



AGENDA

PENINSULA CORRIDOR JOINT POWERS BOARD Advocacy and Major Projects (AMP) Committee Meeting

November 29, 2023, 3:30 pm

Bacciocco Auditorium, 2nd Floor
1250 San Carlos Ave., San Carlos, CA

Committee Members: Steve Heminger (Chair), Cindy Chavez (Vice Chair), Jeff Gee

Members of the public may participate remotely or in-person, provided that they satisfy the safety protocols listed below.

Members of the public may participate remotely via Zoom at <https://us02web.zoom.us/j/84582532747?pwd=dGdjV3lQVW1RUGUyZk9SSml6aXZRZz09> or by entering Webinar ID: **845 8253 2747**, Passcode: **268109**, in the Zoom app for audio/visual capability or by calling 1-669-444-9171 (enter webinar ID and press # when prompted for participant ID) for audio only. The video live stream will be available after the meeting at <https://www.caltrain.com/video-board-directors>.

Members of the public also may participate in person at: San Mateo County Transit District, Bacciocco Auditorium - Second Floor, 1250 San Carlos Ave., San Carlos, CA, or any other noticed location provided they comply with the following safety protocols:

Please Note the Following COVID-19 Protocols for In-person Attendance:

Visitors who have been exposed to the COVID-19 virus, who have received a positive COVID-19 test results, or who are experiencing any of the following COVID-19 related symptoms should refrain from participating in person:

- Cough
- Fatigue
- Sore Throat
- Headache
- Congestion or runny nose
- Nausea or vomiting
- Muscle or body aches
- Diarrhea
- Fever or Chills
- Loss of taste or smell
- Shortness of Breath

Public Comments: Public comments may be submitted to publiccomment@caltrain.com prior to the meeting’s call to order so that they can be sent to the Board as soon as possible, while those received

during or after an agenda item is heard will be included into the Board’s weekly correspondence and posted online at: <https://www.caltrain.com/about-caltrain/meetings>.

Verbal public comments will also be accepted during the meeting in person and through Zoom* or the teleconference number listed above. Public comments on individual agenda items are limited to one per person PER AGENDA ITEM. Participants using Zoom over the Internet should use the Raise Hand feature to request to speak. For participants calling in, dial *67 if you do not want your telephone number to appear on the live broadcast. Callers may dial *9 to use the Raise Hand feature for public comment. Each commenter will be recognized to speak, and callers should dial *6 to unmute themselves when recognized to speak.

Each public comment is limited to two minutes. The Board Chair has the discretion to manage the Public Comment process in a manner that achieves the purpose of public communication and assures the orderly conduct of the meeting.

November 29, 2023 - Wednesday

3:30 pm

*All items to which [Government Code section 84308](#) applies have been marked with an asterisk
A double asterisk indicates that one or more Directors of the JPB serve on the governing board of a public agency with which the JPB proposes to contract. Under Government code section 1091(a)(9), this relationship is considered to be a noninterest but it must be disclosed.*

1. Call to Order / Pledge of Allegiance
2. Roll Call
3. Public Comment on Items Not on the Agenda
Comments by each individual speaker shall be limited to two (2) minutes. Items raised that require a response will be deferred for staff to reply.
4. Meeting Minutes of September 27, 2023 Motion
5. Approval of the 2024 JPB Advocacy and Major Projects (AMP) Committee Meeting Calendar Motion
6. Authorize the Second Amendment to the Contract with JBR Partners for On-Call Ambassador Services* Motion
7. State and Federal Legislative Update and Approval of 2024 Legislative Program Motion
8. Authorize Use of the Construction Manager General Contractor (CMGC) Delivery Method Pursuant to Public Utilities Code Section 103395 for the 4th and King Yard Preparation Track and Systems Package (4KY Package B) Motion
9. San Francisco Railyards Preliminary Business Case Informational
10. Corridor Crossing Strategy Update Informational
11. Committee Member Requests

Note: All items appearing on the agenda are subject to action by the Board. Staff recommendations are subject to change by the Board.

12. Date/Time of Next Regular AMP Committee Meeting: Wednesday, December 20, 2023
at 3:30 pm.

The meeting will be accessible via Zoom and in person at the San Mateo County Transit District, Bacciocco Auditorium, 2nd Floor, 1250 San Carlos Avenue, San Carlos, CA 94070.

13. Adjourn

Information for the Public

All items appearing on the agenda are subject to action by the Board. Staff recommendations are subject to change by the Board. If you have questions on the agenda, please contact the JPB Secretary at 650.508.6242. Agendas are available on the Caltrain website at www.caltrain.com. Communications to the Board of Directors can be e-mailed to board@caltrain.com. *Free translation is available; Para traducción llama al 1.800.660.4287; 如需翻译 请电1.800.660.4287.*

Date and Time of Board and Committee Meetings

JPB Board: First Thursday of the month, 9:00 am; JPB Advocacy and Major Projects (AMP) Committee: Two Wednesdays before the Board meeting, 3:30 pm. The date, time, and location of meetings may be changed as necessary. Meeting schedules for the Board and committees are available on the website.

Location of Meeting

Members of the Public may attend this meeting in person or remotely via Zoom. *Should Zoom not be operational, please check online at <https://www.caltrain.com/about-caltrain/meetings> for any updates or further instruction.

Public Comment*

Members of the public are encouraged to participate remotely or in person. Public comments may be submitted by comment card in person and given to the JPB Secretary. Prior to the meeting's call to order, public comment may be sent to publiccomment@caltrain.com so that they can be sent to the Board as soon as possible, while those received during or after an agenda item is heard will be included into the Board's weekly correspondence and posted online at: <https://www.caltrain.com/about-caltrain/meetings>.

Oral public comments will also be accepted during the meeting in person or through Zoom or the teleconference number listed above. Public comments on individual agenda items are limited to one per person PER AGENDA ITEM. Each commenter will be automatically notified when they are unmuted to speak for two minutes or less. The Board Chair shall have the discretion to manage the Public Comment process in a manner that achieves the purpose of public communication and assures the orderly conduct of the meeting.

Accessible Public Meetings/Translation

Upon request, the JPB will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in and provide comments at/related to public meetings. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, auxiliary aid, service or alternative format requested at least 72 hours in advance of the meeting or hearing. Please direct requests for disability-related modification and/or interpreter services to the Title VI Administrator at San Mateo County Transit District, 1250 San Carlos Avenue, San Carlos, CA 94070-1306; or email titlevi@samtrans.com; or request by phone at 650-622-7864 or TTY 650-508-6448.

Availability of Public Records

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that is distributed to a majority of the legislative body, will be available for public inspection at 1250 San Carlos Avenue, San Carlos, CA 94070-1306, at the same time that the public records are distributed or made available to the legislative body.

**Peninsula Corridor Joint Powers Board
Advocacy and Major Projects (AMP) Committee
1250 San Carlos Avenue, San Carlos, CA 94070**

Minutes of September 27, 2023

Members Present: Cindy Chavez, Jeff Gee, Steve Heminger (Chair)
Members Absent: None
Staff Present: M. Bouchard, D. Chazan, J. Harrison, D. Ryan, D. Seamans, S. Sargent,
M. Tseng

1. Call to Order/Pledge of Allegiance

Chair Heminger called the meeting to order at 3:30 pm and led the Pledge of Allegiance.

2. Roll Call

District Secretary, Dora Seamans, called the roll and a Board quorum was present.

3. Public Comment on Items not on the Agenda

There were none.

4. Meeting Minutes of June 28, 2023

Motion/Second: Gee/Chavez

Ayes: Chavez, Gee, Heminger

Noes: None

Absent: None

5. Amendment to the Memorandum of Agreement with Transbay Joint Powers Authority for 4th and King Yard Preparation in Support of the Downtown Rail Extension* **

Dahlia Chazan, Deputy Chief of Caltrain Planning, provided the presentation that included the following:

- Memorandum of Agreement (MOA) focused on oversight of design work for 4th and King railyard preparation
- Package A needs to happen early in the project to help prepare for work that will happen largely offsite of the property.
- Package B comprised the bulk of work that is needed when the project is ready to tie into the railroad and for the underground connection
- MOA extends the term from September to January 2024 to get the work completed

At Director Gee's request, James Harrison, General Counsel, clarified the meaning of the asterisks on the agenda item as pertaining to government code section 1090; it treats the interest of a member of two public agency boards as a non-interest, so allowed for full participation of the Board Members in voting on the matter with this public disclosure.

The Committee Members had a discussion and staff provided further clarification in response to the Committee comments and questions, which included the following:

- Railyard design work completed by the TJPA's (Transbay Joint Powers Authority) general engineering consultant and Caltrain consultant overseeing work
- The agreement is for 30 percent design with current oversight of the design work
- Prologis is not a party to the 4th and King agreement, but working with Prologis on the preliminary business case so there will be two agreements in the end - MCA (Master Cooperative Agreement) will supersede the interim agreement and MOA on 4th and King yard; 4th and King yard will be completed earlier
- The technical study will lead to a joint recommendation at the staff level on how the 4th and King Yard project should be delivered; recommendation to be provided to the two executive directors and they will then make a joint recommendation to the Boards
- Provide simplified chart showing various different packages that DTX is using in different construction methods but all projects considered as a single project for understanding the work, plan risks and opportunities in each phase

Motion/Second: Chavez/Gee

Ayes: Chavez, Gee, Heminger

Noes: None

Absent: None

6. Approve BayPass Participation Agreement* **

James Harrison, General Counsel, provided the presentation that included the following:

- This all-transit agency pass is to be implemented under the direction of MTC (Metropolitan Transportation Commission)
- Phase 1 from August 2022 to end of 2024 involving four colleges and universities and 13 affordable housing sites operated by MidPen Housing
- Total of 50,000 agency passes funded by MTC to participants at no cost to them and one percent of total trips taken to date were on Caltrain
- Phase 2's launch planned for December 1, 2023 involving all transit operators in greater Bay Area region and MTC has allocated up to \$5 million to cover program costs
- Go Pass program is an important contributor to fare revenue and any Go Pass revenue loss would be detrimental to the overall financial picture
- Preserve existing relationships with existing Go Pass customers – reached an agreement with MTC and BART (Bay Area Rapid Transit), with the help of VTA (Santa Clara Valley Transportation Authority), to the BayPass that agreement will essentially upgrade the Go Pass agreement so that participants will pay an additional fee for a BayPass

The Committee members had a discussion and staff provided further clarification in response to the Committee comments and questions, which included the following:

- Phase 2 will continue through the end of 2025 and receive an additional \$20,000
- Data will be analyzed and evaluated for future recommendation; pilot governing principles will have the effect of preserving current Go Pass customers

- Concerns with understanding what fare is purchased and what trips are allowed have been somewhat elusive with Clipper and other different payment types
- Phased as a two-year pilot which will have data and milestone setting
- Logic for three-mile zones: identify service area of preexisting Go Pass customers and service area with upcharge; participate in the pilot is important to figure out what the ultimate program needs to look like
- Service areas with the upcharge add-on to Go Pass - the pilot can inform the agency of how best to move forward with BayPass, but also protect the agency in case of substantial revenue losses

Motion/Second: Gee/Chavez

Ayes: Chavez, Gee, Heminger

Noes: None

Absent: None

7. State and Federal Legislative Update

Devon Ryan, Government Affairs Officer, provided the presentation that included the following:

- Congress will enact a continuing resolution in order to avoid a Federal Government shutdown. Federal Railroad Administration (FRA) staff focused on safety and other matters critical to the protection of life and property, are going to be retained, but 35 percent of the agency to be furloughed
- SB (Senate Bill) 410 aimed at ensuring timely electrical energization; AB (Assembly Bill) 557 ends /sunsets allowing remote meetings for local agencies during formal states of emergency, and AB 1377 requires applications for state funding through the homeless housing assistance and prevention program to include data and information on how homelessness is being addressed on transit agency properties – were all passed and are awaiting decision by the Governor
- ACAs 1 allows a city, county or special district with 55 percent voter approval to incur bonds or impose special taxes to fund projects for affordable housing or public infrastructure also passed and will be voted on in November 2024 by the public
- AB 463, would direct CPUC (California Public Utilities Commission) to prioritize public transit during electrical shortages, was held on suspense so it is dead for the year

Director Gee left the meeting at 4:29 pm

8. Diridon Business Case Update

Melissa Reggiardo, Manager of Caltrain Planning, provided the presentation that included the following:

- Take 24 months to complete in two phases: first completed in six months by June and will produce two alternatives and a recommendation for governance throughout the life of the program. Second phase will produce a full business case for a preferred alternative

- Partners agreed on a project vision statement and refined the discs, goals, and objectives
- Actively working on a governance analysis; reaffirmed goals and objectives to help deliver this vision statement; next steps to finalize our evaluation criteria and develop a set of alternatives to put into the framework of goals and objectives
- Critical to build governance capacity to deliver and operate the program, but the immediate priority is to ensure governance is in place to advance planning and environmental phase, and to position the project for funding

The Committee members had a discussion and staff provided further clarification in response to the Committee comments and questions, which included the following:

- Create fairly streamlined initial program office to start work on creating a funding plan
- Seamless integration environment for passengers and people who just come to the station; key component of the vision statement and technical work
- Significant amount of RM3 (Regional Measure 3) funding with chances of success with a grant for about \$10 million

9. Committee Member Requests - There were none

10. Date/Time of Next Regular Finance Committee Meeting: Wednesday, October 25, 2023 at 3:30 pm.

11. Adjourn - The meeting adjourned at 4:55 pm



JPB Advocacy and Major Projects (AMP) Committee Meeting Calendar – 2024

Wednesdays, Two Weeks Prior to Board Meeting – 3:30 PM

Wednesday, January 24
Wednesday, February 28
Wednesday, March 27
Wednesday, April 24
Wednesday, May 29
Wednesday, June 26
Wednesday, July 24
Wednesday, August 28
Wednesday, September 25
Wednesday, October 30
Wednesday, November 20*
Wednesday, December 18*

Board Committee Members: Directors Steve Heminger (Chair), Cindy Chavez, Jeff Gee
Primary Staff Liaison: Sam Sargent

*Regular meetings are scheduled for two Wednesdays prior to the Board meeting at 1:30 pm unless otherwise noted. Meetings will be conducted in a hybrid format (virtually via Zoom) and in-person at 1250 San Carlos Avenue, Bacciocco Auditorium, 2nd Floor, San Carlos, CA, unless otherwise stated.

Individual members of the public may participate in-person if they comply with the District's current workplace safety policies, unless stated otherwise, unless scheduled or stated otherwise at <https://www.caltrain.com/about-caltrain/meetings>.

Dates may be subject to change.

**Peninsula Corridor Joint Powers Board
Staff Report**

To: Advocacy and Major Projects Committee
Through: Michelle Bouchard, Executive Director
From: Taylor Huckaby, Deputy Chief, Communications
Subject: **Authorize the Second Amendment to the Contract with JBR Partners for the On-Call Ambassador Services**

Finance Committee Recommendation

Technology, Operations, Planning, and Safety Committee Recommendation

Advocacy and Major Projects Committee Recommendation

Purpose and Recommended Action

Staff recommends that the Board of Directors (Board) of the Peninsula Joint Powers Board (JPB):

1. Authorize amendment to Contract 21-J-P-018 with JBR Partners, Inc. to increase the compensation amount by \$750,000, from \$707,513 to a new not-to-exceed total amount of \$1,457,513.
2. Authorize the Executive Director, or her designee, to execute the amendments to the contracts in full conformity with the terms and conditions of underlying agreements and in forms approved by legal counsel.

Discussion

In August 2021, the Board authorized the award of a contract to JBR Partners for on-call ambassador services for a contract amount not-to-exceed \$557,513, plus a \$150,000 contingency, for the five-year term from August 18, 2021, through August 17, 2026 (Board Resolution 2021-43).

The original contract and project scope did not encompass any provision for on-call ambassador services related to the Peninsula Corridor Electrification Project (PCEP). As a result of the revised PCEP schedule and the need to include weekend shutdowns to accommodate that schedule, staff identified a compelling need in 2023 to deploy large-scale ambassador services for a series of PCEP events, including weekend shutdowns with customer bus bridges, EMU community tours, and other Electrification community outreach events.

On September 12, 2023, the parties executed the First Amendment to the Agreement to exercise the use of the contingency to increase the compensation amount by \$150,000 from \$557,513 to a total not-to-exceed amount \$707,513.

Due to the extensive Ambassador deployments required by PCEP, there is only a remaining capacity of \$24,000 (3.4%) through August 2026.

Notably, the PCEP project has further extensive outreach requirements planned through 2024. These outreach activities include supporting potential weekend and weekday service interruptions for Electrification testing, coordinating bus bridge outreach, facilitating EMU Tour events, and conducting community outreach for EMU events. It's crucial to highlight that the PCEP cost engineers have confirmed the availability of these funds within the existing PCEP budget.

Historically, the PCEP project Ambassador needs have required a monthly budget ranging from \$40,000 to \$70,000.

In light of these developments, staff request that the Board approve the second amendment to the contract with JBR Partners, Inc. for On-call Ambassador Services to increase the compensation amount by \$750,000, from \$707,513 to a new not-to-exceed total amount of \$1,457,513.

Budget Impact

Work Directives issued under this contract will be funded by a mix of Federal, State, Regional and/or Local funds from approved and future operating and capital budgets.

Prepared By:	Lisa Peabody	Director, Customer Experience	650.508.6206
	Manny Caluya	Procurement Administrator III	650.508.7788

Resolution No. 2023-

**Board of Directors, Peninsula Corridor Joint Powers Board
State of California**

* * *

Authorize Second Amendment to the Contract with JBR Partners for the On-Call Ambassador Services

Whereas, in August 2021, the Board of Directors (Board) of the Peninsula Corridor Joint Powers Board (JPB) authorized the award of Contract 21-J-P-018 to JBR Partners for On-Call Ambassador Services (the Agreement) for a contract amount not-to-exceed \$557,513, plus a \$150,000 contingency, for the five-year term from August 18, 2021, through August 17, 2026 (Resolution No. 2021-43); and

Whereas, the original Agreement scope did not encompass any provision for on-call ambassador services related to the Peninsula Corridor Electrification Project (PCEP); and

Whereas, the revised 2023 PCEP schedule and the need to include weekend shutdowns to accommodate that schedule necessitated the deployment of large-scale ambassador services for a series of PCEP events, including weekend shutdowns with customer bus bridges, Electric Multiple Unit (EMU) community tours, and other electrification community outreach events; and

Whereas, on September 12, 2023, the parties executed the First Amendment to the Agreement to exercise the use of the contingency to increase the compensation amount by \$150,000 from \$557,513 to a total not-to-exceed amount \$707,513; and

Whereas, due to the extensive ambassador deployments required by PCEP, there is only a remaining capacity of \$24,000 (3.4%) through August 2026; and

Whereas, PCEP has further outreach requirements planned through 2024, including supporting potential weekend and weekday service interruptions for electrification testing,

coordinating bus bridge outreach, facilitating EMU Tour events, and conducting community outreach for EMU events; and

Whereas, historically, the PCEP ambassador needs have required a monthly budget ranging from \$40,000 to \$70,000; and

Whereas, staff request that the Board approve the second amendment to the Agreement to increase the compensation amount by \$750,000, from \$707,513 to an increased not-to-exceed total amount of \$1,457,513; and

Whereas, staff further recommends that the Board authorize the Executive Director, or designee, to execute the amendments to the contracts in full conformity with the terms and conditions of underlying agreements and in forms approved by legal counsel; and

Whereas, PCEP cost engineers have confirmed the availability of these funds within the existing PCEP budget. Accordingly, work directives issued under this contract will be funded by a mix of federal, state, regional and/or local funds from approved and future operating and capital budgets.

Now, Therefore, Be It Resolved that the Board of Directors of the Peninsula Corridor Joint Powers Board hereby approves the amendment to Contract 21-J-P-018 with JBR Partners, Inc. to increase the compensation amount by \$750,000, from \$707,513 to an increased not-to-exceed total amount of \$1,457,513; and

Be It Further Resolved that the Board of Directors of the Peninsula Corridor Joint Powers Board hereby authorizes the Executive Director, or designee, to execute the amendments to the contracts in full conformity with the terms and conditions of underlying agreements and in forms approved by legal counsel.

Regularly passed and adopted this 7th day of December, 2023 by the following vote:

Ayes:

Noes:

Absent:

Chair, Peninsula Corridor Joint Powers Board

Attest:

JPB Secretary
(00500321)

**Peninsula Corridor Joint Powers Board
Staff Report**

To: Advocacy and Major Projects (AMP) Committee
Through: Michelle Bouchard, Executive Director
From: Casey Fromson, Chief Communications Officer
Subject: **State and Federal Legislative Update and Approval of the 2024 Legislative Program**

Finance Committee
Recommendation

Technology, Operations,
Planning, and Safety
Committee Recommendation

Advocacy and Major
Projects Committee
Recommendation

Purpose and Recommended Action

Staff proposes the Committee recommend the Board:

1. Receive the attached State and Federal Legislative Updates
2. Approve 2024 Legislative Program

Discussion

The 2023 Legislative Program establishes the principles that will guide the legislative and regulatory advocacy efforts. Based on those principles, staff coordinates closely with our Federal and State advocates on a wide variety of issues that are considered in Congress and the State legislature. The attached reports highlight the recent issues and actions that are relevant to the Board.

Budget Impact

None.

Prepared By: Devon Ryan

Government &
Community Affairs Officer

650.730.6172



November 10, 2023

TO: Board of Directors, Peninsula Corridor Joint Powers Board (Caltrain)

FM: Matt Robinson & Michael Pimentel, Shaw Yoder Antwih Schmelzer & Lange
Mike Robson, Edelstein Gilbert Robson & Smith LLC

RE: **STATE LEGISLATIVE UPDATE – November 2023**

General Update

The Legislature remains in recess after adjourning the first year of the two-year 2023-24 Legislative Session on September 14 and will return to Sacramento on January 3, 2024. When the Legislature returns to begin the second year of the two-year Legislative Session, they will have to make quick work of hundreds of two-year bills that are still in their first house. These bills, which include two Brown Act bills SamTrans is following, will need to move to the other house by January 31. Legislators will also begin introducing bills for consideration in 2024 when they return and will have until February 16 to do so. For more information on the legislative deadlines and the calendar for 2024, please see this [link](#).

Transit Recovery Task Force

[SB 125 \(Committee on Budget and Fiscal Review\)](#), which was part of the FY 2023-24 Budget Act establishes the Transit Recovery Task Force (Task Force) and requires, by January 1, 2024, CalSTA to convene the Task Force. The Task Force is required to include transit operators (small and large/urban and rural), local governments, MPOs/RTPAs, advocacy organizations, legislative committee staff, and Caltrans. The Task Force will focus on developing policy recommendations that will increase transit ridership and improve transit for users. CalSTA is required to prepare a recommendations report based on the task force's efforts to the Legislature by October 31, 2025. The report is required to cover numerous elements. As of this writing, CalSTA plans to open an application period for interested participants in mid-November and will hold a kick-off meeting in December 2023.

CTC Releases SB 1121 Interim Report

On November 9, the California Transportation Commission released the Draft SB 1121 State and Local Transportation System Needs Assessment Interim Report. The Draft Interim Needs Assessment reviews the state's surface transportation needs – across modes – with a focus on summarizing needs outlined in existing reports. The Draft Interim Needs Assessment also includes a near-term, five-year gasoline consumption projection to 2029 which illustrates the decline due to increased fuel efficiency and adoption of zero-emission vehicles. Caltrans developed this near-term projection. The Draft Interim Needs Assessment also outlines the CTC's plan for developing the Complete Transportation Needs Assessment Report required under SB 1121. CTC will host a Draft Interim Needs Assessment Workshop on November 30 and CTC staff will present an informational update on the report at the upcoming December 6-7, 2023 Commission Meeting. CTC is accepting comments on the Draft Interim Needs Assessment through December 8, 2023.

Update on PEPRA

In February 2023, the United States District Court for the Eastern District of California entered summary judgment in *Amalgamated Transit Union International v. U.S. Department of Labor*, which permanently enjoined the United States Department of Labor (USDOL) from failing to process federal grant applications submitted by California transit agencies to the extent required under 49 U.S.C. Section 5333(b) [commonly referred to as “Section 13(c)”] of the federal Urban Mass Transportation Act (UMTA) of 1964 and implementing regulations and relying on California’s Public Employees’ Pension Reform Act (PEPRA) of 2013 as the basis for denying, withholding, delaying, or otherwise limiting the certification of such grants.

The District Court’s February 2023 ruling further affirmed earlier rulings and ensured that federal grant applications submitted by California transit agencies would be certified irrespective of an agency’s implementation of PEPRA until such time that USDOL and/or ATU appealed the District Court’s ruling and prevailed in the appeal. In March 2023, USDOL and ATU filed appeals of the District Court’s February 2023 ruling with the United States Court of Appeals for the Ninth Circuit. The next round of briefs from the USDOL and ATU are due by November 17, 2023, though the parties are eligible to exercise a 30-day extension. The Appellate Court has not yet established a schedule for oral arguments. We anticipate that the appeal will not be resolved until 2024.

Caltrain Federal Report November 2023

Rep. Mike Johnson Elected House Speaker

- Rep. Mike Johnson (R-LA) was elected Speaker of the U.S. House of Representatives on October 25, by a vote of 220-209, with all Republicans voting in his favor. Johnson, the 56th Speaker of the House, is now tasked with guiding the chamber as a critical government funding deadline approaches on November 17, 2023.
- While staying relatively lesser known during his time in Congress, Johnson will receive significant new constitutionally granted responsibilities: Most notably, he is now second in the line of succession to the presidency. With Democrats controlling the White House and Senate, he will face challenges in leading his chamber during a time of divided government.
- In his pitch to his conference, Johnson outlined a comprehensive schedule to pass the 12 appropriations bills, and begin conference negotiations with the Senate on the National Defense Authorization Act (NDAA).
- Johnson will face several tests, as he will lead his chamber's response to a relatively unified Senate and a White House adamant on additional funding for its domestic and international priorities. The newly united Republican Conference will cut the speaker some slack, but eventually, if he fails to deliver on conservative policy priorities, he could find himself in the same position as his predecessor.

Appropriations Update

- In [a Dear Colleague letter](#), the newly elected House Speaker Mike Johnson outlined his timeline to complete the House's work on outstanding government spending bills, teeing them up for negotiations with the Senate and White House. First on the docket was passing the House Energy & Water Appropriations bill on October 26. The House has also passed its Defense, Interior, Military Construction-VA, and State and Foreign Operations bills. During the week of October 30, the House passed the FY 2024 Legislative Branch bill.
- The House plans to consider the Commerce-Justice-Science (CJS) and Labor, Health and Human Services, and Education appropriations bills on the floor the week of November 13. Both of these bills were the only two that never made it to a full Appropriations

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Holland & Knight LLP | www.hklaw.com

Committee mark-up. After completion of these bills, the House may try to take back up the Transportation-HUD bill after it was pulled last week before a vote on final passage. The bill includes cuts to Amtrak funding, which several House Republicans are objecting to.

- On November 11, Speaker Johnson announced plans for the House to consider a ladder continuing resolution (CR) the week on November 13 to prevent a government shutdown at midnight on November 17, when the current CR expires. The ladder CR provides two staggered deadlines for completing action on appropriations bills. The first deadline would extend Agriculture, Military Construction-VA, Energy and Water, and Transportation-HUD spending until January 19. The second deadline would extend the other eight appropriations bills until February 2. The ladder CR will not include any polity provisions extending current funding levels. It also extends the Farm Bill through September 2024.
- On November 2, the Senate passed a FY 2024 "minibus," which combines the FY 2024 Military Construction-VA, Agriculture, and Transportation-HUD appropriations bills. The House attempted to pass its Transportation-HUD bill the week of November 6, but pulled the bill after it became clear Republicans did not have the votes to pass it.

DOT Announces Regional Infrastructure Accelerators

- On October 13, the Department of Transportation (DOT) [announced](#) the awards through the Regional Infrastructure Accelerators (RIA) program. 24 accelerators were selected to receive a total of \$24 million spread across all recipients. The California DOT received a \$2 million award.
- The RIA program was created to assist entities in developing improved infrastructure priorities and financing strategies for the accelerated development of a project that is eligible for funding under the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.

Caltrain

Draft 2024 Legislative Program

Purpose

Legislative and regulatory actions have the potential to significantly benefit Peninsula Corridor Joint Powers Board / Caltrain (Agency) programs and services. They also have the potential to present serious challenges that threaten the Agency's ability to meet the county's most critical transportation demands.

The 2024 Legislative Program establishes the principles that will guide the Agency's legislative and regulatory advocacy efforts through the 2024 calendar year, including the second half of the 2023-24 State legislative session and 118th Congress. The program is intended to be broad enough to cover the wide variety of issues that are likely to be considered during that time and flexible enough to allow the Agency to respond swiftly and effectively to unanticipated developments.

Objectives

The 2024 Legislative Program is organized to guide the Agency's actions and positions in support of three primary objectives:

- Maintain and enhance funding opportunities to support the Agency's programs and services;
- Seek a regulatory environment that streamlines project delivery and maximizes the Agency's ability to meet transportation service demands; and
- Reinforce and expand programs that build and incentivize public transportation ridership, improve quality transportation choices, and better incorporate Caltrain service with other agencies in the Bay Area.

Issues

The Legislative Program is structured to apply these core objectives to a series of regional, state, and federal issues falling in these categories:

- Budget and Transportation Funding Opportunities
- Transportation Projects Funding Requests and Needs
- Regulatory, Legislative, and Administrative Issues

Within these categories are a detailed list of specific legislative initiatives and corresponding set of policy strategies.

Should other issues surface that require the Board's attention, staff actions will be guided by the three policy objectives listed above. If needed, potential action on issues that are unrelated to these policy goals will be brought to the Board for consideration.

Advocacy Process

Staff will indicate, on each monthly legislative update, recommended positions for pending bills. Once the Board has an opportunity to review the recommended position, staff will communicate the position to the relevant entity (such as the bill author, agency, or coalition). In rare circumstances, should a position on a bill be needed in advance of a Board meeting, staff will confer with the Board Chair. If legislation falls outside of the scope of the Board's adopted Legislative Program, Board approval will be required prior to the Agency taking a position.

Public Engagement Strategies

Staff, led by the Communications Division and its legislative consultants, will employ a variety of public engagement strategies to support the 2024 Legislative Program, including:

- Direct Engagement
Engage policymakers directly and sponsor legislation, submit correspondence and provide public testimony that communicates and advances the Agency's legislative priorities and positions.
- Coalition-based Engagement
Engage local and regional stakeholders to build awareness about specific issues and participate in local, regional, statewide, and national coalitions organized to advance positions that are consistent with the 2024 Legislative Program.
- Media Engagement
Build public awareness and communicate the Agency's legislative priorities by issuing press releases, organizing media events, and using social media.

The adopted legislative program will guide the Agency's legislative advocacy efforts until approval of the next program.

State and Regional	
Funding Opportunities and Challenges	
<i>Issue / Background</i>	<i>Strategy</i>
<p>General Funding Since March 2020, transit agencies were hit hard by the loss of ridership and revenue due to the COVID-19 pandemic. Caltrain ridership is returning but remains significantly lower than pre-pandemic levels, and significant additional funding is still needed to mitigate the pandemic’s impact for transit agencies.</p> <p>In 2023, the state budget included \$2 billion in previously allocated TIRCP funds as well as \$1.1 billion in new ZETCP funding over the next four years that can both be used for either capital or transit operating expenses.</p>	<ul style="list-style-type: none"> ● Direct advocacy for additional resources to secure state funding for transit systems and work to ensure committed funds materialize in the FY 2024-25 State Budget. ● Participate in state and regional efforts to award committed funds through the process set up in the FY 2023-24 State Budget (SB 125). ● Work with other regional transit agencies, and agencies statewide, to continue pursuit of additional sources of short- and long-term transit operations funding. ● Protect against the elimination or diversion of any State or regional funds that support the agency’s transportation needs. ● Support State funding allocation requests for investments that benefit the Agency’s transportation programs and services. ● Work with legislative delegation, regional agencies, transit systems and transit associations to identify and advance opportunities for funding that would support the Agency’s transportation priorities. ● Support efforts to provide funding for the deployment of zero emission transit vehicles and infrastructure, including working with the CalSTA, CARB, and CEC on funding program requirements. ● Advocate for additional state funds to implement Caltrain’s grade separation program.
<p>Formula Funding In 2023, transit formula funding continued its rebound from the lows of the COVID-19 pandemic, seeing new highs in some estimates. However, there remain are signs of a recession and the state budget continues to project funding shortfalls, which may have negative impacts on core transit funding.</p>	<ul style="list-style-type: none"> ● Support the full funding of the STA program. ● Support full and timely allocation of the Agency’s STIP share. ● If possible, participate in CalSTA’s Transit Recovery Task Force and support CTA efforts to engage the Legislature on TDA reform and the review of performance measures for transit.

<p>After years of diversion to support the State’s General Fund, funding for the State Transit Assistance (STA) program has remained stable over the last few budget cycles thanks to successful legal, legislative and political efforts on behalf of the transportation community. Still, more revenue is needed in order to meet the demand of increased ridership, reduce highway congestion and adhere to the State’s mandate of reducing greenhouse gas emissions, and creating livable communities.</p>	
<p>Cap-and-Trade Revenues In 2012, the State began implementing the cap-and-trade market-based compliance system approved as a part of the California Global Warming Solutions Act of 2006 (AB 32). Since the program began selling allowances, the program has generated billions of dollars. In 2014, legislation was enacted creating a long-term funding plan for cap-and-trade which dedicates 60 percent of cap-and-trade revenues to transportation. The remaining 40 percent is subject to annual appropriation through the state budget process. In 2017, the legislature extended the program from 2020 to 2030.</p>	<ul style="list-style-type: none"> ● Monitor efforts to extend the Cap-and-Trade program beyond 2030 and any impacts the 2030 date will have on upcoming TIRCP cycles. ● Work with the Administration and like-minded coalitions to secure the appropriation of additional cap-and-trade revenues to support the Agency’s transportation needs. ● Support legislation and regional action that makes a broad array of the Agency’s emissions-reducing transportation projects, programs, and services eligible for investment. ● Protect existing cap-and-trade appropriations for transit operations, capital projects, and sustainable communities strategy implementation. ● Work to explore Cap-and-Trade as a potential source for additional operating funds.
<p>Voter Threshold In 2024, ACA 1 will appear on the November General Election ballot and ask voters to lower the vote-threshold to fund public works projects, including for transportation, from two-thirds to 55 percent. There is also an effort,</p>	<ul style="list-style-type: none"> ● Monitor ACA 1 and other initiatives related to revenue generation as they head to the November 2024 ballot. ● Support efforts to amend the State Constitution to reduce the voter threshold required for the State or a city, county, special district, or regional transportation

<p>sponsored by the California Business Roundtable attempting to increase the voter threshold for certain taxes and make it harder to raise state and local revenues.</p>	<p>agency to impose a special tax for transportation projects or programs and monitor local efforts to use the initiative process to place measures on the ballot with lower voter thresholds.</p> <ul style="list-style-type: none"> ● Oppose efforts to make it harder for local agencies to raise revenues through voter-approved revenue measures.
<p>Other State or Local Funding Options Local and regional governments continue to seek methods for funding new infrastructure, facility needs, sustainability initiatives, and projects that will support ridership growth through a variety of methods such as managed lanes and local ballot measures.</p> <p>In 2020, there was the potential for a regional transportation measure (called FASTER Bay Area), led by the Bay Area Council, Silicon Valley Leadership Group and SPUR. This effort is once again underway and MTC has established a work group to explore potential avenues for funding.</p>	<ul style="list-style-type: none"> ● Participate in state and regional efforts to establish authorizing legislation for a regional funding measure and ensure Caltrain receives ongoing operating and capital support from any regional measure. ● Support innovative local and regional funding options that will provide financial support for the agency. ● Advocate for funding sources that would assist transit agencies in obtaining funds for sustainability initiatives including water conservation, waste reduction, long-term resource efficiency of facilities and equipment, and greenhouse gas reductions. ● Support funding for workforce development, retention, and housing to attract and retain quality personnel. ● Support efforts that allow for public private partnerships that benefit the implementation of capital projects, efficient operation of transit services, or enhanced access to a broad range of mobility options that reduce traffic congestion. ●
<p>Transportation & Housing Connection Given the housing shortage crisis, there have been various efforts at the State and regional level to link housing and zoning with transportation funding.</p>	<ul style="list-style-type: none"> ● Evaluate state or regional efforts that directly link transportation funding to housing and provide for higher density housing projects near transit stations. ● Advocate for solutions that appropriately match decision making authority with funding (i.e. – An agency shouldn’t be financially penalized for decisions that are outside the authority of the agency). ● Advocate where necessary for the Agency to be able to develop its property in the manner most beneficial to Agency needs and goals.
<p>Transportation Projects</p>	

<p>General Pre-pandemic, as the Bay Area’s population continued to grow, the region’s transportation infrastructure was strained. Although transit ridership remains far below pre-pandemic levels, we expect riders to return to public transit once major employers along the corridor bring their employees back to the office. Despite the pandemic, the demand for housing with easy access to public transit continues to grow.</p>	<ul style="list-style-type: none"> • Work with partners in the region to bring business, community, and transportation stakeholders together to enhance, support, and advocate for equitable transportation and mobility in the Bay Area. •
<p>Transit-Oriented Development / First and Last Mile First and last mile projects, as well as transit-oriented development projects, are an important part of the broad transit ecosystem that will help support robust ridership in the corridor.</p>	<ul style="list-style-type: none"> • Support efforts to provide commuters with easy and convenient options to travel between major transit centers and their final destination. • Support the development of new and innovative first and last mile options and support increased funding opportunities for first and last mile projects. • Advocate for policies that promote transit-oriented developments in ways that compliment transit services. • Support state funding incentives and streamlining processes for transit-oriented development.
<p>Transportation Demand Management (TDM) TDM is the application of strategies and policies to reduce travel demand of single-occupancy vehicles or to redistribute this demand in space or time.</p>	<ul style="list-style-type: none"> • Support efforts that provide more TDM tools and funding opportunities. • Support policies that encourage use of TDM.
<p>Electrification Project In 2012, the State Legislature appropriated Prop 1A high-speed rail funds to modernize the Caltrain corridor and lay the foundation for future high-speed rail service. Under a multi-party regional funding agreement, this investment was matched with a variety of local, regional, state, and federal funding sources to electrify the corridor, install an advanced signaling system, and replace 75% of Caltrain’s aging diesel trains with electric trains that will dramatically improve service between San Francisco and San</p>	<ul style="list-style-type: none"> • Work with state, local, and regional partners to advance policies and actions that will help secure funding needed to fulfill local, regional, and state commitments to the Electrification Project. • Advocate for the sale and allocation of Proposition 1A bonds to meet the commitments specified in SB 1029 with respect to the Caltrain corridor and work to include funding for Caltrain in any future Proposition 1A appropriations. • Work to address regulatory challenges that limit the implementation of solutions that will maximize Caltrain capacity and service benefits. • Advocate for funding and policies to support grade separation projects.

Jose. In 2023, Caltrain was awarded over \$500 million in state and federal funding to complete the electrification project and purchase additional trainsets.

The Electrification Project is a transformational first step in the realization of a larger future for Caltrain that will be guided by the Caltrain 2040 Business Plan efforts.

Caltrain 2040 Business Plan In October 2019, the Caltrain Board adopted a long-term 2040 Service Vision, defining an ambitious plan for growing service over the next 20-plus years. The service vision outlines the capital and operating needs to achieve the vision and includes projects such as longer EMU fleet, longer platforms, level boarding, passing tracks, grade separations, and station upgrades. It also identified needs to prepare the railroad to expand and integrate into a regional rail network.

Caltrain Equity and Growth Framework In 2020, Caltrain developed a policy to advance equity within the system and neighboring communities. The policy will help address systemic inequality by taking steps to ensure the Caltrain system is accessible and useful to all. The policy also advances efforts to improve Caltrain connections to the regional transit network and provide direction on service priorities during and after the COVID-19 pandemic.

High-Speed Rail Blended System In 2016, a new round of HSR Blended System planning, outreach,

- Support the allocation of cap-and-trade or other state / regional funding to advance implementation of Caltrain projects.
- Support the implementation of the Caltrain Business Plan-associated projects and policies. Continue to educate the Caltrain legislative delegation and key members of the Administration on the Plan.
- Ensure relevant state and regional agencies incorporate relevant elements of the Caltrain Business Plan in their long-term plans.
- Support funding and regulations that are consistent with Caltrain’s equity and growth policy.
- Consistent with existing agreements between JPB and CHSRA, support efforts to plan, engage stakeholders, and implement the Blended System project on the Caltrain corridor.
- Engage CARB to ensure Caltrain secures access to the Low Carbon Fuel Standard for its electrified service.
- Work with CARB to ensure that its regulatory actions do not impede delivery of Caltrain’s electrification project.

<p>and environmental clearance work kicked-off in the corridor. While this project is not being led by the JPB, the agency owns the right-of-way and has a significant interest in the process and success of the project that will “blended” with Caltrain service. Current timeline for HSR on the corridor is 2033.</p>	
<p>Legislative, Regulatory, and Administrative Issues</p>	
<p>General Every year a variety of legislation or regulatory action is pursued that would affect regulations governing transportation-related service operations, administration, planning, and project delivery. In addition, opportunities exist to reform or update existing regulations that are outdated, or can be improved to address potential burdens on transportation agencies without affecting regulatory goals. Recently, there have been calls for a more coordinated and streamlined transit system in the Bay Area.</p>	<ul style="list-style-type: none"> • Support opportunities to remove barriers to, and improve the ability to conduct, safe, efficient transportation operations, administration, planning, and project delivery efforts, including alternative project delivery methods that provide flexibility to the agency. • Oppose efforts to impose unjustified and burdensome regulations or restrictions on the Agency’s ability to conduct efficient transportation operations, administration, planning, and project delivery efforts. • Engage with MTC, the Legislature, and stakeholders on policies stemming from MTC’s Blue Ribbon Transit Recovery Task Force’s Bay Area Transit Transformation Action Plan, the “Seamless” Bay Area efforts, and the implementation of SB 125 • Ensure that new requirements impacting transit agencies support improved connections with other transit system and don’t result in tradeoffs that have unintended consequences for key transit riders and stakeholders. • Work with the Administration to ensure guidance considers impacts on transit operations and the ability to meet transit rider mobility needs.
<p>California Environmental Quality Act (CEQA) Several regional and statewide transportation organizations continue working to modernize CEQA and minimize unnecessary delays during the environmental review process. In 2020, legislation was passed (SB 288) providing a series of temporary statutory exemptions for transit and active transportation projects under CEQA. In 2022,</p>	<ul style="list-style-type: none"> • Closely monitor efforts to modernize CEQA. Without compromising CEQA’s effectiveness as an environmental protection policy, support proposals that advantage transportation projects, including bicycle, pedestrian, and transit-oriented development projects. • Monitor the implementation of, and opportunities related to, SB 922 (Wiener).

<p>legislation was passed (SB 922) to extend these exemptions through 2030.</p>	
<p>Public Employees’ Pension Reform Act (PEPRA) In 2023, the United States District Court issued a permanent injunction against USDOL relying on implementation of PEPRA by California transit agencies to deny certification of federal transit grants owed to California transit agencies. While this permanent injunction has ensured that California transit agencies continued to receive their federal transit grants, USDOL and the ATU have appealed the District Court’s ruling to the United States Appellate Court for the Ninth Circuit.</p>	<ul style="list-style-type: none"> • Monitor the appeal of the District Court’s ruling. Engage, as appropriate, the State of California, delegation, sister agencies, and transportation associations to prevent the withholding of the certification of federal transit grants owed to the Agency due to the implementation of PEPRA by transit agencies.
<p>Sustainable Communities Strategies In conjunction with AB 32 and SB 32 implementation, the Sustainable Communities and Climate Protection Act (SB 375) requires regions to develop Sustainable Communities Strategies (SCS) with integrated housing, land-use, and transportation policies that will accommodate population growth and reduce regional greenhouse gas emissions by specific amounts. In 2017, regional authorities in the Bay Area approved the update to Plan Bay Area. The final Plan Bay Area 2050 was adopted in 2021.</p>	<ul style="list-style-type: none"> • Advocate for policies that provide adequate and equitable funding to support increased demand and dependence on the Agency’s transportation services associated with the implementation of SB 375 and Plan Bay Area. • Ensure any planning, development, or policy proposals are consistent with the Agency’s policies and planning. • Support efforts to ensure transit agencies are eligible for climate resiliency program funding.
<p>Executive Orders Related to GHG Emissions: Since taking office, Governor Newsom has issued two Executive Orders – N-19-19 and N-79-20 – calling for reduced emissions from the transportation sector and larger, coordinated investments in</p>	<ul style="list-style-type: none"> • Work to ensure state and federal funds are made available transportation agencies to achieve the goals outlined in the orders. • Engage in the State’s efforts to address the transit-specific goals outlined in the executive orders, protecting transit agencies from any negative impacts stemming from the executive orders (e.g. additional mandates without

<p>transit, active transportation, and land-use. The executive orders highlight the need for expanding clean transportation options.</p> <p>Building on the executive orders above, in 2021, CalSTA adopted the Climate Action Plan for Transportation Infrastructure (CAPTI), which details how the state recommends investing billions of discretionary transportation dollars annually to aggressively combat and adapt to climate change while supporting public health, safety, and equity.</p>	<p>funding, changes to funding guidelines that might disadvantage transit projects).</p>
<p>CARB In-Use Locomotive Regulation: To meet Executive Order N-79-20 and achieve 100% zero emissions from off-road vehicles and equipment operations in the state by 2035, CARB passed the In-Use Locomotive Regulation. The Regulation requires all owners, operators, sellers, leasers, renters, or manufacturers to create spending accounts (based on emissions level and amount of work performed in California) for zero-emission loco purchases as early as 2023. The Regulation also creates alternative compliance pathways, including an Alternative Compliance Plan and an Alternative Fleet Milestone Option. As of the drafting of this program, Caltrain is pursuing compliance with the Regulation through the AFMO.</p>	<ul style="list-style-type: none"> • Work to ensure funding programs are available to support transition to new technology. • Work with CARB to ensure their approval of Caltrain’s AFMO. • Work to support pilot projects for zero-emissions rail technologies such as BEMUs funded by the state.

<p>Federal</p>
<p>Funding Opportunities and Challenges</p>

<i>Issue / Background</i>	<i>Strategy</i>
<p>Federal Appropriations</p> <p>Every year, Congress adopts several 12 appropriations bills that fund the federal government during the federal fiscal year (October 1 – September 30), including the Transportation, Housing, and Urban Development bill. These measures provide the funding for federal agencies to spend money for the programs they administer.</p> <p>In September of 2023, Congress passed a continuing resolution (CR) to keep federal agencies roughly funded at the same level as the previous fiscal year, through November 17, 2023. Congress must either pass all the individual FY 2024 appropriations bills and Omnibus Appropriations to include the Transportation, Housing and Urban Development bill, or another CR by November 17 in order to prevent a federal government shutdown.</p>	<ul style="list-style-type: none"> • Advocate for funding for the Caltrain projects in the FY 24/25 Appropriations bill. • Partner with local, regional, State, and national coalitions to advocate appropriation of the maximum authorized amount for programs that benefit the Agency’s transportation services and needs. • Work with local and regional coalitions to support requests for funding from discretionary programs. • Communicate frequently with the Agency’s federal delegation and key appropriators on the needs or concerns of pending appropriation bills.
<p>Tax and Finance Congress considers legislation that governs tax and finance issues that impact transit agencies.</p>	<ul style="list-style-type: none"> • Support efforts to ensure tax provisions that benefit the agency’s priorities are included in any tax or finance proposal. • Protect against the elimination or diversion of any tax policies that support the agency’s transportation needs.
Transportation Projects	
<p>General Support Agency projects and the efforts of partnering agencies to obtain federal funding for the Agency’s related transit projects.</p>	<ul style="list-style-type: none"> • Work with federal delegation members, as well as local, regional, and state coalitions to support the federal funding requests for Agency projects and for our partner transit agencies on projects that provide complimentary services for the agency.

<p>Caltrain Electrification Project The current Project funding plan includes funding from several federal funding sources including the FTA Capital Investments Grant Program and Community Project requests. The Project has a funding gap that requires additional financial resources.</p> <p>Positive Train Control (PTC) is a federal mandate. The current Caltrain Positive Train Control (PTC) project includes some funding from the Federal Railroad Administration (FRA).</p> <p>The Electrification program is a transformational first step in the realization of a larger future for Caltrain that will be guided by the Caltrain 2040 Business Plan efforts.</p> <p>Caltrain 2040 Business Plan In October 2019, the Caltrain Board adopted a long-term 2040 Service Vision, defining an ambitious plan for growing service over the next 20-plus years. The service vision outlines the capital and operating needs to achieve this vision and includes projects such as longer EMU fleet, longer platforms, level boarding, passing tracks, grade separations, and station upgrades. It also identified needs to prepare the railroad to expand and integrate into a regional rail network.</p> <p>Caltrain Equity and Growth Framework In 2020, Caltrain developed a policy to advance equity within the system and neighboring communities. The policy will help address systemic inequality by taking steps to ensure the Caltrain system is</p>	<ul style="list-style-type: none"> • Work with federal delegation members, as well as local, regional, and state coalitions to fill the Electrification Project funding gap through formula funding, discretionary grants, and the annual appropriations bills. • Advocate for additional PTC funding for operating expenses. • Support efforts to streamline regulatory administrative hurdles to supporting full PTC operations. • Support the allocation of federal funding to advance implementation of Caltrain-related projects. • Advocate for funding and policies to support grade separation projects. • Work to address regulatory actions or policies that negatively impact future capacity or service improvements. • Support the implementation of the Caltrain Business Plan associated projects and policies. Continue to educate the Caltrain legislative delegation and key members of the Administration on the Plan. • Support funding and regulations that are consistent with Caltrain’s equity and growth policy. • Consistent with existing agreements between JPB and CHSRA, support efforts to plan, engage stakeholders, and implement the Blended System project on the Caltrain corridor.
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<p>accessible and useful to all. The policy also advances efforts to improve Caltrain connections to the regional transit network and provide direction on service priorities during and after the COVID-19 pandemic.</p> <p>High-Speed Rail Blended System In 2016, a new round of HSR Blended System planning, outreach, and environmental clearance work kicked-off in the corridor. While this project is not being led by the JPB, the agency owns the right-of-way and has a significant interest in the process and success of the project that will “blended” with Caltrain service. In 2024, HSR will be pursuing full environmental clearance for San Francisco to Los Angeles.</p>	
<p>Legislative, Regulatory, and Administrative Issues</p>	
<p>General Every year a variety of legislation or regulatory action is pursued that would affect regulations governing transportation-related service operations, administration, planning, and project delivery. In addition, opportunities exist to reform or update existing regulations that are outdated, or can be improved to address potential burdens on transportation agencies without affecting regulatory goals.</p>	<ul style="list-style-type: none"> • Support opportunities to remove barriers to, and improve the ability to conduct, safe, efficient transportation operations, administration, planning, and project delivery efforts, including alternative project delivery methods that provide flexibility to the agency. • Oppose efforts to impose unjustified and burdensome regulations or restrictions on the Agency’s ability to conduct efficient transportation operations, administration, planning, and project delivery efforts.
<p>Infrastructure Investment and Jobs Act (IIJA) Implementation In November 2021, Congress approved and the President signed into law the IIJA, includes \$550 billion in new formula and grant funding for infrastructure investment, including for roads and bridges, rail systems, bus</p>	<ul style="list-style-type: none"> • Advocate for federal funds through IIJA for Agency projects and plans. • Monitor and review guidance and rulemaking proposals affecting IIJA implementation and other transportation issues. • Collaborate with local, regional, state, and national transportation advocacy groups to coordinate comments and advocacy efforts that support regulations that maximize benefits for transportation programs, services, and users.

<p>systems, drinking water and clean water, the electric grid, and other programs. MTC estimates that the Bay Area will receive at least \$4.5 billion in formula fundings from IIJA.</p>	<ul style="list-style-type: none"> • Collaborate with local, regional, state, and national transportation advocacy groups to coordinate proposals and advocacy efforts for IIJA funding and implementation.
<p>Inflation Reduction Act (IRA) As a result of the passage of the IRA, federal agencies are tasked with program implementation, granting them broad authority over the deployment of funding. While focusing mainly on energy production, tax, and healthcare, the IRA provides some funding for low-emission transportation technologies.</p>	<ul style="list-style-type: none"> • Monitor closely and act as needed during Administration implementation of provisions that may have a significant impact on transit / transportation projects and programs. • Advocate for funding for the Agency’s projects and needs.
<p>FAA Rule In 2014, the Federal Aviation Administration’s (FAA) issued a rule called the “Policy and Procedures Concerning the Use of Airport Revenue, proceeds from Taxes on Aviation Fuel.” The rule would require that local taxes on aviation fuels must be spent on airports is contrary to states’ rights to control their general application sales tax measures.</p> <p>The final FY 2021 Omnibus Appropriations bill includes report language encouraging the Department of Transportation “to continue working with State and local governments and the FAA to develop a path forward to allow the use of local sales tax revenues generated on the sale of aviation fuel to be used in a manner consistent with their enactment.”</p>	<ul style="list-style-type: none"> • Support efforts to protect the ability of local and state governments to determine how general sales tax measures are allocated. • Continue to advocate for report language in the annual appropriations bills and support legislative changes that would permanently clarify the issue. • Support the State of California in its efforts to address FAA’s requests.

**Peninsula Corridor Joint Powers Board
Staff Report**

To: Advocacy and Major Projects Committee
Through: Michelle Bouchard, Executive Director
From: Dahlia Chazan, Deputy Chief, Caltrain Planning
Subject: **Authorize Use of the Construction Manager General Contractor (CMGC) Delivery Method Pursuant to Public Utilities Code Section 103395 for the 4th and King Yard Preparation Track and Systems Package (4KY Package B)**

Finance Committee Recommendation Technology, Operations, Planning, and Safety Committee Recommendation Advocacy and Major Projects Committee Recommendation

Purpose and Recommended Action

Staff recommends that the Board of Directors (Board) of the Peninsula Corridor Joint Powers Board (Caltrain):

1. Make findings that Caltrain's use of the Construction Manager General Contractor (CMGC) delivery method for the 4th and King Yard Preparation Track and Systems Package (4KY Package B) will accomplish one or more of the following objectives required to utilize this project delivery method pursuant to Public Utilities Code Section 103395, et seq.: reduce project costs; expedite the project's completion; or provide features not achievable through the traditional Design-Bid-Build (DBB) method;
2. Authorize Caltrain to use the CMGC delivery method for the 4KY Package B based on these findings; and
3. Authorize the Executive Director, or designee, to file any other required documentation and to take any other actions necessary to give effect to this action.

Discussion

San Francisco Downtown Extension (DTX) Delivery Methods

The Downtown Rail Extension (DTX) project, also known as The Portal, has identified the need for substantial work to occur in Caltrain's right-of-way at the 4th and King railyard prior to and during the project's main civil construction. This work is referred to as "4th and King Yard Preparation" and is divided into two packages: Package A and Package B. Package A includes early site clearing of Caltrain assets to allow DTX to begin construction of the tunnel and the underground 4th and Townsend Street Station. Package B includes track and systems work within the 4th and King railyard and along the mainline to 16th Street to provide for the two-track mainline connection to DTX through a future transitional open cut "U-Wall". Caltrain is

currently providing design oversight for work commissioned by the Transbay Joint Powers Authority (TJPA) to advance this sitework.

In 2020, the TJPA, Caltrain, the Metropolitan Transportation Commission (MTC), the San Francisco County Transportation Authority (SFCTA), the California High-Speed Rail Authority (CHSRA), and the City and County of San Francisco (CCSF) entered an MOU to support the efforts of the TJPA to develop The Portal. One of the tasks for this six-party stakeholder group was to study various traditional and alternative contracting approaches to deliver The Portal using a risk-based assessment, and recommend an approach to the TJPA Board. In July 2022, consistent with the stakeholder recommendation, the TJPA Board adopted the Project Delivery Alternatives Study (PDAS) which analyzed and recommended the contract packaging and associated procurement and delivery models for the DTX project. The PDAS identified TJPA as the delivery agency for the DTX contract packages. The initial contract packages and recommended delivery methods are summarized in Table 1.

Table 1. Initial PDAS Recommendations, as approved by the TJPA Board in July 2022

Initial Contract Package	Recommended Delivery Method
Civil and Tunnel - Construction of tunnel, throat, and civil structures including Fourth and Townsend station box, two ventilation structures, and certain utility temporary support and/or relocation	Progressive Design-Build (PDB) <ul style="list-style-type: none"> The contractor takes responsibility for design and construction, usually from the 30-60% design level through a competitive procurement process. This method is typical for packages where design is closely tied to construction means and methods.
Track and Systems - Installation of track and rail systems	Construction Manager/ General Contractor (CMGC) <ul style="list-style-type: none"> The Contractor is involved early to mitigate risk. The contract is delivered in two phases: (1) preconstruction and (2) construction, after agreement on contract terms and a lump-sum price.
Station Fit-out - Mechanical, electrical, plumbing, and architectural finishes at Fourth and Townsend Station, Salesforce Transit Center, and the two ventilation structures	
Advance Works - Utility relocation, building demolition, and the work now known as 4th and King Yard Preparation (4KY)	Design-Bid-Build (DBB) <ul style="list-style-type: none"> Traditional building method with three distinct phases: the design phase, the bid phase and the build phase. The delivery agency is responsible for design and contract interface management, and as a result retains most of the risk

Since the approval of the PDAS recommendations, design work on 4KY has significantly advanced and the relationship between the 4KY work and Caltrain’s operations has become more evident. As a result, TJPA and Caltrain agreed to reevaluate the delivery method alternatives for the planned 4th and King Yard Preparation in a 4KY Procurement Analysis.

The 4KY Procurement Analysis was completed in October 2023 by the TJPA consultant team with the purpose of identifying if DBB is still the most appropriate delivery approach for 4KY Package A and 4KY Package B. As part of the evaluation process representatives of Caltrain and TJPA conducted two facilitated workshops to compare and evaluate the relative benefits of the DBB, PDB, and CMGC delivery methods for Package A and B.

The 4KY Procurement Analysis ultimately recommended that DBB remain as the delivery method for Package A, and CMGC is the most appropriate method for Package B. The evaluation team noted that the CMGC delivery method offers several advantages over the traditional DBB method and the alternative PDB method, including a reduction in operating risks, potential time and cost savings, and providing opportunities for innovation.

The six-party stakeholder group reviewed and concurred with this recommendation, as well as other key changes to the project delivery plan, including shifting the delivery of the 4th and Townsend Station Fit-out work from the Station Fit-out CMGC package to the Civil and Tunnel PDB package and dividing the 4KY package into two distinct scopes package (Package A and Package B). The modified contract packages and recommended delivery methods are summarized in Table 2.

Table 2. Modified PDAS Recommendations, as approved by the TJPA Board in November 2023

Modified Contract Package	Changes from Initial PDAS Recommendations	Recommended Delivery Method
Civil and Tunnel - Construction of tunnel, throat, and civil structures including Fourth and Townsend station box, two ventilation structures, and certain utility temporary support and/or relocation; 4th and Townsend station fit-out and the two ventilation structures	Includes 4 th and Townsend station fit-out	Progressive Design-Build (PDB)
Track and Systems - Installation of track and rail systems	No changes	Construction Manager/ General Contractor (CMGC)
Station Fit-out - Mechanical, electrical, plumbing, and architectural finishes at Salesforce Transit Center	Removes 4 th and Townsend Station Fit-out	

Modified Contract Package	Changes from Initial PDAS Recommendations	Recommended Delivery Method
4KY Package B (track and systems work) for the 4th and King Yard Preparation	New contract package, separate from 4KY Package A. Delivery method is CMGC	
Advance Works - Utility relocation, building demolition, and 4KY Package A (site clearing) for the 4th and King Yard Preparation	Removes 4KY Package B from Advance Works contract package	Design-Bid-Build (DBB)

Caltrain as Delivery Agency for 4KY Package B

TJPA is the lead delivery agency for The Portal project, and originally expected to deliver all of the construction packages described in the prior section utilizing an integrated project delivery team approach which includes Caltrain staff. However, Caltrain and TJPA have been discussing the concept of TJPA delivering 4KY Package A, and Caltrain delivering 4KY Package B, consistent with Caltrain’s practice of delivering all work within its operating right of way to minimize operating disruptions to its passengers.

The scope of Package B requires complex sequencing to maintain continuous rail operations during construction. Using the CMGC delivery method, Caltrain will work together with TJPA, utilizing the integrated project delivery approach, and coordinate with the designer and contractor to minimize potential service impacts and manage schedule and costs.

However, there are also potential risks for Caltrain to deliver Package B. Caltrain will need to establish a focused and effective delivery team with sufficient resources, decision-making processes, and authority. Package B must be completed within a tight schedule to avoid delaying core DTX construction. As operator, Caltrain would be impacted by this risk, regardless of the delivery agency. Therefore, the best approach is for Caltrain to lead, which will minimize the risk and streamline communication and decision-making authority.

At its December meeting, the TJPA Board will consider conceptual approval of Caltrain as delivery entity for Package B subject to approval of a 4th and King Yard Preparation Agreement and review by the Federal Transit Administration. The 4KY Agreement is expected to be completed in Spring 2024 to be followed by formal adoption by the respective boards. Confirmation of Caltrain as delivery agency, as part of the comprehensive 4KY Agreement, will be required to complete the 4KY Package B CMGC contractor procurement process.

While Caltrain expects to lead the delivery, design will continue by TJPA’s engineering consultant for 4KY Package B, under Caltrain direction.

CMGC Delivery Method Process

The Legislature enacted Assembly Bill 797 in 2013 to authorize the San Mateo County Transit District to use the CMGC delivery method for public transit projects within its jurisdiction. This authorization extends to Caltrain pursuant to the Joint Powers Agreement, which established the JPB.

Pursuant to Public Utilities Code Section 103395, et seq., the JPB may enter into a CMGC delivery method contract only after taking the following steps. First, Caltrain must evaluate the traditional Design-Bid-Build (DBB) and CMGC delivery methods in a public meeting. Second, Caltrain must then make written findings that the use of the CMGC delivery method on the specific project under consideration will accomplish one or more of the following objectives:

- Reduce project costs;
- Expedite project completion; or
- Provide features not achievable through the design-bid-build method.

Caltrain must make findings *prior* to entering a CMGC contract. Contracting using the CMGC delivery method requires two steps. First, Caltrain issues a best-value procurement to engage a contractor for preconstruction services. The initial agreement must include a provision for subsequent negotiation of any of the later stages of the project including the construction itself. Second, if Caltrain would like to award a contract for construction services after the initial phase of the contract, a Total Contract Price (TCP) must be negotiated. If an acceptable TCP cannot be negotiated, then Caltrain may award the subsequent phases of the contract using any other delivery method permitted by law.

Under the CMGC delivery method, the agency utilizes a qualifications-based selection process to hire a CMGC contractor (contractor) to collaborate during the pre-construction design phase to deliver the project. The contractor is initially authorized to participate in the pre-construction design phase work. Upon agreement on the TCP to deliver the construction work, the contractor's construction phase contract will be executed. The CMGC delivery balances and facilitates important factors relating to the agency's control, including relationships with stakeholders and access to designer and contractor expertise during the pre-construction design phase.

CMGC Method for 4KY Package B

The CMGC delivery method will reduce risks to Caltrain and offers significant advantages over traditional delivery methods as summarized below:

- a) **Reduced Risk to Yard Operations:** The scope of 4KY Package B involves realigning the yard tracks, relocating wayside assets, and reconstructing a portion of the overhead contact system (OCS). The CMGC method requires the Caltrain operations staff, engineer, and the contractor to collaborate during the design phase to establish operating objectives, construction means, methods, and innovative approaches to complete the work efficiently and minimize or eliminate negative impacts to Caltrain's operations. Since the parties are integrated throughout the design and construction

phases, there is a clear and continuous line of communication and accountability to best manage the operating risks during construction.

- b) **Total Contract Price (TCP) establishes a total contract price prior to starting construction:** The contractor will be able to obtain a complete understanding of Caltrain's design intent, the scope of the project, the condition of the existing facilities, and Caltrain's operational needs by participating in the development of the design documents. With the benefit of this knowledge, the contractor will be able to negotiate a TCP for 4KY Package B, before Caltrain executes the construction contract.
- c) **Fewer Change Orders:** When the contractor participates in the pre-construction design process, fewer change orders will occur during construction. As a result, the 4KY Package B is more likely to be completed on time and on budget. In addition, fewer change orders reduce project management costs for both the JPB and the contractor.
- d) **Change Orders Cost Less:** The traditional Design-Bid-Build delivery method typically results in contractors charging up to 20% mark-up on construction contract change orders. The CMGC delivery method establishes in advance the allowable contractor fixed fee mark-up in the range of 5% to 10% if construction change orders are encountered.
- e) **Contractor Construction Fee is Less:** Contracts with the contractor are designed to create a better working relationship between all parties resulting in better risk identification and allocation and reduced risk to the contractor. As a consequence, the contractor's overhead and profit fee is generally in the 3% to 5% range which is lower than the mark-up usually applied to traditional design-bid-build projects.
- f) **Caltrain has an Off-Ramp:** In the event Caltrain and the contractor cannot reach agreement on the TCP for the construction phase work, the JPB will not execute the contractor's construction phase contract and will advertise and award a contract for the 4KY Package B using any other delivery method permitted by law.

After assessment of the respective merits of the DBB, Progressive Design Build (PDB), and CMGC delivery methods and how these different delivery methods would best address the unique features and complexities of the 4KY Package B, staff have determined that the use of the CMGC delivery method will provide features that are not achievable through the DBB or PDB process. The CMGC delivery method will allow contractor collaboration with the designer, providing opportunities to improve the 4KY Package B with innovative solutions. CMGC delivery is also anticipated to reduce construction costs and expedite project completion.

Staff recommends that the Board make these findings and authorize Caltrain's use of the CMGC method for the 4KY Package B. As discussed below, Caltrain will not enter into a CMGC contract until it has negotiated a 4KY Agreement with the TJPA and the Board has approved the Agreement.

4KY Agreement

In Spring 2024, staff plan to present the 4th and King Preparation Agreement to both the TJPA Board of Directors and Caltrain Board for consideration, as described in the Interim Agreement recently approved by both boards. The new agreement will include a project delivery plan to

define the approach for advancing the project after the 30% design milestone. It will confirm items such as: project definition, roles and responsibilities, indemnification, staffing plan and support budgets, decision-making and stage gates, change management approach, cost reimbursement, among other items necessary to advance the project.

Staff are requesting approval of the CMGC delivery method prior to the 4KY Agreement to enable Caltrain to concurrently begin the CMGC procurement process in Q1 2024 and engage a contractor by Q3 2024, subject to Caltrain Board approval, consistent with the overall delivery schedule of The Portal. TJPA requested this approach to stay on the overall schedule but understands that this means the current expenditures and work being completed on 4KY is at TJPA's risk in advance of the 4KY Agreement.

On February 2nd, 2023, the Caltrain Board adopted the following three principles to inform Caltrain's approach for negotiating major topics within the Master Cooperative Agreement (MCA) between Caltrain and TJPA:

1. Project must be cost-neutral to Caltrain.
 - a. Capital Costs – Any capital contributions Caltrain makes beyond those committed to project development (PCEP, real property, \$1.5M, reimbursed staff time and resources) must be offset through committed third-party funding sources (e.g., grants).
 - b. Maintaining State of Good Repair – DTX cannot detract from Caltrain's ability to maintain its assets in a State of Good Repair.
 - c. Operating Costs – Caltrain's DTX operating contributions cannot detract from Caltrain's ability to operate the rest of the system. Any contribution of incremental operating revenue (e.g., fare revenue, special fare zone, facility revenues) must be directly attributable to DTX and any operating costs in excess of incremental operating revenue must be backstopped by non-Caltrain source(s) in case revenue projections are not met.
2. Project design, operations, and funding must be compatible with and connected to Caltrain's existing and planned rail system and must be consistent with Caltrain's 2040 service vision.
3. Safety and customer experience must be the primary focus of all planning, design, construction, and operations and maintenance decisions.

While these principles were initially designed for MCA negotiations, Caltrain staff are also using them to guide negotiations on the 4KY Agreement. Consistent with Principle #1 on cost-neutrality, the DTX Project will bear all costs for the 4KY work, including Caltrain costs to support the 4KY Project. Also, the 4KY Agreement will confirm that Caltrain will only grant approval over the modification, removal, or relocation of its assets (i.e., trackage, existing offices, etc.) if it will not adversely impact current or future Caltrain operations (Principle #2). In alignment with Principle #3, safety and customer experience are critical to the 4KY Project and will be deeply integrated into all aspects of the 4KY Agreement. The construction staging for the 4KY Project must enable continual train operations with minimal disruptions.

Budget Impact

There is no immediate budget impact because the Board action is limited to authorizing the use of the CMGC contracting approach over the traditional DBB contracting process for the 4KY Package B. Caltrain’s consultant resources to implement the approach is reimbursed from TJPA through the DTX Rail Program Enabling Works Planning Memorandum of Agreement, amended October 1, 2023.

Separate from this Board action, project cost updates and project delivery contract negotiations affecting the 4KY Package B budget will be discussed and reflected in future agreements between TJPA and Caltrain, including the 4KY Agreement.

Prepared By:	Greg Oslund	Senior Project Manager	(650) 647-3513
	Gwen Buckley	Principal Planner	(650) 722-6827

Resolution No. 2023-

**Board of Directors, Peninsula Corridor Joint Powers Board
State of California**

* * *

Authorize Use of the Construction Manager General Contractor (CMGC) Delivery Method Pursuant to Public Utilities Code Section 103395 for the 4th and King Yard Preparation Track and Systems Package (4KY Package B)

Whereas, the Downtown Rail Extension (DTX) project, now known as The Portal, has identified the need for substantial work to occur in the Peninsula Corridor Joint Powers Board's (JPB or Caltrain) right-of-way at the 4th and King railyard prior to and during the project's main civil construction, referred to as "4th and King Yard Preparation"; and

Whereas, the work is divided into two separate phases, Package A, which includes early site clearing of Caltrain assets to allow DTX to begin construction of the tunnel and the underground 4th and Townsend Street Station, and Package B, which includes track and systems work within the 4th and King railyard and along the mainline to 16th Street to provide for the two-track mainline connection to DTX through a future transitional open cut "U-Wall"; and

Whereas, Caltrain is currently overseeing design work commissioned by the Transbay Joint Powers Authority (TJPA) to advance this sitework; and

Whereas, in July 2022, the TJPA Board adopted the Project Delivery Alternatives Study (PDAS) which analyzed and recommended the contract packaging and associated procurement and delivery models for the DTX project. The PDAS identified TJPA as the delivery agency for the DTX contract packages. The contract packages and recommended delivery methods are summarized in the Staff Report; and

Whereas, since the approval of the PDAS recommendations, design work on 4KY has significantly advanced and the relationship between the 4KY work and Caltrain's operations has

become more evident. As a result, TJPA and Caltrain agreed to reevaluate the delivery method alternatives in a 4KY Procurement Analysis; and

Whereas, the TJPA consultant team completed the 4KY Procurement Analysis in October 2023 with the purpose of identifying whether Design-Bid-Build (DBB) is still the most appropriate delivery approach for 4KY Package A and 4KY Package B; and

Whereas, representatives of Caltrain and TJPA participated in two workshops to compare and evaluate the relative benefits of the DBB, Progressive Design-Build (PDB), and CMGC delivery methods for Package A and B; and

Whereas, the 4KY Procurement Analysis ultimately recommended that DBB remain the delivery method for Package A, but that CMGC is the most appropriate method for Package B because it offers several advantages over the traditional DBB method and the alternative PDB method, including a reduction in operating risks, potential time and cost savings, and providing opportunities for innovation; and

Whereas, the TJPA Board approved these recommendations at its November 9, 2023, meeting; and

Whereas, the TJPA is the lead delivery agency for The Portal project, and originally expected to deliver all of the construction packages described in the prior section utilizing an integrated project delivery team approach which includes Caltrain staff. However, Caltrain and TJPA have been discussing the concept of TJPA delivering 4KY Package A, and Caltrain delivering 4KY Package B, consistent with Caltrain's practice of delivering all work within its operating right of way to minimize operating disruptions to its passengers; and

Whereas, the Legislature enacted Assembly Bill 797 in 2013 to authorize the San Mateo County Transit District to use the CMGC project delivery approach for public transit projects within

its jurisdiction. This authorization extends to the JPB pursuant to the Joint Powers Agreement, which established the JPB; and

Whereas, pursuant to Public Utilities Code Section 103395, the JPB may enter into a CMGC project delivery method contract after taking the following steps: First, the Board of Directors (the Board) must evaluate the traditional DBB process of construction compared to the CMGC method of project delivery in a public meeting; Second, the Board must make written findings that the use of the CMGC project delivery method on a specific project under consideration will accomplish one or more of the following objectives: (1) reduce project costs; (2) expedite the project's completion; or (3) provide features not achievable through the design-bid-build method; and

Whereas, agency staff representatives of the JPB and TJPA have investigated different project delivery methods and have evaluated the respective merits of delivering Package B through the CMGC project delivery method versus the DBB method and the PDB method; and

Whereas, staff have determined that use of the CMGC project delivery method will benefit the JPB by providing project features not achievable through the DBB or PDB project delivery methods, such as opportunities for project innovation, and will likely also result in the reduction of project costs and promote the expeditious completion of the project; and

Whereas, staff recommends that the Board make findings that the use of the CMGC project delivery method is in the best interest of the JPB and authorize the use of the CMGC project delivery method to complete 4KY Package B pursuant to Public Utilities Code Section 103395, et seq.; and

Whereas, in Spring 2024, staff plan to present the 4th and King Preparation Agreement to both the TJPA Board of Directors and Caltrain Board for consideration; and

Whereas, the new agreement will include a project delivery plan to define the approach for advancing the project after the 30% design milestone, and will confirm: project definition, roles and responsibilities, indemnification, staffing plan and support budgets, decision-making and stage gates, change management approach, cost reimbursement, and other items necessary to advance the project; and

Whereas, there is no budget impact because this action is limited to authorizing the use of the CMGC contracting approach for the 4KY Package B, and a contract for the work will not be awarded until the Board approves a 4KY agreement with TJPA, which will address the 4KY Package; and

Now, Therefore, Be It Resolved that the Board of Directors of the Peninsula Corridor Joint Powers Board hereby:

1. Finds that the use of the CMGC delivery method for the 4KY Package B will accomplish one or more of the following objectives in accord with Public Utilities Code Section 103395, et seq.: reduce project costs; expedite the project's completion; or provide features not achievable through the traditional DBB method;
2. Authorizes the use of the CMGC delivery method for the 4KY Package B based on these findings; and
3. Authorizes the Executive Director, or designee, to file any other required documentation and to take any other actions necessary to give effect to this action.

Regularly passed and adopted this 7th day of December, 2023 by the following vote:

Ayes:

Noes:

Absent:

Chair, Peninsula Corridor Joint Powers Board

Attest:

JPB Secretary
(00500059)

**Peninsula Corridor Joint Powers Board
Staff Report**

To: Advocacy and Major Projects Committee
Through: Michelle Bouchard, Executive Director
From: Dahlia Chazan, Deputy Chief, Caltrain Planning
Subject: **San Francisco Railyards Preliminary Business Case Update**



Finance Committee
Recommendation



Technology, Operations, Planning,
and Safety Committee
Recommendation



Advocacy and Major Projects
Committee Recommendation

Purpose and Recommended Action

This report includes an informational update that requires no action by the Board of Directors (“Board”) of the Peninsula Corridor Joint Powers Board (“JPB” or “Caltrain”).

Discussion

The San Francisco Railyards (SF Railyards) is a 20-acre site that includes the 4th and King Caltrain Station, rail storage, and other rail facilities. It is owned by Prologis, and subject to a perpetual railroad operating easement held by the JPB. The JPB and Prologis are currently partnering to conduct a Preliminary Business Case (PBC) exploring the potential for redevelopment of the site into a regional transit center with renewed rail infrastructure and passenger facilities, added Caltrain service, housing, offices, and public spaces.

The Caltrain/Prologis PBC, which is a process to enable informed decision-making through rigorous evaluation of options against detailed evaluation criteria, is nearing completion.

The purpose of this informational briefing is to provide an update on the progress of the PBC technical work and outline anticipated future Board engagements related to the PBC.

Background:

Prologis has presented an opportunity to bring housing, jobs, activation, and an improved passenger experience to the 4th & King Site through a robust TOD. In 2021, Caltrain partnered with Prologis to initiate the PBC to evaluate the feasibility and measure the performance of options that could facilitate rail operations while enabling development.

The PBC analysis began with understanding the core operating needs for Caltrain (now and in the future) and that remains the governing priority for the analysis. Staff has used Caltrain's

core needs to create future operating scenarios that meet those needs, and allowed Prologis to consider how they would develop the site in that environment.

The PBC team has undertaken extensive technical work to evaluate options and test new configurations to carry Caltrain's service into the future, while looking for ways to facilitate development. Staff has also focused on how the scenarios being considered interface with other projects planned at the site (DTX, PAX, High Speed Rail). Staff will discuss several key points of understanding that have emerged from this analysis.

As the PBC concludes, staff will provide analysis to the Board to support an informed assessment of whether the benefits of development, improved passenger experience, and renewed rail infrastructure, and streamlined operations are sufficient to justify the cost and changes to Caltrain's operations.

If the Board supports advancing a preferred option to enable development, staff will request authorization in mid-2024 to advance to the next stages of work in partnership with Prologis.

Summary of Previous Updates

On May 24th, 2023, the Committee received an update on the status of the SF Railyards PBC. Below is a summary of key information provided in the update:

- The PBC is analyzing multiple potential configurations of the SF Railyards site and is evaluating the trade-offs, impacts, and value/benefit of options against the project's goals and objectives, aiming to meet Caltrain's long-term operational needs while supporting feasible mixed-use development opportunities.
- The City of San Francisco is also advancing a parallel and related effort to study the neighborhood surrounding the Railyards as a continuation of the Rail Alignment and Benefits (RAB) study completed in 2018.
- Complementing the PBC, Caltrain, in collaboration with the City of San Francisco, applied for and received a \$650,000 Transit-Oriented Development (TOD) Planning Program Discretionary Grant from the FTA to support comprehensive and site-specific planning efforts for communities to improve access to public transportation by integrating land use and transportation-related improvements with federal capital transit investments.

Subsequently, on August 30th, 2023, staff provided the Committee with an overview of major San Francisco rail projects, specifically the following:

1. Downtown Rail Extension (DTX; The Portal)
2. DTX 4th and King Yard Preparation
3. SF Railyards Transit-Oriented Development TOD (currently PBC)
4. Pennsylvania Avenue Extension (PAX)
5. Link21
6. California High Speed Rail (CAHSR)

Budget Impact

This informational item has no budget impact.

Prepared By: Dahlia Chazan

Deputy Chief, Planning

Phone: 650-730-6115

**Peninsula Corridor Joint Powers Board
Staff Report**

To: Advocacy and Major Projects Committee
Through: Michelle Bouchard, Executive Director
From: Dahlia Chazan, Deputy Chief, Caltrain Planning
Subject: **Corridor Crossing Strategy Update**

Finance Committee Recommendation Technology, Operations, Planning, and Safety Committee Recommendation Advocacy and Major Projects Committee Recommendation

Purpose and Recommended Action

This report includes an informational update that requires no action by the Board of Directors (“Board”) of the Peninsula Corridor Joint Powers Board (“JPB” or “Caltrain”). At the May 24 Caltrain AMP Committee meeting, staff presented an overview of the Caltrain Corridor Crossings Strategy (CCS) program including the purpose, Project Delivery Opportunities, Program Strategy Development, engagement timeline, and an overview of the 4-Track Analysis. The purpose of this informational report and accompanying presentation is to share progress on the Caltrain Crossing Corridor Strategy since the May update, how feedback has been incorporated, and review findings on the 4-Track Analysis.

Discussion

As an outcome of the Caltrain Business Plan, the Caltrain Crossings Corridor Strategy (CCS) is an engagement-driven effort to develop a systematic corridor-wide approach to crossings. As Caltrain and other operators plan to increase rail services, Caltrain understands that a coordinated approach to grade separations or closures is needed to unlock regional mobility and safety benefits. The CCS aims to align community partners’ ambitions into balance with an implementable program, addressing funding, organization, and program delivery.

Project staff will provide an update on the progress of the Crossings Delivery Guide; Program Vision and Strategy; and findings of the 4-Track Analysis. The Crossings Delivery Guide was called for by community partners during the CCS Phase I interviews where they voiced the need for a consistent and transparent grade separation process. The guide will serve as a consolidated resource of design standards, criteria, practices, procedures, and policies related to the planning and implementation of grade separation or closure projects.

The Program Vision and Strategy will be a shared, corridor vision with an incremental and implementable approach to achieve regional benefits. This program approach is supported by community partners who participated in numerous meetings where they voiced a desire for a consolidated and coordinated program. Once developed and adopted, such a program will

accelerate the delivery of grade separation projects, enable the strategic pursuit of funding, and enable Caltrain to take a proactive and consistent role in delivering grade separation projects.

The 4-Track Analysis is a focused technical and planning process to 1) continue Caltrain's commitment to a future blended service pattern developed in partnership with California High-Speed Rail Authority (CHSRA), 2) continue the planning efforts called for in the 2040 Long Range Service Vision, and 3) help clarify the limits of the future 4-track segments as corridor cities advance their grade separation projects. The 4-Track Analysis validates the location and mile post limits of the 4-track segments that were conceptually identified for the Adopted Service Vision (Moderate Growth Scenario).

Background

The CCS has been discussed as an agency priority since 2019, when it was first identified within the Caltrain Business Plan Process. This strategy was first funded in 2019 but was delayed due to the COVID-19 pandemic. The Caltrain Business Plan acknowledges that grade separation projects are costly, complex, and challenging. The CCS strives to identify areas for enhancement in the current process and develop a strategic approach to deliver corridor-wide consensus on delivery of grade separation projects.

The Initiation Phase of the CCS started in July 2022 and finished in December 2022. This phase included the initial issue identification collected from Caltrain coordination, initial engagement, and preliminary existing conditions gathered.

The Program Strategy development commenced in January 2023 and will end in approximately Winter 2023/24. This takes the outputs from the Initiation Phase to provide a framework to organize the overall study, workplan, and engagement process. The purpose of the Program Strategy development is to identify a shared vision for grade separations or closures along the corridor, including objectives and needs through extensive engagement. Concurrently with the Program Strategy development, Project Delivery Opportunities were identified as another path of the CCS to communicate roles, responsibilities, processes, and standards for individual projects.

The next steps for the Program Strategy include the development of an implementation plan for the corridor-wide strategy vision and programmatic approach to crossings – addressing organization, project development, funding, and program delivery.

Crossings Delivery Guide

The Project Delivery Opportunities path of the CCS results in the development of the Crossings Delivery Guide – an online, user-friendly guide for Caltrain, local jurisdictions, and partner agencies to clearly communicate project delivery processes and procedures. This guide was identified as a need from community partners during the Phase I interviews. The guide will serve as a consolidated reference of design criteria and construction standards and defines the roles and responsibilities for implementing grade separation or closure projects.

Program Vision and Strategy

The Program Strategy Development path of the CSS results in the development of the Program Vision and Strategy – a shared, corridor vision with an incremental and implementable

approach for regional benefits that will balance the vision with an actionable plan. The Program Vision and Strategy will gather the ambitions of community partners to clarify and define a vision that balances the complex web of organizational, technical, and funding challenges that must be addressed for the vision to be realized. It will include technical analyses to understand how different technical topics are affected across each delivery approach and evaluated against community partners goals. Cost and funding information will also be incorporated into the Program Vision and Strategy to facilitate the discussion of a coordinated funding approach and provide near-term benefits to jurisdictions.

4-Track Analysis

Through a series of outreach and blended service planning activities between Caltrain, California High-Speed Rail Authority (CHSRA) and communities along the corridor, the Caltrain Business Plan conceptually identified 4-track segments in the Moderate Growth and High Growth scenarios. The Moderate Growth scenario (8 Caltrain trains and 4 CHSRA trains per hour per direction) was adopted by JPB in 2019 as the 2040 Long Range Service Vision (“Long Range Service Vision” or “Adopted Service Vision”) and represents a commitment to blended service for Caltrain and CHSRA.

The 4-Track Analysis is a focused technical and planning process to continue the planning efforts called for in the Long Range Service Vision. The Analysis demonstrates Caltrain’s commitment to future blended service in partnership with CHSRA while helping corridor cities advance their grade separation projects by giving information about a key design parameter (i.e., designing for four tracks in their crossing project). The 4-Track Analysis validates the location and mile post limits of the 4-track segments for the Adopted Service Vision. Analyses validated the passing track locations to enable the future blended service of 8 Caltrain trains and 4 CHSRA trains and fulfills Caltrain’s obligations to CHSRA for a blended service system.

Next Steps

The Draft Program Vision and Strategy is anticipated to be ready for community partners and partner agencies’ review in early 2024. The Draft Crossings Delivery Guide is anticipated to be ready for community partners and partner agencies’ review by the end of 2023.

The Adopted Service Vision 4-track segments will be communicated to community partners and partner agencies in the upcoming months and be included in the Draft Crossings Delivery Guide. A separate memo describing the purpose, process, and findings of the 4-Track Analysis is anticipated to be available to the public by the end of 2023. The Rail Corridor Use Policy will subsequently be updated to reflect the refined 4-track segments consistent with Adopted Service Vision.

The CCS is hosting an upcoming workshop in November with the Local Policy Makers group to discuss the Program Strategy development. In addition, the CCS will continue collaboration with community partners, and update the website regularly with new materials as the program progresses.

Budget Impact

This informational item has no impact on the budget.

Prepared By: Dahlia Chazan Deputy Chief, Caltrain Planning 650-730-6115