



**Caltrain  
Governance**

**JPB Special Meeting #4  
on Governance**

August 20, 2021



**Welcome to Special  
Meeting #4**



# Special Meeting #4 Agenda

- **Governance Process Updates**
  - Revised process roadmap
  - Report on status of ROW repayment discussion
- **Objectives for Today**
- **Overview of Self-Directed Options Analyzed**
- **Evaluation of Self-Directed Options**
- **Financial Analysis**
- **Legal Analysis**

~ Break ~

- **Board and Leadership Perspectives on Options**
- **Summary/Synthesis**
- **Board Clarifying Questions**
- **Public Comment**
- **Board Discussion**
- **Next Steps**



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# Governance Process Updates

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# Previous JPB Governance 2021 Roadmap

## Phase 1

**Goals:**

- Exploration and education about the JPB's range of structural governance paths.
- Selection of governance options and key issues to focus on in Phase 2.

## Phase 2

**Goals:**

- Discussion of selected option(s) and financial and legal analysis towards developing the 2021 governance recommendation.
- Adoption of governance recommendation at December 2021 JPB meeting.



**Special Meeting #1**

**Special Meeting #2**

**Special Meeting #3**

**Special Meeting #4**

**Special Meeting #5**

**Board Adoption of 2021 Governance Recommendation**

- #1 Outcomes:**
- Motion to accept 2021 gov. roadmap
  - Motion to accept 2021 gov process objectives
  - Discussion of interview themes and structural paths
- #2 Outcomes:**
- Discussion of three self-directed governance options
  - Discussion of evaluation process
- #3 Theme:** Regional (non-self directed) Options
- #4 Theme:** Summary of evaluation of governance options
- #5 Theme:** Refinement and recommendations concerning governance options

# Updated Phase 2 - 2021 Roadmap

## Phase 2

**Goals:**

- Discussion of options and financial and legal analysis towards developing the 2021 governance recommendation.
- Adoption of governance recommendation at December 2021 JPB meeting.



- Staff continue legal, financial, and qualitative analyses in preparation for Special Meeting #4 on 8/20; brief Chair Davis on materials in August before Special Meeting #4.
- Staff facilitates discussions with member agency partners on ROW repayment.

**August 20: Special Meeting #4**

- #4 Themes:**
- Summary of evaluation of governance options
  - Focus on questions and clarifications to support subsequent discussion of draft proposals

**Late-September: New Special Meeting #5**

- #5 Theme:** Discussion of draft proposals for 2021 governance recommendation

**October 22: Special Meeting #6- Revisiting Regional Discussion**

- #3 Theme:** Discuss regional (non-self directed) options; relationship to 2021 recommendation

**November JPB: Board consideration of draft Governance Recommendation**

**December JPB: Board Adoption of 2021 Governance Recommendation**

Ongoing work to refine draft governance recommendation and to support member agencies in ROW repayment discussions as needed.

## Status Update and Discussion on ROW Repayment

- Letters have been exchanged between the partners and there is a difference of views as to the amount owed as reimbursement to SamTrans for the ROW purchase
- Caltrain ED has convened meetings with general managers from all JPA partner agencies to engage in discussion around ROW repayment. These meetings are ongoing
- Caltrain ED has also alerted MTC of potential need for their involvement as the discussion progresses.



## Objectives

## Objectives for Special Meeting #4

1. **Confirm shared understanding** of different self-directed governance options considered and evaluation approach used.
2. **Review financial and legal analyses** of self-directed governance options and address any additional questions.
3. **Consider results of qualitative interviews** with Board members and partner agency General Managers.
4. **Summarize findings** and discuss approach to September Special Meeting #5, which will be a “part two” to continue the conversation about governance options.



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## Board Discussion

What do you hope to learn today?



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# Overview of Self-Directed Options Analyzed

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## How do the Options Differ from the Governance Situation Today?

It is important to note that for the purposes of analysis, all the options differ from the governance situation today.

- **Dedicated Executive Director:** relative to today, each of the options includes a permanent, dedicated Caltrain Executive Director.
- **Accountability:** relative to today, each of the options includes enhanced JPB oversight and accountability over the Caltrain Executive Director.
- **Staffing:** relative to today, the “baseline” of the options includes additional staff positions that are needed to optimize the Rail Division and support implementation and operation of the electrified railroad.
- **Processes:** relative to today, Options 1 and 2 include process improvements and formalization of service arrangements between SMCTD and Caltrain.



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# Three Broad “Self-Directed” Options

Less Change

More Change

## Option 1

### Refined Shared Services Model & ED Relationship

Maintain the San Mateo County Transit District (SMCTD) as managing agency of Caltrain with increased JPB oversight over the Caltrain Executive Director (ED) and increased Caltrain oversight of services provided to the railroad by SMCTD through shared service agreements.

## Option 2

### New Shared Services Model & ED Relationship

Adjust the SMCTD managing agency model to provide for greatly expanded JPB oversight and authority, including direct JPB employment of the Caltrain ED and senior leadership; expansion of services provided to the railroad directly by Caltrain; and establishment of purchased service agreements for remaining services provided to the railroad by SMCTD.

## Option 3

### Independent Agency

Dissolve the managing agency model and replace with a separate, independent Caltrain agency to directly manage and administer the railroad, either through reorganizing JPA or forming a special district.

## Legend for Org Charts

- **Employing entity** = entity that has staff on payroll.
- **Reporting entity** = entity that directs work and evaluates performance of staff.

As noted in the legend and in the following slides, a staff person’s employment entity may be different than the entity they report to for their work.

Caltrain employee reporting exclusively up to Caltrain ED and JPB

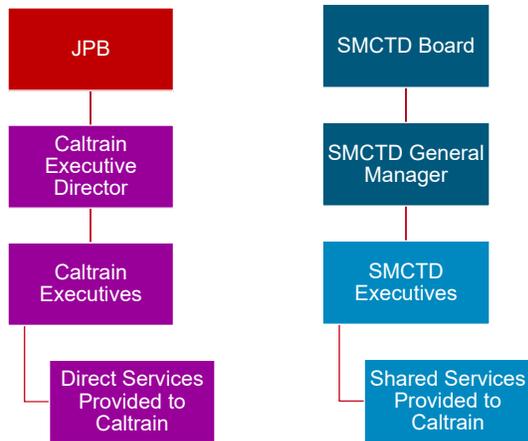
SMCTD employee providing direct services to Caltrain and reporting exclusively up to Caltrain ED and JPB

SMCTD employee reporting up to SMCTD GM but providing some services to Caltrain under a shared or purchased services agreement.

SMCTD employee reporting exclusively up to SMCTD GM and SMCTD Board.



## Option 1 for Analysis

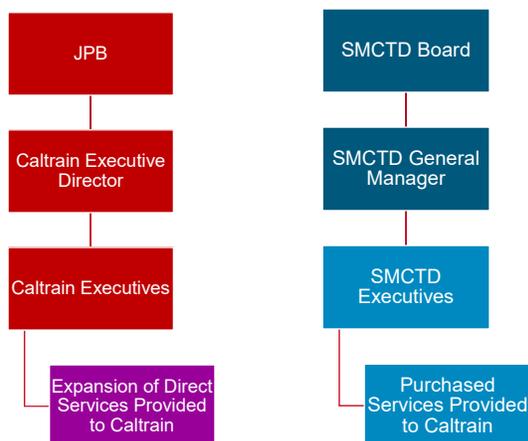


- A) Caltrain Executive Director (ED):**
- Recommended by the JPB to the SMCTD Board for approval.
  - JPB sets ED goals and conducts annual review.
- B) Employer of Staff:**
- SMCTD employs all staff.
- C) Reporting Relationships:**
- All staff who provide direct services to Caltrain report to Caltrain Executives, who report to Caltrain ED.
  - All staff who provide shared services to Caltrain report to SMCTD executives (who report to SMCTD GM) but support Caltrain under terms of a shared services agreement.
- D) Service Agreements:**
- For all shared services, support is provided to Caltrain ED and Caltrain Executives under the terms of a shared services agreement.



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## Option 2 for Analysis



- A) Caltrain Executive Director (ED):**
- Selected by the JPB, which sets ED goals and conducts annual review.
  - Employed directly by JPB.
- B) Employer of Staff:**
- JPB directly employs Caltrain ED and Caltrain Executives only.
  - SMCTD employs all other staff.
- C) Reporting Relationships:**
- Expanded staff who provide direct services to Caltrain; they report to Caltrain executives, who report to Caltrain ED.
  - Reduced staff who provide purchased services to Caltrain; they report to SMCTD executives (who report to SMCTD GM) but support Caltrain under terms of a purchased services agreement.
- A) Service Agreements:**
- For all purchased services, support is provided to Caltrain ED and Caltrain Executives under the terms of a purchased services agreement.

Note: There is a great amount of flexibility in both 1) the scope of staffing changes that could be included in Option 2, and 2) the timeframe and phasing for Option 2 implementation. Option 2 utilizes purchased services agreements, which would be a fee for service model rather than a cost sharing/allocation model as contemplated for the shared services agreements under Option 1.



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# Option 3 for Analysis



- A) Caltrain Executive Director (ED):**
  - Selected by the JPB, which sets ED goals and conducts annual review.
  - Employed directly by JPB.
- B) Employer of Staff:**
  - JPB directly employs all Caltrain staff.
- C) Reporting Relationships:**
  - All services report to Caltrain Executives, who report to Caltrain ED.
- D) Service Agreements:**
  - No agreements needed.

Note: Option 3 would involve approximately ten currently represented staff in the Customer Service department, which would require negotiations with their bargaining unit (all other administrative staff are not currently represented). Any other large scale changes to labor representation for either Caltrain management or contractors would likely have additional cost and legal implications that would require further analysis.



# Illustrative Staffing Assumptions

Total Number of Employees Supporting Caltrain, by Option

Option	Caltrain Employees Reporting Exclusively up to Caltrain ED and JPB	SMCTD Employees Providing Direct Services To Caltrain and Reporting Exclusively to Caltrain ED and JPB	SMCTD Employees Reporting up to SMCTD GM but Providing Some Services to Caltrain Under an Agreement	Total Employees Supporting Caltrain
Baseline	0	105	104	209
Option 1	0	105	104	209
Option 2*	8*	179*	40*	227
Option 3	236	0	0	236

\*Note: there is a great amount of flexibility in both 1) the scope of staffing changes that could be included in Option 2, and 2) the timeframe and phasing for Option 2 implementation. For the purposes of analysis only, for Option 2, the number of SMCTD employees reporting to SMCTD GM but providing services to Caltrain includes staff to support the following functions: Information Technology, Civil Rights, Accounting, and Treasury.



## Questions?

Are there any questions about what has been outlined with the options?



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## Evaluation of Self-Directed Options

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# Framework for Evaluation for Self-Directed Options

- The evaluation framework for the self-directed options was presented at Special Meeting #2 to structure the process of analyzing and recommending a governance option.
- The evaluation was grouped around **three key questions** of broad importance to Caltrain, its partners, riders, and the public as a whole:
  - What are the practical **resource and transition considerations** for each governance model?
  - To what extent does this option provide for an **effective and efficient delivery of Caltrain services**?
  - To what extent is this governance model **fair and accountable to the public(s)** that it serves?

**Today, we will start with resource and transition considerations.**



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# Analysis Approach

- **Financial analysis**
  - Financial analysis was conducted by consultants and Caltrain staff and reviewed by JPA member agency CFOs. Results have been summarized by Howard Permut.
  - Analysis included understanding:
    - Annual costs such as staff, overhead, and support.
    - One-time costs and impacts such as transition costs.
    - Pension and retirement liabilities.
- **Legal analysis**
  - Legal analysis was conducted by JPB General Counsel and reviewed by JPA member agency General Counsels.
  - Analysis included understanding the legal details/implications for each option, such as:
    - Creation/modification of agreements, transition support, service level agreements, etc.

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# Financial Analysis

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## Overview of Analysis

### Financial Operating Cost Analysis

- A financial analysis of the operating costs to Caltrain of the different governance options.
- Results (2021\$)
  - Annual and One-time Costs by Option
  - Incremental Costs by Option

### Pension, OPEB, and PTO Analysis

- An overview and analysis of the pension unfunded liability, OPEB (post retirement benefits) and PTO (compensated absences) associated with different potential outcomes.



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# High-Level Conclusions: Annual Incremental Costs and One-Time Costs

## Financial Operating Cost Results

- **Annual incremental costs (vs. baseline)**
  - Option 1 = \$0
  - Option 2 = \$5.9M
  - Option 3 = \$9.2M
- **One-time costs**
  - Option 1 = \$1.5M
  - Option 2 = \$4.6M
  - Option 3 = \$48.9M - due in large part to IT system costs to support a fully independent agency

*Note: These costs are in 2021 dollars and exclude capital infrastructure and rolling stock costs, TASI costs, costs to member agencies, and other annual contract operating and fueling costs.*



# Annual Caltrain Costs

Option	JPB Staffing Costs	3 <sup>rd</sup> Party Annual Costs	JPB Payments to SMCTD	Other Annual Costs	Estimated Annual Costs
Baseline	\$21,300	\$17,900	\$24,600	-	\$63,800
Option 1	\$21,300	\$17,900	\$24,600	-	\$63,800
Option 2	\$37,900	\$17,900	\$10,700	\$3,200	\$69,700
Option 3	\$47,900	\$17,900	-	\$7,200	\$73,000

Option	Annual Increase in JPB Costs
Baseline	-
Option 1	-
Option 2	\$5,900
Option 3	\$9,200

**Notes:**

1. Costs are in 2021 dollars, expressed in thousands, rounded to the nearest \$100K.
2. Baseline represents a slightly larger Caltrain staff than today to reflect need for expanded capability. The Baseline includes costs related to pre-existing JPB decisions to have an independent auditor and independent counsel.
3. These costs exclude capital infrastructure and rolling stock costs, TASI costs, costs to member agencies, and other annual contract operations and fueling costs.



# Total One-Time Costs



- **Human Resources Costs** consist of expenditures related to the recruitment of additional personnel required for each option.
- **Information Technology Costs** consists of expenditures for each option related to the start-up costs associated with the acquisition and implementation of enterprise systems, a data center, employee IT devices, rail operating systems, and costs associated with an IT transition team.
  - Under Option 2, the vast majority of employees remain SMCTD employees, and it is assumed that the current people soft system will be utilized.
  - Under Option 3, where the JPB would become a fully independent entity, the implementation of its own information technology systems would be required. This drives the \$48.9 M expenditure.
- **Professional Services Costs** consist of legal and transition team expenses required to implement each option.

Option	One-Time Costs
Baseline	\$0
Option 1	\$1,500
Option 2	\$4,600
Option 3	\$48,900

Note: Costs are in 2021 dollars, expressed in thousands, rounded to the nearest \$100K.

Note: As options are refined, additional one-time costs may be identified.



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# Caltrain Obligation Estimates Overview

As part of the transition whereby employees are moving from SMCTD to Caltrain, the parties must negotiate three (3) complex agreements:

1. **Pension Unfunded Accrued Liability (UAL):** Difference between value of underlying investments and amount employer must pay in pension benefits already accrued (for both active and retired participants).
2. **Other Post-Employment Benefit Unfunded Accrued (OPEB) Liability:** Medical benefits paid to employees upon retirement from Caltrain.
3. **Compensated Absences:** Accrued absences (e.g., paid time off) for which employees will be paid upon leaving Caltrain.

The cost to Caltrain of each of these liabilities is a function of a negotiation between Caltrain and SMCTD as to the responsibility to pay for the liability and the terms of payment (lump sum, annual contribution). This, more than the different governance options, will determine the costs to Caltrain.

CalPERS must approve any agreement regarding the UAL. The team has reached out to CalPERS to understand their potential concerns.



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## Summary of Key Issues and Results

- It is extremely difficult to calculate a clear number given the degree of uncertainty. Complex negotiations involving SMCTD and Caltrain regarding responsibility, payment terms, discount rate, and actual employees transferring will drive cost estimates.
- CalPERS approval required for UAL.
- Cost and variability will be greatest for Option 3 (up to 236 employees transferring employer) with lesser impact on Option 2 (up to 8 employees transferring employer) and no impact on Option 1.
- While fewer employees would transfer in Option 2, there may be additional liability-related cost impacts that would impact Caltrain based on the outcomes of negotiations to establish purchased service agreements with SMCTD for Caltrain functions (versus the current shared / allocated approach). These cannot be quantified at this time.



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## Summary of Key Issues and Results, continued

- The table below shows hypothetical ranges of estimated total liabilities associated with Option 3 – or a scenario where all employees transfer to a separate organization.

Element	Range of Estimated Costs for Hypothetical Scenarios	Key Assumptions Underlying Range
UAL	\$22 - \$122M	Shared responsibility, terms, discount rate
OPEB	\$6 - \$13M	Discount rate, 100% Caltrain responsibility
PTO	\$2M	100% Caltrain responsibility



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# Questions?

Are there any questions about what has been outlined with the financial analysis?



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# Legal Analysis

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## Legal Analysis Assumptions

### Analysis Based on Following Assumptions:

- JPB recommends governance option to member agencies by 12/31/21.
- Member agencies select a governance option.
- JPB assists member agencies in negotiating/drafting term sheet (MOU) that contains key decisions regarding implementation of the option.
- Estimated time and costs for implementation of each option assumes starting point at execution of MOU.
- Cost estimates do not include legal costs of member agencies.



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## High Level Conclusions

### All three options are legally feasible:

- **Option 1** would require fewer legal resources to implement and could be accomplished more quickly than the other options: **6-18 months; \$750,000-\$1.5M**
- **Option 2** would be more expensive and take more time to implement than Option 1 because it would require establishing Caltrain as an employer and negotiating agreements between the JPB and SMCTD for direct and purchased services: **12-18 months; \$1.5-\$2.5M**
- **Option 3** would likely consume the greatest amount of legal services and time because of the need to establish Caltrain as the employer for all employees: **12-36 months; \$2.5-\$4.5M**



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## Option 1: Legal Steps

### Legal Steps Required to Implement Option 1:

- Amend 1996 Joint Powers Agreement (JPA) to delete reference to General Manager of Managing Agency acting as Executive Director of JPB.
- Make any other amendments to JPA necessary to reflect parties' agreement regarding role of JPB relating to ED and management of Caltrain.
- Negotiate, draft, and execute agreement for shared services provided by SMCTD to JPB.
  - Establish cost allocation for employees.
  - Define types and levels of service.
  - Clarify roles and responsibilities.
  - Establish performance metrics.



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## Option 1: Legal Steps

### Legal Steps Recommended to Implement Option 1:

- Amend 1996 JPA to define:
  - Process by which JPB recommends candidates for ED, including scope of SMCTD veto power, and role in decision-making.
  - Role of JPB in performance review and compensation and termination decisions.
  - Scope of ED's management authority.



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## Option 1: Legal Steps

### Potential Legal Steps Ancillary to Implementation of Option 1:

- Amend 1996 JPA to address issues identified in 2020 Special Counsel report, e.g., discrepancy between JPA and current practice of basing the funding allocation on the all-day boarding formula.
- Make other desired changes relating to governance, such as duration of JPA and Directors' terms.



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## Option 1: Legal Steps

### Potential Legal Steps Ancillary to Implementation of Option 1 (continued):

- Amend and/or restate 1991 RPOA and 2008 Amendment to address:
  - Reimbursement of SMCTD, including SMCTD's property rights (e.g., tenant in common in ROW in San Mateo County and equity conversion right).
  - SMCTD's role as managing agency.



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## Option 1: Legal Costs and Time Estimates

### Option 1 Legal Services Time and Cost Estimate

- Time: 6-18 months
- Cost: \$750,000 - \$1,500,000



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## Option 2: Legal Steps

### Legal Steps Required to Implement Option 2:

- Amend 1996 JPA to:
  - Provide JPB authority to hire and employ Caltrain ED and seven executives, and provide ED authority to manage Caltrain subject to JPB oversight.
  - Amend managing agency provisions, including provisions naming managing agency's GM and Finance Director as Caltrain ED and controller/treasurer, respectively.



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## Option 2: Legal Steps

### Legal Steps Required to Implement Option 2 (Continued):

- Amend and restate 1991 RPOA/2008 Amendment to:
  - Modify language regarding SMCTD as managing agency.
  - Reflect parties' agreement with respect to reimbursement and property rights (e.g., SMCTD as tenant in common to ROW in San Mateo County and equity conversion right).



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## Option 2: Legal Steps

### Legal Steps Required to Implement Option 2 (Continued):

- Draft direct services agreement between JPB and SMCTD:
  - Caltrain ED directs and makes all employment decisions (hire/fire, promotions, salary, etc.) for rail employees and other SMCTD employees dedicated to Caltrain.
  - Covers most services necessary to run Caltrain.
  - Addresses indemnification (e.g., allocating liability for employment decisions made by Caltrain and for acts/omissions arising from conduct of employees acting at direction of Caltrain), scope of Caltrain's authority over personnel decisions, and dispute resolution provisions.



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## Option 2: Legal Steps

### Legal Steps Required to Implement Option 2 (Continued):

- Draft purchased services agreement between JPB and SMCTD:
  - Involves far fewer services than in Option 1, likely including IT, Accounting, Civil Rights, HR.
  - Fee for service agreement.
- Draft agreement between JPB and SMCTD regarding unfunded accrued liability (UAL) for pensions, OBEP, and PTO for former SMCTD employees.



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## Option 2: Legal Steps

### Additional Steps Necessary to Implement Option 2:

- Consider recommended amendments to JPA set forth in slides for Option 1.
- Establish JPB as an employment center for eight employees (ED and senior staff):
  - Retain human resources consultant.
  - Establish benefits and employment policies.
  - Enroll staff in benefits plans.



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## Option 2: Legal Costs and Time Estimates

### Option 2 Legal Services Time and Cost Estimate

- Time: 12-18 months
- Cost: \$1,500,000 - \$2,500,000



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## Option 3a: Legal Steps

### Legal Steps Required to Implement Option 3a:

- Amend 1996 JPA to:
  - Provide JPB authority to hire and employ all Caltrain employees, and provide ED authority to manage Caltrain subject to JPB oversight.
  - Amend managing agency provisions, including provisions identifying managing agency staff as JPB officers.



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## Option 3a: Legal Steps

### Legal Steps Required to Implement Option 3a (Continued):

- Draft agreement between JPB and SMCTD regarding unfunded accrued liability (UAL) for pensions, OBEP, and PTO for former SMCTD employees.
- Amend and restate 1991 RPOA/2008 Amendment to:
  - Modify language regarding SMCTD as managing agency.
  - Reflect parties' agreement with respect to reimbursement and property rights (e.g., SMCTD as tenant in common to ROW in San Mateo County and equity conversion right).



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## Option 3a: Legal Steps

### Additional Steps Necessary to Implement Option 3a:

- Draft and execute service contracts required to administer agency for services that are currently jointly provided to Caltrain and SMCTD.
- Establish JPB as an employment center for all Caltrain employees (approximately 227):
  - Retain human resources consultant.
  - Establish benefits and employment policies.
  - Enroll staff in benefits plans.
  - Address labor issues with customer services agents who are represented.



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## Option 3a: Legal Steps

### Additional Steps Recommended to Implement Option 3a:

- Consider recommended amendments to JPA set forth in slides for Option 1.



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## Option 3b: Legal Steps

### Legal Steps Required to Implement Option 3b:

- Propose and enact State legislation establishing special district:
  - Provide for district to succeed to powers, duties, rights, and obligations of JPB and for dissolution of JPB.
  - Provide for transfer of real and personal property owned by JPB to district.
  - Provide for governance of district including manner of selection and terms of Board members.
  - Provide authority to expend Measure RR revenues and for funding operating and capital expenses.



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## Option 3b: Legal Steps

### Legal Steps Required to Implement Option 3b (Continued):

- Review grants and contracts to effectuate assignment.
- Draft and execute any necessary services agreements.
- Secure insurance.
- Execute regulatory filings that may be required by relevant federal agencies, including STB, FRA, FTA, and RRB.



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## Option 3b: Legal Steps

### Legal Steps Required to Implement Option 3b (Continued):

- Establish district as an employment center:
  - Retain human resources consultant.
  - Establish benefits and employment policies.
  - Enroll staff in benefits plans.
  - Address labor issues with customer services agents who are represented.
- Draft and adopt conflict of interest code and incompatible activities statement.



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## Option 3: Legal Costs and Time Estimates

### Option 3 Legal Services Time and Cost Estimate

#### Option 3a:

- Time: 12-24 months
- Cost: \$2,500,000 - \$3,000,000

#### Option 3b:

- Time: 24-36 months
- Cost: \$3,000,000 - \$4,000,000



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## Questions?

Are there any questions about what has been outlined with the legal analysis?



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**Break**

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**Board Member and  
Leadership Perspectives on  
Options**

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# Analysis Approach and Criteria

**Analysis Approach:** Interviews with Board Members and General Managers

**Evaluation Criteria:** How well do the governance options position Caltrain to...

## For Board Members

- Be accountable and responsive to the needs of current and future riders?
- Increase social, economic and racial equity on the Caltrain system?
- Ensure fairness and accountability to the tax-paying public(s) who fund (and have funded) the Caltrain system?
- Ensure fairness and accountability to the communities who are impacted by the railroad's operations and projects?
- Maximize Board member alignment with Caltrain goals?

## For Agency General Managers

- Provide rider-focused, safe, high-quality, regionally connected rail service?
- Plan, fund, and deliver the Service Vision and associated mega-projects?
- Have clarity and transparency of decision-making/authority/finances across the organization?
- Be flexible and resilient in response to changing conditions?



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# Overview of Board Member and General Manager Interview Process

- As outlined at the May 14th Special Meeting, interviews were completed with Board Members, Agency GMs, and senior staff from VTA, SMCTD, SFCTA, SFMTA.
- Board members and General Managers spoke candidly and participated fully.
- Interviewees approached the evaluation criteria with different levels of depth and detail.
- There is challenge inherent to “evaluating” options against criteria – especially in a politicized environment.



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# Board Member Interview Themes

In addition to the quantitative information presented in the next slides, a few key facts emerged from the Board Member interviews:

- There is considerable divergence of views between different Board Members and questioning of motives, including a concern about lack of support for Caltrain as an institution.
- There was a lack of understanding as to how Option 2 could operate, which is not surprising given the variety of approaches that could be used.
- There are several Board Members who are awaiting the completed analyses to inform their decision-making.



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## What issues are important to Board Members to resolve in this process?

### Frequency of Ratings by Subject Area

Subject Area	Average Rating	# of Board Members Giving Each Rating			
		1	2	3	4
Repayment of SMCTD	1.1	7	1	0	0
Updating JPA	1.4	6	1	1	0
Board Member terms/composition	1.5	6	1	0	1
Expenditure of Measure RR funds	1.6	5	2	0	1
Corridor Real Estate Assets	1.6	5	2	0	1
Member Agency investments beyond Measure RR	1.8	4	2	2	0
Role of Caltrain in regional governance conversations	2.0	2	4	2	0
Gilroy Extension	2.4	2	2	3	1
Grade Separations	2.6	0	4	3	1
Major Capital Projects	2.6	0	3	5	0

#### Ratings:

1) A foundational governance issue that must be substantively discussed and resolved as part of a December 2021 JPB governance recommendation.

2) An important topic that should be considered as part of the December 2021 JPB governance recommendation – but where full resolution of the issue could be deferred to a subsequent phase of work.

3) An important issue that should be addressed outside of the formal Caltrain governance process.

4) Not a critical issue for the JPB to directly address or lead on at this time.



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## What issues are important to Board Members to resolve in this process?

	Subject Area	Findings
Most Important	Repayment of SMCTD	Agreement by Board Members that funding compensation to/from SMCTD must be included as part of governance decision.
Most Important	Updating JPA	Agreement by Board Members that they want governance issues resolved and the JPA to be updated accordingly.
Most Important	Board Member terms/composition	Agreement by Board Members that longer board terms of 2-4 years would be worthwhile. Some board members also wanted to see board composition addressed.
Important but not as critical	Expenditure of Measure RR funds	Agreement by Board Members that this needs to be addressed.
Important but not as critical	Corridor Real Estate Assets	Agreement by Board Members that this needs to be addressed as part of the governance issue especially if Options 2 or 3 are pursued.
Important but not as critical	Member Agency investments beyond Measure RR	Most Board Members thought this was important but is not directly part of the immediate governance decision.
Less Important	Role of Caltrain in regional governance conversations	Most Board Members thought this was important but is not directly part of the immediate governance decision. All felt that Caltrain should have a stronger voice and seat at the table and several saw the regional options as future considerations as part of a "governance path."
Less Important	Gilroy Extension	Most Board members did not think that addressing the Gilroy extension was critical to the governance issues.
Less Important	Grade Separations	Most Board Members thought grade separations are important but are not critical to the governance issue.
Less Important	Major Capital Projects	Most Board Members thought major stations and connecting projects are important but are not critical to the governance issue.

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## How well do Board Members think governance options meet evaluation criteria?

### Percent of all Criteria Met by each Option

	Minimally Meets	Partially Meets	Fully Meets
Option 1	45%	21%	34%
Option 2	12%	88%	0%
Option 3	26%	21%	53%

**Option 1:** Refinement of the shared services/Executive Director (ED) models

**Option 2:** New shared services/ED models

**Option 3:** Independent agency



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## How well do Board Members think governance options meet evaluation criteria?

Number of Responses by Option by Criteria

Evaluation Criteria	Option 1			Option 2			Option 3		
	Minimally Meets	Partially Meets	Fully Meets	Minimally Meets	Partially Meets	Fully Meets	Minimally Meets	Partially Meets	Fully Meets
1. Be accountable to the needs of current and future riders	3	1	4	1	6	0	3	0	4
2. Increase social, economic, and racial equity on the Caltrain system	2	3	2	1	5	0	1	3	2
3. Ensure fairness and accountability to the tax-paying publics who fund and have funded Caltrain system	3	2	3	0	7	0	2	1	4
4. Ensure fairness and accountability to communities impacted by the railroad's operations and capital project implementation	4	2	2	2	5	0	2	1	4
5. Maximize Board member alignment with Caltrain goals	5	0	2	0	6	0	1	2	4

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## How well do Board Members think governance options meet evaluation criteria?

- There is **no consensus** as to which option best meets the criteria.
- There is a **basic difference of an opinion** between SMCTD and SCC/SFC on Options 1 and 3.
- There is **general agreement** across all the agencies that Option 2 partially meets the criteria.

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# General Manager Interview Themes

**General Managers** responded to both questions similarly to the Board members from their county.

**General Managers also highlighted:**

- The importance of repayment to SamTrans for its past investment.
- The importance of resolving governance issues as they significantly detract from operating and managing the railroad.
- The difficulty of any transition to Options 2 and 3 and importance of planning the transition out.
- The importance of transparency concerning finances and decision-making so that member agencies are fully aware of Caltrain activities.
- A need for clarity around Caltrain representation in key projects.



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## Summary/Synthesis and Discussion

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## Resolution on Caltrain Governance is Urgent

- The protracted governance discussion has a significant cost for the railroad – including financial resources and considerable staff, executive, and Board bandwidth. To the extent the process plays out poorly, there is a real risk of long-term reputational damage to the institution and its credibility.
- The railroad has changed significantly since the inception of the JPB and that change is continuing with electrification, a new dedicated funding source, and ambitions to deliver on a Long-Range Service Vision.
- Over the last two years, COVID has emerged as a significant new challenge that has fundamentally altered Caltrain's business environment. The future is going to be different – and it will take extreme focus and cooperation for Caltrain to respond and succeed.
- It is healthy and necessary that Caltrain go through an evaluation of its governance, and it is essential that all parties to the JPB view the railroad's ultimate governance as fair and legitimate.



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## Review of Three Broad Self-Directed Options

Less Change

More Change

### Option 1

#### Refined Shared Services Model & ED Relationship

Maintain the San Mateo County Transit District (SMCTD) as managing agency of Caltrain with increased JPB oversight over the Caltrain Executive Director (ED) and increased Caltrain oversight of services provided to the railroad by SMCTD through shared service agreements.

### Option 2

#### New Shared Services Model & ED Relationship

Adjust the SMCTD managing agency model to provide for greatly expanded JPB oversight and authority, including direct JPB employment of the Caltrain ED and senior leadership; expansion of services provided to the railroad directly by Caltrain; and establishment of purchased service agreements for remaining services provided to the railroad by SMCTD.

### Option 3

#### Independent Agency

Dissolve the managing agency model and replace with a separate, independent Caltrain agency to directly manage and administer the railroad, either through reorganizing JPA or forming a special district.

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## Financial and Legal Analysis Summary

Option	Annual Increase in Costs	One Time Costs	Legal Time Estimate Following MOU Agreement
Option 1	-	\$1,500	6-18 months
Option 2	\$5,900	\$4,600	12-18 months
Option 3	\$9,200	\$48,900	12-36 months

Note: All costs are expressed in thousands and in \$2021.



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## Synthesizing Views on Governance

- Board members, general managers and stakeholders look at governance from a variety of perspectives and through multiple different lenses.
- On the following slides, the consultant team has attempted to synthesize what was heard in interviews and what has been learned through our legal and financial work into coherent "ballot-style" arguments that present the case for each option.
- We have presented them in the order of options 1,3 and then 2 based on the rankings assigned to them in our board member interviews- where there was a sharp division among members around options 1 and 3 whereas there was general consensus that option 2 could partially satisfy a variety of important criteria.



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## Synthesis: Reasoning for Option 1 – Refining the current structure

- Option 1 builds on the success Caltrain has achieved within the current structure. Under the management of SMCTD, Caltrain has grown to be the seventh largest commuter railroad in the country and the most efficient.
- Formalization of key refinements, including the designation of a separate Caltrain ED and the development of shared services agreements, go a significant way toward providing greater accountability to the JPB and transparency around the use of resources.
- Option 1 maintains economies of scale from sharing resources between SMCTD and Caltrain and avoids the significant financial outlays associated with the other options. The railroad is still in a financially delicate position – Caltrain cannot afford to increase its operating budget by as much as \$9.2M a year just to support a governance change or to outlay nearly \$50 million dollars in one-time costs. Ultimately these are resources that could be used toward services and projects that more directly benefit riders.



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## Synthesis: Reasoning for Option 1 – Refining the current structure

- Similarly, Option 1 maintains Board structure, and limits disruption – allowing the agency to use its resources and focus towards pressing issues like COVID recovery and completing electrification. Other approaches will involve protracted legal negotiations of up to three years and will be a major distraction from the railroad's core mission.
- Finally, Option 1 continues a relationship with SMCTD where the District has acted as the “backstop” for the railroad in a variety of both big and small ways. SMCTD has taken its management responsibility seriously, providing Caltrain with various kinds of hard and soft financial support and use of ROW over the years while expending tremendous executive and political bandwidth and capital on the railroad's behalf. There is concern that this sense of deep responsibility to the system as a whole (rather than just particular projects or stations) is not shared by the other partners.

*“What’s the problem we are trying to solve?”*



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## Synthesis: Reasoning for Option 3 – Creating a new structure

- Option 3 creates fully co-equal status for member counties and the communities they represent. With Option 3, the Board can feel assured that the organization is in total alignment with its direction.
- Caltrain is a different railroad than it was 30 years ago. The financial scale of the organization has increased substantially as have the risks and impacts involved with delivering Caltrain services and increasingly large projects like electrification. Option 3 creates the direct accountability needed for the Board to fully own these challenges and responsibilities.
- Option 3 also enables Caltrain to ultimately better achieve the 2040 Service Vision and other complex and long-term regional projects by creating a focused organizational structure where the Board can direct its own agenda and can be directly involved in ensuring that decisions related to organizational priorities support its long-term vision for the railroad.



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## Synthesis: Reasoning for Option 3 – Creating a new structure

- Option 3 puts Caltrain on stronger footing as a true regional agency. An independent Caltrain will be more effective in advocating for and attracting the scale of funding needed to deliver the 2040 Service Vision.
- Finally, Option 3 is the only structure that creates true clarity on staffing and accountability. While it may require more cost and effort to implement, Option 3 skips past the confusing staff reporting and complex shared services structure of other options. Other options do not fully resolve underlying governance issues and risk leaving the railroad with a governance structure that is still viewed as being overly connected to the interests of San Mateo County at the expense of San Francisco and Santa Clara Counties.

*“Change and disruption are needed”*



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## Synthesis: Reasoning for Option 2 – Evolving the current structure

- Option 2 is the only choice that balances the need for significantly greater accountability with the reality of resource constraints, an oversubscribed mandate and a divided board. Option 2 is an efficient step forward that sets Caltrain up for the future – and could work either as a long-term solution or as a step toward further change. It achieves the fundamental accountability goals of San Francisco County and Santa Clara County policymakers at the lowest staff disruption and cost.
- While Option 2 will require an investment of time and money, the upfront costs are significantly lower than Option 3. Further, the basic structure proposed in Option 2 provides ongoing flexibility around timing, number of Caltrain employees, and sharing of staff. These can continue to be negotiated and refined by the partners to balance the desire for greater accountability with a staff sharing approach that maximizes efficiency and keeps added costs low.
- By having the JPB directly employ the Executive Director, Option 2 goes significantly further than Option 1 to create transparency, accountability, and a sense of fiduciary responsibility around purchasing shared services. This is the central issue and Option 2 resolves it whereas Option 1 does not go far enough and will clearly leave some parties unsatisfied, and the overall governance issue unsettled.



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## Synthesis: Reasoning for Option 2 - Evolving the current structure

- Option 2 can also lay the groundwork for Caltrain to transition to a regional entity. It allows the JPB to direct the Caltrain ED and executives to act as fully independent players in helping to lead ongoing regional conversations but obviates the need to make a hard and costly governance transition while regional conversations are still ongoing and outcomes are unclear. Option 3 involves significant up-front costs and will require an all-consuming transition for the next several years – this could significantly complicate, if not fully deter, Caltrain’s ability to participate effectively in conversations about regional governance.

*“Option 2 is an essential step to untangling Gordian knots of cost, funding, and liability – if you don’t tackle it meaningfully, you are not getting to the second step.”*



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# Questions?

Do Board members have any further clarifying questions about the material discussed today?



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# Public Comment

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# Board Discussion

## Topics for discussion:

- Reflection on what you heard today
- Preparation for next Special Meeting in September



# Next Steps

## Next Steps

This presentation has provided Board members with the requested information regarding the evaluation of the self-directed governance options.

- Continue to discuss self-directed governance options with the Board at next Governance Special Meeting #5 and regional options at Governance Special Meeting #6.
- **Upcoming Special Meetings on Governance:**
  - Special Meeting #5: TBD in September 2021
  - Special Meeting #6: Friday, October 22, 2021, 1:00pm – 4:30pm



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