

**MEMORANDUM OF UNDERSTANDING**  
**between the**  
**PENINSULA CORRIDOR JOINT POWERS BOARD (JPB)**  
**and**  
**LELAND STANFORD JUNIOR UNIVERSITY (STANFORD)**  
**for**  
**DEVELOPMENT OF THE CALTRAIN BUSINESS PLAN**

This Memorandum of Understanding (Agreement) is entered into on the \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Peninsula Corridor Joint Powers Board ("JPB") and Leland Stanford Junior University ("Stanford"). Hereinafter, the JPB and Stanford may be individually referred to as "Party" or collectively referred to as "Parties."

**RECITALS**

- A. The JPB is the owner and managing authority for the Peninsula Rail Corridor between San Francisco and San Jose and is responsible for the delivery of the Caltrain passenger rail service operating between San Francisco and Gilroy.
- B. The JPB seeks to develop a Caltrain Business Plan ("Business Plan"), in collaboration with government agencies, community partners, contractors and stakeholders, that explores economic, policy, and technical approaches that will allow the JPB to identify a long term service vision for how the railroad will grow. The Business Plan will also seek to identify options for how the Caltrain organization can evolve to support the service vision and how the railroad can strategically and equitably manage its interface with surrounding communities in a way that generates value and minimizes impacts.
- C. At its February 1, 2018 meeting, the Board of Directors of the JPB ("Board") approved a Final Business Strategy and Scope for the Business Plan, which is attached hereto and incorporated as Exhibit A.

- D. Stanford desires to provide in-kind support to the development of the Business Plan.
- E. This Agreement sets forth the terms under which the JPB and Stanford will collaborate to develop the Business Plan.

**AGREEMENT**

NOW, THEREFORE, the JPB and Stanford agree as follows:

**SECTION I  
TERM AND TERMINATION**

The term of this Agreement will extend until the adoption of the Business Plan by the JPB Board, currently anticipated to be in one year. Notwithstanding the foregoing, either Party may terminate this Agreement at any time with reasonable notice to the other Party.

**SECTION II  
ROLES AND RESPONSIBILITIES**

- A. Stanford's Role and Responsibilities
  - 1. Stanford will collaborate in good faith with the JPB to support development of the Caltrain Business Plan in accordance with the JPB Board-adopted Scope of Work.
  - 2. Stanford will provide in-kind assistance to the JPB to deliver the Business Plan in accordance with the Strategy and Scope of Work adopted by the JPB Board and the Project Charter described in paragraph II.C.1, below. Stanford's in-kind assistance may include, but may not be limited to: staff and faculty participation and technical expertise, reports, designs, drawings, plans, specifications, schedules, studies, memoranda, and other documents to further the development of the Business Plan (collectively "Work Product"). Notwithstanding the foregoing, Stanford agrees that

Work Product performed for and provided to the JPB will not include any of the material set forth in Section V, Exclusions.

3. Stanford may contract with one or more third parties to produce the Work Product. However, before Stanford engages any other party to produce the Work Product, Stanford must inform the JPB and permit the JPB to conduct an analysis of potential conflicts of interest related to such other party under State law (including, but not limited to California Government Code sections 1090, et seq., and California Government Code sections 87100, et seq.).
4. Stanford will participate in meetings as set forth in Section III.
5. Stanford will respond to any requests for clarifications from the JPB related to the Business Plan or Work Product in an expeditious manner. Stanford is not, however, obligated to respond to any requests for clarifications that would require Stanford to disclose information it considers confidential or sensitive.

**B. JPB's Role and Responsibilities**

1. The JPB will serve as the project lead for the development of the Business Plan, and will perform and manage the Scope of Work described in Exhibit A through an integrated structure, including Stanford as a partner.
2. The JPB will determine, in its sole discretion, the contents of the final Business Plan, including the inclusion or exclusion of any Work Product or any portion or derivative work thereof and Stanford shall not be liable for any of the decisions made by the JPB.
3. The JPB will coordinate and participate in meetings as set forth in Section III.
4. The JPB will provide guidance and feedback to Stanford related to Stanford's development of any Work Product included in the Project Charter.

5. The JPB may contract with one or more third parties to complete any or all elements of the Business Plan.

**C. Joint Responsibilities**

1. The Parties agree to negotiate in good faith and execute a Project Charter that will memorialize further terms related to the roles and responsibilities and day-to-day cooperation of the Parties in developing the Business Plan.
2. The Parties agree to collaborate on identifying and developing external funding sources for the Business Plan. Either or both Parties may contract with one or more third parties to fund the Work Product and/or other elements of the Business Plan.

**SECTION III  
MEETINGS**

The Parties will actively participate in each occurrence of the following meetings unless both parties agree to change the schedule:

- A. **Stanford / JPB Coordination Meetings:** Staff level meetings to be held not more than monthly between the JPB and Stanford to discuss specific coordination issues related to the partnership between the two entities and the coordination of Work Product development.
- B. **Partner Working Group Meetings:** Staff level meetings to be held not more than monthly between the JPB, Stanford and other project partners to collectively review Work Product and to coordinate the month-to-month development of the project.
- C. **Project Stakeholder Meetings:** Staff level meetings to be held not more than quarterly between the JPB, Stanford and a larger group of project partners, stakeholders, and community members to discuss and review the Business Plan.
- D. **Partner Executive Group Meetings:** Chief executive-level meetings to be held not more than quarterly between the Executive Director of the JPB, the Vice

President of Lands, Buildings and Real Estate of Stanford and the chief executives of other project partners, or their designees, to discuss and review the Business Plan.

- E. Other meetings as mutually agreed between the Parties.

**SECTION IV  
OWNERSHIP OF WORK**

- A. The Work Product is and will be the joint property of the JPB and Stanford. The JPB's use of Work Product in the development of the Business Plan does not grant Stanford any interest in the final Business Plan regardless of the amount or kind of Work Product Stanford provides, or the manner in which it is used. Stanford may use the Work Product for other purposes.
- B. The JPB agrees to include, at Stanford's request, attribution in a form reasonably acceptable to Stanford in the Business Plan, and any portion or draft thereof, that contains Work Product or any portion or derivative work thereof.

**SECTION V  
EXCLUSIONS**

Stanford will not undertake and will not provide to the JPB any Work Product under this Agreement that includes any of the following:

- A. Analysis or recommendations directly relating to:
  - 1. Operational modeling of Caltrain service, including specific schedules or stopping patterns.
  - 2. Real estate or other financial interests held by Stanford.
  - 3. The JPB's Go-Pass program.
- B. Stamped engineering drawings.

**SECTION VI  
FINANCIAL COMMITMENTS**

Each Party will bear its own costs in the performance of this Agreement. Neither Party incurs any financial obligation of any kind to the other Party by executing this Agreement, or by providing or accepting any Work Product.

**SECTION VII  
REPRESENTATIONS**

- A. Stanford agrees not to issue any public announcements or press releases regarding this Agreement or work performed thereunder without first obtaining prior consent from the JPB.
- B. The JPB agrees not to issue any public announcement or press releases regarding this Agreement or Stanford's participation in the development of the Business Plan without first obtaining prior consent from Stanford.
- C. Neither Party may represent that the Business Plan, any Work Product, or any portion, draft, or derivative work thereof, is the product of a partnership between the Parties without the prior consent of the other Party.

**SECTION VIII  
INDEMNIFICATION**

- A. Stanford will indemnify, keep and save harmless the JPB, the City and County of San Francisco, the San Mateo County Transit District, the Santa Clara Valley Transportation Authority, the San Mateo County Transportation Authority, the San Francisco County Transportation Authority, TransitAmerica Services, Inc., the Union Pacific Railroad Company, and any successor railroad operator of record, and their respective directors, supervisors, officers, agents and employees against any and all suits, claims or actions arising out of any allegation that materials or services provided by Stanford under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual property or proprietary right of any third party.

Stanford further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses of defense as they are incurred. If any judgment is rendered against the JPB or any of the other individuals enumerated above in any such action, Stanford will, at its expense, satisfy and discharge the same. This indemnification will survive termination or expiration of the Agreement.

- B. The JPB will indemnify, keep and save harmless Stanford and its trustees, officers, agents and employees against any and all suits, claims or actions arising out of (1) any allegation that materials or services provided by the JPB under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual property or proprietary right of any third party or (2) any allegation of any harm or damage as a result of any actions or decisions made by JPB under this agreement.

The JPB further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses of defense as they are incurred. If any judgment is rendered against Stanford or any of the other individuals enumerated above in any such action, the JPB will, at its expense, satisfy and discharge the same. This indemnification will survive termination or expiration of the Agreement.

**SECTION IX  
MISCELLANEOUS**

- A. Amendment. This Agreement may be amended only by mutual written consent of the Parties.
- B. Successors. This Agreement is to be binding upon each Party and any successors or assigns thereof. Neither party may assign nor transfer any part of this Agreement without the written consent of the other. Any attempt to violate the restriction in the prior sentence is void.
- C. Third Parties. This Agreement does not confer any benefits on any third party.

- D. Governing Law. This Agreement will be construed and its performance enforced under California law.
- E. Venue. In the event that a suit is brought by either Party to this Agreement, the Parties agree that venue will be exclusively vested in the State courts of the County of San Mateo or, if federal jurisdiction is appropriate, exclusively in the United States District Court for the Northern District of California, in San Jose, California.
- F. Entire Agreement. The Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained herein and supersedes all prior or contemporaneous agreements, representations and understanding of the Parties relative hereto. The Recitals above and the attached Exhibit A are made a part of this Agreement as if set forth in full herein. In the event of any conflict between this Agreement and Exhibit A, this Agreement prevails. This Agreement cannot be modified except by a writing signed by both parties.
- G. Notices. Any notice required to be given by either Party, or which either Party may wish to give, must be in writing and served either by personal delivery or sent by certified or registered mail, postage prepaid, addressed as follows:

To the JPB: Peninsula Corridor Joint Powers Board  
Attn: Jim Hartnett  
1250 San Carlos Avenue  
San Carlos, CA 94070

To Stanford: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice will be deemed effective on the date personally delivered or, if mailed, three days after deposit in the United States mail.

- H. Severability. If any term, covenant, condition, or provision of this Agreement, or the application thereof to any person or circumstance, is to any extent held by a court of



competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions and provisions of this Agreement, or the application thereof to any person or circumstance, will remain in full force and effect and will in no way be affected, impaired or invalidated thereby.

I. No Waiver. The failure of either Party to insist upon the strict performance of any of the terms, covenants or conditions of this Agreement will not be deemed a waiver of any right or remedy that either Party may have, and will not be deemed a waiver of their right to require strict performance of all of the terms, covenants, and conditions thereafter.

J. Relationship of the Parties. This is an agreement by and between independent contractors and is not intended to and does not create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of independent contractor.

K. Counterparts. This Agreement may be executed in counterparts.

L. Warranty of Authority to Execute Agreement. Each Party to this Agreement represents and warrants that each person whose signature appears hereon has been duly authorized and has the full authority to execute this Agreement on behalf of the entity that is a Party to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day first mentioned above.

PENINSULA CORRIDOR JOINT  
POWERS BOARD

LELAND STANFORD JUNIOR  
UNIVERSITY

By: \_\_\_\_\_  
Jim Hartnett, Executive Director

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

ATTESTED BY:

By: \_\_\_\_\_  
Board Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Attorney for the JPB

