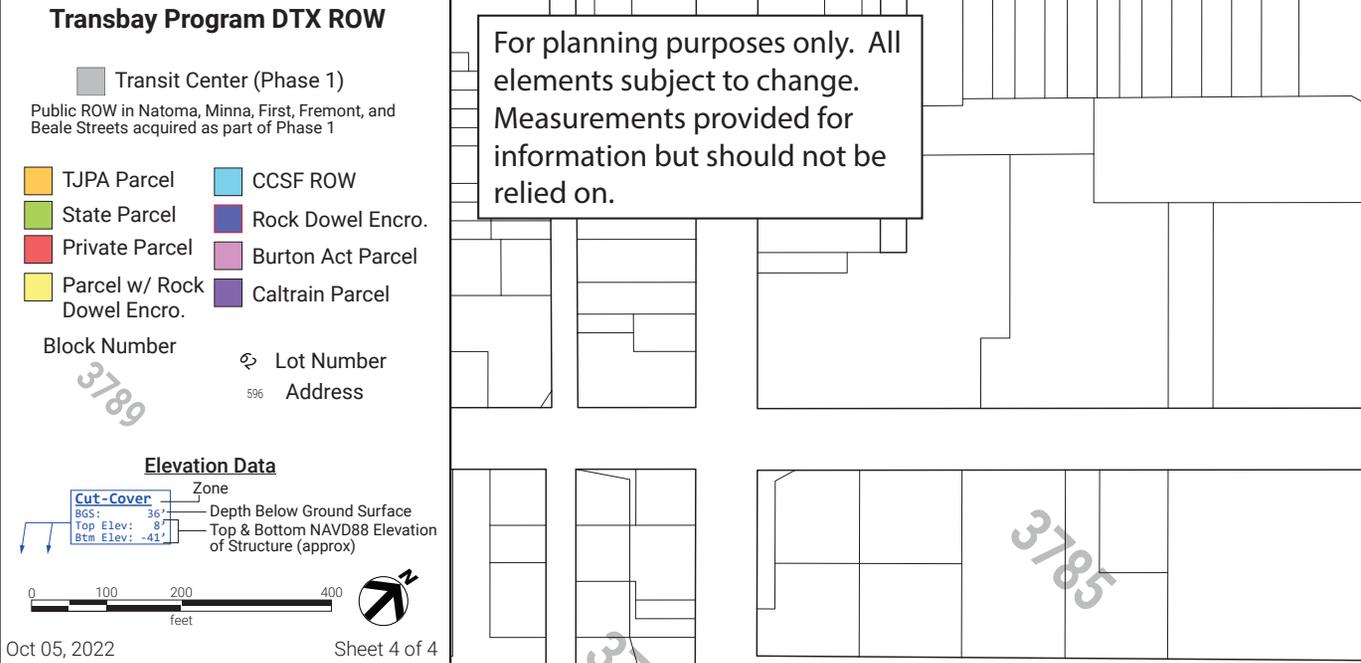
Block Number ↻ Lot Number  
596 Address

### Elevation Data



Oct 05, 2022 Sheet 4 of 4

For planning purposes only. All elements subject to change. Measurements provided for information but should not be relied on.



Tracks at Grade

Brannan St (82.5 ft)

Bluxome St

Fifth St (82.5 ft)

Sixth St

Seventh St

Station Entrance on Fifth St

## Fourth & Townsend Station

Townsend St (82.5 ft)

## Fourth & King Railyards

King St (70.0 ft)

Berry St

**APPENDIX B**  
**Enabling Works Planning**  
**Scope of Work**

Pursuant to Caltrain's competitive procurement process, Caltrain intends to retain consultant(s) from a bench of consultants pre-qualified to provide On-Call Program Management Oversight services related to advancing design for enabling sitework and infrastructure relocation ("Enabling Works Planning") for the Downtown Rail Extension (DTX) project on property Caltrain owns or holds an easement interest ("Caltrain ROW").

The consultant(s) will work under Caltrain staff supervision and on Caltrain's behalf on all matters related to TJPA's Enabling Works Planning for the DTX project on Caltrain ROW. In particular, the consultant(s) will act as a liaison and coordinate with TJPA staff and consultants on Enabling Works Planning, including planning, design, scope, schedule, budget, procurement, project delivery, integration, commissioning, testing, safety, and quality from initiation to closeout. Under Caltrain direction, the consultant(s) will review, identify modifications as necessary and appropriate, ensure Caltrain input is reflected in, approve, and oversee the implementation of TJPA's Enabling Works Planning.

The consultant(s)'s function and objectives are to ensure the TJPA's Enabling Works Planning is consistent with Caltrain standards, protects Caltrain's existing interests (including interests in operations, safety, ROW, and improvements), and does not impair Caltrain's existing rights. The DTX is a critical regional project that 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 Enabling Works Planning on Caltrain ROW is critical to the progression of the DTX project; it is on the project's critical path so there is severe time pressure to complete this work. The Parties intend the consultant(s) services and TJPA's reimbursement under this Agreement will facilitate completion of the Enabling Works Planning and delivery of the DTX on the approved accelerated schedule.

## **APPENDIX C**

### **Budget and Invoicing**

This agreement will be for a not-to-exceed amount of Five Hundred Ninety Five Thousand Dollars (\$595,000). This amount shall be revised, if necessary, by agreement of the parties, each in their sole discretion. If the budget exceeds the total amount of \$595,000 and no such an agreement is reached, the parties will cease work and the parties will not perform any further work or services beyond those described in Appendix B. The parties shall adhere to the budget and invoicing procedures set forth in this Appendix C. Any changes to the budget and invoicing procedures may only be made pursuant to Section 7, Modification, of this Agreement). Caltrain consultant costs are estimated based on actual proposal pricing, to which ICAP multiplier (0.0389) is added ("Fully-Loaded Budget").

Rates and Charges: TJPA shall reimburse Caltrain for actual costs incurred for actual consultants providing the Enabling Works Planning, in amounts not to exceed the budget specified above.

Invoices: Caltrain will bill the TJPA on a cost reimbursable basis. Invoices furnished by Caltrain must be in a form reasonably acceptable to the TJPA. Caltrain shall submit invoices monthly to the TJPA. Notwithstanding the foregoing, all invoices for work in a Fiscal Year must be received by the TJPA within the period of time after the close of the Fiscal Year specified by the TJPA. The TJPA shall make a good faith effort to pay all undisputed amounts within forty-five (45) days following receipt of a proper invoice from Caltrain. In no event shall the TJPA be liable for interest or late charges for any payments made after this time period. To the extent the TJPA disputes any invoice, the Parties shall meet and confer in a good faith effort to resolve the dispute.