

Report on Member Agencies' Rights and Obligations Under JPB Governing Documents

Peninsula Corridor Joint Powers Board

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Presentation Overview

1. History
2. Key Agreements
3. Detail on Key Agreements
4. Issues Covered in Report
5. Questions

Section 1: Corridor History

- 1863 – San Francisco and San Jose Railroad Company begins passenger service on the Peninsula
- 1870 – Southern Pacific Railway purchases railway
- 1970s – rail commuter business unprofitable and Southern Pacific wants out
- 1980 – State decides to subsidize Southern Pacific to keep operating passenger rail service
- 1988 – State ends subsidies and the three counties join together to save the railroad
- 1991 – the 3 counties form the Peninsula Corridor Joint Powers Authority and purchase the right-of-way, using Prop. 116 funds and funds advanced by SamTrans

Section 2: Overview of Key Agreements

- Joint Powers Agreement
 - Establishes the Joint Powers Authority and names the Joint Powers Board as the governing body.
- Purchase and Sale Agreement with SP
 - Describes the property purchased by the JPA as well as options that could be exercised either by the JPA or a member agency.
- Real Property Ownership Agreement
 - Governs use and distribution of property owned by the JPA and partner agencies.
 - Establishes two alternate methods for reimbursing SamTrans for advancing funds to purchase the right of way (“ROW”).

Section 3 – The Joint Powers Agreement (JPA)

- The basic governing document that establishes the JPA that:
 - Describes its purpose, membership, powers and authority;
 - Manner of allocating operating and capital costs among the member agencies;
 - Designates SamTrans as managing agency; and
 - Created in 1991 and amended in 1994 and 1996.

1991 JPA

- First JPA established the Joint Powers Board.
- Had a 10-year term after which JPA would be in force on year to year basis until 2 or more member agencies withdraw.
- Designated SamTrans as managing agency subject to Board's authority to change designation of managing agency after SamTrans is reimbursed for funds it advanced for purchase of the right of way.

1994 JPA

- Amended allocation of capital and administrative costs among the member agencies.
- Provided for mediation by Metropolitan Transportation Commission if a party wished to withdraw.
- Addressed late payments from member agencies.

1996 JPA (Current Agreement)

- Made changes that VTA requested regarding appointment of its representatives to the JPB;
- Provides for appointment of members of the JPB, powers and duties of the JPB, allocation of operating and capital costs;
- Designated SamTrans as managing agency subject to the Board's authority to change designation of managing agency after SamTrans is reimbursed for funds it advanced for the purchase of the right of way.

Purchase Sale and Option Agreement – 1991

- Purchase of ROW Main Line
 - \$212M – \$120M from Prop. 116; \$82M from SamTrans; \$10M credit for construction of maintenance facility.
 - SamTrans as Tenant in Common to ROW in San Mateo County until reimbursed.
 - SP maintained right to operate freight service on Main Line.
- Purchase of Trackage Rights from Lick to Gilroy
 - \$8M (\$4M from Prop. 116; \$4M from VTA).
- Options to Purchase:
 - One half of the Lick-Gilroy Line – \$20M, with credit for \$8M paid for purchase.
 - Parking Lots and Grade Separations.
 - Dumbarton Branch, Vasona Branch I and II, San Bruno Branch, and Moffett Drill Track.

Real Property Ownership Agreement (RPOA) – 1991

- Describes ownership rights of the JPB and member agencies over Caltrain property
- Provides two methods to repay SamTrans' additional contribution to purchase of the ROW:
 - **Full reimbursement:** members use best efforts to find non-local funds to reimburse SamTrans for full amount of additional contribution (\$82 million), plus compound interest;
 - **Full participation:** VTA and SF may elect to use their own assets to pay their share of additional contribution, plus compound interest, based on mileage formula (VTA = \$34.7; SF = \$8.3 million; does not include interest).
- Gives SamTrans ownership rights over certain property until full reimbursement or full participation occurs

The RPOA Describes Four Kinds of Caltrain Property

- **ROW:** the Main Line from San Francisco to Lick, trackage rights for the Gilroy service, and other assets acquired pursuant to Purchase Agreement, except local option properties.
- **Local Option Property:** properties identified in the purchase and sale agreement with SP. Not directly tied to operation of the corridor service but were of interest to particular member agencies.
- **System Option Property:** properties to be acquired pursuant to the options established in the Purchase Agreement other than local option properties.
- **State Transferred Properties:** real property and other assets transferred from Caltrans to the JPB, including stations, facilities, equipment and inventory.

Real Property Ownership Agreement – Amended 2008

- By 2007, no payments had been made under the 1991 agreement to repay SamTrans.
- MTC conditioned release of certain State revenues on the member agencies coming to agreement that would provide for repayment.
- Because of compound interest, the amount needed for VTA and SF to repay SamTrans under the 1991 agreement had grown to \$91.5M.

Real Property Ownership Agreement – Amended 2008, Continued

- The parties agreed to reset the amount of the additional contribution attributable to VTA and San Francisco at \$53.3 million, to be paid partly by San Francisco (\$2 million) and VTA (\$8 million) and partly by MTC (\$43.3 million), using primarily funds from State gas taxes.
- The parties agreed that if repayment did not occur within 10 years, MTC would be authorized to identify other non-local funds to use as source of repayment.
- The parties also agreed that SamTrans could serve as managing agency for as long as it chose to do so in exchange for forgiving \$38.2M in debt.

Section 4 – Specific Issues Covered by the Report

- A. Property ownership
- B. ROW and reimbursement of SamTrans
- C. Caltrain management
- D. Gilroy service
- E. Allocation of operating and capital costs for Mainline
- F. Parties' rights to revise or terminate the JPA

A. Property Ownership

- JPB has title to:
 - ROW
 - Trackage rights between Lick and Gilroy
 - State Transferred Properties
 - Certain Parking Lots and Grade Separations
- VTA owns:
 - The Moffett Drill Track
 - The Vasona I and II branches

A. Property Ownership – Continued

- SamTrans shares title:
 - As tenant in common with JPB to ROW in San Mateo County until Full Reimbursement or Full Participation occur.
- SamTrans owns:
 - The Dumbarton and San Bruno branches.
 - Some parking lots and grade separations acquired pursuant to Purchase Agreement.

A. Property Ownership, Continued – SamTrans Equity Conversion Right

- SamTrans has right to convert Additional Contribution into ownership interest in all or part of ROW.
- If conversion occurs, VTA and SF have participation rights in management and development decisions based on their payment towards Additional Contribution.
- If conversion occurs, SamTrans required to license ROW to JPB at no cost.
- SamTrans has right to lease or encumber property as necessary or desirable to develop nonoperational assets without the approval of the JPB (with respect to property outside SM, right is limited to specified nonoperational assets in Mountain View, Sunnyvale, and Santa Clara).

A. Property Ownership, Continued – Other SamTrans Property Rights

- SamTrans has right to net revenue from nonoperational assets and State transferred properties until Full Reimbursement or Full Participation occur.
- SamTrans has right to veto sale of ROW, system option properties, and State transferred properties.

B. Repayments

- VTA has paid SamTrans \$8 million, as required by the 2008 RPOA.
- San Francisco has paid all but \$200,000 of the \$2 million to SamTrans as required by the 2008 RPOA.
- MTC has paid \$23.7 million of the \$43.3 million it was to pay SamTrans through population-based “spillover” funds.
- As a result, a total of \$19,788,913 has not been paid under the 2008 RPOA, \$19,588,913 of which was to come from MTC and \$200,000 of which was to come from San Francisco.
 - Full Reimbursement of the Additional Contribution has not occurred
- Under section 3.4, VTA and San Francisco have no legal obligation to participate in the Additional Contribution, but they may, “at their election,” undertake good faith efforts to pay an amount to SamTrans sufficient to achieve full participation.
 - To date, this has not occurred.
- Because SamTrans has not received all funds within 10 years, MTC is authorized to identify alternate sources of non-local funds to effect full reimbursement, but no funds have been identified.

C. Managing Agency

- SamTrans has right to serve as managing agency as long as it wishes, regardless of whether it is repaid for advancing funds for ROW purchase.
- Under 1996 JPA, the managing agency's General Manager shall be the Executive Director of the JPB, and its Finance Director shall serve as treasurer and controller of the JPB.
- Under 1996 JPA, JPB shall designate legal counsel and independent auditors.
- SamTrans is responsible for managing the operational and nonoperational assets; the JPB may delegate responsibility for the management of certain operational and nonoperational assets to another member agency.

D. Gilroy Service

- Operating costs: The 1996 JPA states that VTA shall be responsible for the net operating costs of the Gilroy Service. However, since 2001 the member agencies have shared those costs in the same manner as they share operating costs for the service between San Francisco and San Jose (no revised codification has been made in the JPA).
- Capital costs: Under the 1996 JPA, VTA is responsible for obtaining funding for all Gilroy Service capital projects.

E. Allocation of Operating Costs for the Mainline

- Under the 1996 JPA: member agencies must subsidize operating costs in an amount equal to the a.m. boarding formula.
- The members' current practice: member agencies subsidize operating costs based on the all-day, mid-week boarding formula (no revised codification has been made in the JPA).
- JPB administrative costs are included in operating costs and shared in same manner.

E. Allocation of Capital Costs for the Mainline

- Current practice is consistent with 1996 JPA.
- To the extent other funds cannot be secured, member agencies share equally the costs of capital projects that replace or enhance existing service while costs for expansion projects are determined on a case-by-case basis.
- Capital contingency fund: member agencies shall contribute in equal amounts.

F. Amending or Terminating the JPA

- 1996 JPA can be amended any time by agreement of all parties.
- The JPA terminates if 2 or more parties withdraw.
- Disposition of property upon termination of the JPA will depend on whether SamTrans has been repaid for the funds it contributed to purchase of the right of way in 1991.

Questions