

# Draft Recommendation on Caltrain Governance

February 3, 2022



# Agenda for Today

1. Introduction
2. Review of Materials and Clarifying Questions
  - SMCTD “Pathway Forward” Proposal
  - Issues Matrix (Attachment B)
3. Public Comment
4. Board Discussion & Potential Action

# SMCTD “Pathway Forward” Proposal

- Proposal developed at direction of SMCTD Board and transmitted to Chair Heminger and Acting Executive Director Michelle Bouchard on January 28
- Full text included in the correspondence packet
- Responds to the draft governance recommendation and provides a proposal that has subsequently been adopted by SMCTD at its February 2<sup>nd</sup> board meeting

# Issues Matrix (Attachment B)

- Prepared in consultation with Chair Heminger
- Focuses on six key areas of discussion and includes potential options for resolution
- The following slides walk through each issue identified in attachment B.
- Pertinent options, points and/or information extracted from the SMCTD Pathway Forward proposal have also been included for each issue

# Issues Matrix – Issue 1

Issue	Options for Resolution	SMCTD “Path Forward”
<p><b>Repayment of ROW Principal to SMCTD</b></p> <p>MTC has agreed to pay \$19.6 million in principal owed to SMCTD subject to conditions related to the JPB’s consideration of ongoing regional governance studies (see attachment C for full text of the MTC Action).</p>	<p><b><u>Chair Proposal:</u></b> Amend language regarding regional participation, which is generally consistent with MTC conditions, to incorporate the specific studies referenced in MTC conditions.</p> <p><b><u>Other Options:</u></b> Retain current language.</p>	<p>Affirms commitment to evaluate regional governance recommendations.</p> <p><b>Additional Related Issue:</b> Proposes to be paid \$19.8 million (\$19.6M from MTC and \$200k from San Francisco) within 6 months of the date that the JPB adopts terms.</p> <p>MTC proposes to take a programming action in 2022 with an “accelerated goal” of bringing back a programming recommendation by June 2022.</p>

# Issues Matrix – Issue 2

Issue	Options for Resolution	SMCTD “Path Forward”
<p><b>Appointment and termination process for the Caltrain Executive Director</b></p> <p>Authorizes JPB to both appoint and terminate the Caltrain ED position, with alternative language requiring super or simple majority of JPB.</p>	<p><b><u>Chair Proposal:</u></b> Amend language to provide that the decision to hire and fire the Caltrain Executive Director shall be subject to a simple majority vote of five members of the JPB, provided that at least one Director appointed from each county is in the majority.</p> <p><b><u>Other Options:</u></b> Consider either of the voting approaches suggested in January (either a simple majority or a 7-vote requirement).</p>	<p>Consistent with the Chair’s proposal (simple majority with at least one director from each county concurring).</p>

# Issues Matrix – Issue 3

Issue	Options for Resolution	SMCTD “Path Forward”
<p><b>Dedicated staff support</b></p> <p>Proposes Caltrain dedicated positions would include:</p> <ul style="list-style-type: none"> <li>• Rail Division</li> <li>• Additional direct support in the following areas:               <ul style="list-style-type: none"> <li>• Executive administration (eg chief of staff)</li> <li>• Finance (eg finance director supported by shared services staff)</li> <li>• Communications, government and external affairs (eg communications director supported by shared services staff)</li> <li>• Grants</li> <li>• Real Estate</li> </ul> </li> </ul>	<p><b><u>Chair Proposal:</u></b> Add “Other functions determined mutually by the JPB Board and SMCTD necessary to avoid a conflict-of-interest between SMCTD and Caltrain”.</p> <p><b><u>Other Options:</u></b> Retain current language.</p>	<p>Proposes Caltrain dedicated positions would include Rail Division.</p> <p>Additional positions could be added in the future:          “SMCTD is amenable to negotiating at a future time (and not as a condition of the MOU) shared services arrangements with the JPB.”</p>

# Issues Matrix – Issue 4

Issue	Options for Resolution	SMCTD “Path Forward”
<p><b>Clarification of the managing agency role</b></p> <p>Affirms SMCTD as the managing agency for Caltrain and also includes a number of functional changes to the nature of the managing agency relationship. Does not include language that explicitly addresses the role of the managing agency as refined based on the recommendation.</p>	<p><b><u>Chair Proposal:</u></b> Clarify the role of the managing agency as modified, such as by stating that “the role of the managing agency would be to support the JPB through the employment of staff and the provision of shared services” and that the JPB would indemnify SMCTD for carrying out these functions.</p> <p><b><u>Other Options:</u></b> Retain current language.</p>	<p>Proposes that that SMCTD will remain as the managing agency “except as so provided” and requires JPB to indemnify SMCTD for carrying out its managing agency functions.</p>



# Issues Matrix – Issue 5

Issue	Options for Resolution	SMCTD “Path Forward”
<p><b>Payment of interest and/or additional compensation to SMCTD</b></p> <p>Provides for payment of additional compensation to SMCTD for time elapsed and changes to the managing agency relationship, subject to negotiations conducted by ad hoc committee.</p>	<p><b><u>Chair Proposal:</u></b> Chair appoints an Ad Hoc committee of the JPB to negotiate additional compensation.</p> <p><b><u>Other Options:</u></b> Request that the JPA member agencies negotiate additional compensation amongst themselves.</p>	<p>Proposes that SMCTD be paid \$15.2M within 18 months (from sources that are not Measure RR or funds generated by JPB operations or assets).</p> <p>Proposes that termination of SMCTD’s interest in ROW and satisfaction of VTA and San Francisco’s reimbursement obligations be contingent upon payment of \$15.2M in interest, in addition to \$19.8M (the sum required by 2008 Agreement) and that the managing agency arrangement would revert to the terms of the parties’ governing agreements if full payment is not made.</p> <p>Proposes that JPB pay all costs, including SMCTD’s legal fees, associated with MOU.</p>

# Issues Matrix – Issue 6

Issue	Options for Resolution	SMCTD “Path Forward”
<p><b>Path to Implementation</b></p> <p>Effectuate recommendation through an MOU between the JPB and SMCTD and consider potential amendments to the JPA after payments to SMCTD had been completed.</p>	<p><b><u>Chair Proposal:</u></b> Retain current language.</p> <p><b><u>Other Options:</u></b> Incorporate the recommended changes via an amendment to the JPA, which would require the unanimous agreement of all JPA member agencies.</p>	<p>Proposes an MOU to be negotiated between Caltrain and SMCTD.</p> <p>Proposes to rescind the super-majority vote requirement for annual expenditure of more than \$40M in Measure RR revenues upon execution of MOU.</p>

# Public Comment

# **Board Discussion**

# Next Steps

- Special JPB Meeting Scheduled for 5pm on Wednesday, February 9th

