

CA 111111

AMENDMENT TO JOINT POWERS AGREEMENT

PENINSULA CORRIDOR PROJECT

This Amendment to the Joint Powers Agreement Peninsula Corridor Project ("Amendment") is entered into this

DEC 6 1994 , by and between the CITY AND COUNTY OF SAN FRANCISCO ("CCSF"), the SAN MATEO COUNTY TRANSIT DISTRICT ("SamTrans"), and the SANTA CLARA COUNTY TRANSIT DISTRICT ("SCCTD").

RECITALS

A. The parties hereto have entered into a "Joint Powers Agreement Peninsula Corridor Project" dated as of October 18, 1991 ("Agreement") whereby the parties established the Peninsula Corridor Study Joint Powers Board ("JPB").

B. The Agreement provided for allocation among the parties of the administrative, capital and operating expenses attendant to ownership of the Peninsula main line right-of-way and operation of the Peninsula Commute Service.

C. The parties desire to amend the Agreement to modify the basis for allocation of administrative and capital costs among the parties, and to effect certain other related changes to the Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. Section 4.C.3 of the Agreement is hereby amended and restated to read as follows:

"An appointment of the San Francisco Public Transportation Commission."

2. Section 7 of the Agreement is hereby amended in the following respects:

(a) The third sentence of Section 7.B is hereby amended and restated to read as follows:

"Costs of capital replacement and enhancement projects that are not covered by outside funding sources shall be shared equally by the Member Agencies. Furthermore, Member Agencies shall support the equal sharing of Federal funding for replacement and enhancement projects with the understanding that the method for allocating the Federal funds will be reviewed by the Metropolitan Transportation Commission Regional Transit Coordinating Council Finance Committee."

(b) The following new paragraph hereby is added to Section 7.B of the Agreement:

"In addition to the costs for capital projects to be shared by the Member Agencies as provided in this Section 7.B, on an annual basis the Board shall determine an amount to be contributed by the Member Agencies into a capital contingency fund to cover unanticipated, necessary capital improvements. Each Member Agency shall contribute an equal share of this Board designated capital contingency fund."

(c) Section 7.C of the Agreement is hereby amended and restated in its entirety to read as follows:

"C. JPB Administrative Costs

"Expenses for personnel and resources of the Managing Agency to administer the affairs of the JPB, including the administration of the operating contract, shall be shared by the Member Agencies based on the a.m. boarding formula as provided in Section 7.A above."

(d) The following sentence hereby is added to the Agreement as the last sentence of Section 7.D(ii):

"All contributions to the capital contingency fund provided for in Section 7.B above shall be delivered to the Managing Agency within sixty (60) days of the Board's determination of the amount to be funded."

(e) The following provision hereby is added to the Agreement as Section 7.E:

"E. Duration

All allocations of expenses and costs established in this Section 7 shall be subject to re-evaluation during the JPB's 1998-99 fiscal year. Any changes made as a result of said re-evaluation shall become effective during the fiscal year 1999-2000. In the event any allocation method is hereafter revised, any capital projects in progress at the time of the revision shall be carried to completion utilizing the allocation methods in place at the time of the award of the construction/procurement contract for the capital project."

3. Section 12 of the Agreement is hereby amended and restated in its entirety to read as follows:

"Section 12. WITHDRAWAL FROM AGENCY

Any party may withdraw from this Agreement upon one (1) year's prior written notice to the other parties given at the end of any fiscal year. Upon delivery of such a notice, the Member Agencies shall jointly request the Metropolitan Transportation Commission ("MTC") to mediate the issues giving rise to the withdrawal notice, and shall participate in such mediation if undertaken by the MTC. In addition, should a withdrawal result despite such mediation efforts, each Member Agency, including the withdrawing party, shall participate with MTC in a further mediated negotiation relative to disbursement of regional funds to assure the remaining Member Agencies are not subject to undue financial hardship. In the event of such a withdrawal by a single party, the JPB shall continue to exist, with the membership adjusted to reflect the withdrawal. Withdrawal by a single party shall not entitle that party to reimbursement for past capital contributions or to

distribution of any assets or funds of the JPB. If two or more of the parties to this Agreement withdraw, then this Agreement shall terminate at the end of the fiscal year following expiration of the one year's notice given by the second party to withdraw from the Agreement, at which time the property and funds of the JPB shall be distributed to the Member Agencies pursuant to the terms of Section 13."

4. The effectiveness of this Amendment shall be subject to satisfaction of the following condition:

CCSF shall pay to the Managing Agency CCSF's portion of the JPB start-up costs in the amount of \$557,485.00, plus interest at the rate of seven percent (7%) per annum in accordance with the schedule of payments contained in Exhibit "A" attached hereto and incorporated herein by this reference. CCSF shall have the right to prepay its outstanding obligation, including accrued interest, at any time. In consideration for the foregoing, and provided that CCSF makes the payments provided for in Schedule A on a timely basis, the JPB shall waive its right to receive from CCSF interest on late payments made by CCSF for fiscal year 1993-94 financial obligations. The CCSF Board of Supervisors' representative on the JPB shall introduce legislation to approve CCSF's payment of the amounts referenced in this Paragraph 4, as well as to approve all other revisions of the Agreement contained in this Amendment, within sixty (60) days following JPB's action approving said Amendment. This Agreement is subject to the budget and fiscal provisions of the Charter of CCSF. Charges will accrue only after appropriation of funds by CCSF's Board of Supervisors and after prior written authorization

certified by CCSF's Controller, and the amount of CCSF's obligation hereunder shall not at any time exceed the amount appropriated and certified for the purpose and period stated in such advance authorization.

5. Each Member Agency hereby affirmatively covenants to the other Member Agencies henceforth to pay any and all financial obligations to the JPB promptly as and when such obligations become due and owing to the JPB as provided in Section 7 or otherwise in this Agreement.

6. Except as modified herein, all of the terms, conditions and provisions of the Agreement entered into between the parties, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum by their respective duly authorized officers as of the day and year first above written.

CITY AND COUNTY OF
SAN FRANCISCO

By Willie B. Kennedy
Date 11-21-94
Acting Mayor

Approved as to form and
legality

By Theodore R. Sakay
Date 11/21/94


SAN MATEO COUNTY TRANSIT
DISTRICT

By Albert M. Teglia
Date 11/21/94

Approved as to form and
legality

By David J. Miller
Date 11/21/94

**SANTA CLARA COUNTY TRANSIT
DISTRICT**

By 
ROD DIRIDON **Chairperson, Transit District Board**
Date _____

Approved as to form and
legality

By Robert A. Waver
Date 11/30/94

ATTEST : Phyllis A. Perez, Clerk
Santa Clara County Transit District

