

Report on Status of Governance Issues

SamTrans Board of Directors

June 7, 2023

SamTrans' Exclusive Financial Contribution

1991

SamTrans provides **\$82 million** to purchase railway and CCSF and VTA agree to reimburse

SamTrans' Historic Role with the Railway

- In recognition of SamTran's leadership, substantial financial commitment and risks taken, Samtrans' designated as Managing Agency of operations and assets of Caltrain, with its General Manager as Executive Director of the JPB—until repaid.

* 1991 RPOA, Recital C

* 1996 Restated JPA, § 6[B], § 10[C]

SamTrans' Historic Role with the Railway

2008

SamTrans Unpaid/Amend RPOA

**CCSF/VTA “sell” Man. Agency Role
In perpetuity - \$38.2 million reduction**

**Parties acknowledge \$53.3 million
still owed**

AMENDMENT TO REAL PROPERTY OWNERSHIP AGREEMENT

This First Amendment to Real Property Ownership Agreement (the "Amendment") entered into by and among the Peninsula Corridor Joint Powers Board ("PCJPB"), the Transit District ("SAMTRANS"), the City and County of San Francisco ("CCSF"), and the Clara Valley Transportation Authority ("VTA"), formerly known as the Peninsula Transportation District, this 31st day of October, 2008.

RECITALS

A. SAMTRANS, CCSF and VTA are member agencies of the PCJPB created by an amended and restated joint exercise of powers agreement ("JPA"). Among the enumerated purposes of the JPA are the planning, administration, expansion of the commuter rail system commonly known as Caltrain, and the improvement and management of the rail corridor on which the Caltrain operates together with other real estate assets necessary for the operation of Caltrain.

B. Under the JPA, SAMTRANS serves as the Managing Agency responsible for the management and operation of the Caltrain rail service and all of the assets of the JPB.

C. SAMTRANS, CCSF, VTA and JPB also are parties to a Real Property Ownership Agreement ("RPOA") dated December 24, 1991.

D. Among other things, the RPOA sets forth the understandings of SAMTRANS, CCSF and VTA associated with financing the acquisition by the JPB of the former Southern Pacific Transportation Company ("SP") right-of-way extending from 4th and Townsend Streets in San Francisco 51.4 miles to Lick Junction (the "ROW"), together with various other property rights all as memorialized in a Purchase, Sale and Option Agreement dated November 22, 1991 between SP, JPB and SAMTRANS. More specifically, pursuant to the RPOA, SAMTRANS agreed to facilitate acquisition of the ROW by advancing certain of its funds, and arranging for the contribution of certain funds of the San Mateo County Transportation Authority, which were necessary to complete the purchase of the ROW (the "Additional Contribution"). In consideration of SAMTRANS' willingness to facilitate acquisition of the ROW in said fashion, CCSF and VTA agreed to enter into the RPOA to acknowledge, safeguard and protect the Additional Contribution,

B. Under the JPA, SAMTRANS serves as the Managing Agency responsible for the management and operation of the Caltrain rail service and all of the assets of the JPB.

G. In conjunction with the Amendment of the RPOA, the parties have agreed that SAMTRANS will be designated as the managing agency of the JPB unless and until it no longer chooses to do so, it being agreed and understood that a formal amendment to the JPA incorporating this commitment will be implemented at a future date.

CCSF & VTA Pursue Governance Change

2020

CCSF & VTA efforts begin to obtain independent ED, GC and Auditor;

Parallel commitment (if RR approved): Prioritize reimbursing SamTrans for its investment in Caltrain (JPB Measure RR 2020 Resolution)

MOU: Major Governance Changes

- * **JPB Hires/Fires Independent ED (§ 1.A)**

(though remains SMCTD employee)

1. * **ED Full Authority Over Rail Staff and migrated positions (§§ 2.A, 2.B)**

(though subject to SMCTD's salary ordinance, manual and policies)

MOU: Positive Governance Attributes

ED – Hire/Fire – One Vote Each (§B.1.C)

No Further Replaced Functions (§B.2.F)

SMCTD Otherwise Remains Managing Agency

MOU: Other Governance Protections

- * **Other fully and partially shared services under SMCTD General Manager's direction (§§ 2.C, 2.D)**
- * **With exception of “migrated” positions, no further migration unless JPB *and* SMCTD agree (§ 3.F)**

MOU: Positive Financial Attributes

\$19.8 Million Due w/o Condition (§B.3.A)
\$15.2 million from CCSF/VTA – 8/4/23 (§B.3.B)

(Note: Reversion to Baseline if \$15.2 Million Not Paid (§4.A))

(Note: Upon \$19.8 Million Payment, SMCTD Releases VTA/CCSF, Gives up TIC and Equity Conversion Rights (Recital D, § 3.A))

Other Major “Gets” in MOU

- * No Escrow for \$19.8 million (§ 3.A)**
- * \$19.8 million due w/o condition (§ 3.A)**
- * JPB shall not sell w/o consent (§ 3.D)**

MOU: Indemnity Provisions

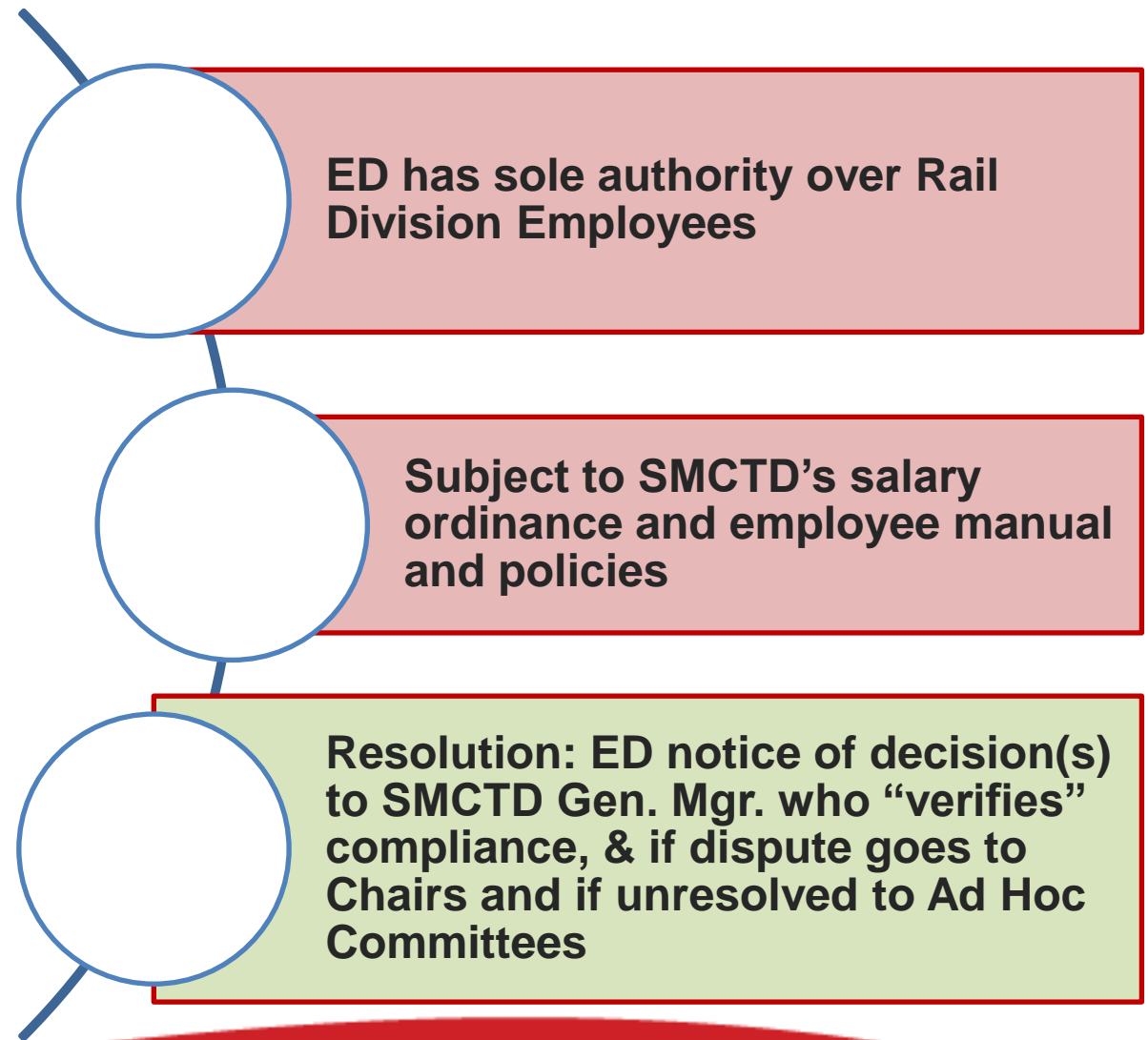
JPB would indemnify and hold SMCTD harmless from liability from its negligence or misconduct and if SMCTD sued for carrying out managing agency functions directed by JPB (§§ 6.A. 6.B—and vice versa)

*Future Negotiations**

- >> SHARED SERVICES AGREEMENT
- >> RPOA REVISED
- >> JPA BEING AMENDED
- >> PRIOR AGREEMENTS BEING EXTINGUISHED

- *Validity and enforceability of MOU not conditioned on any future agreements being finalized*

Resolution of ED's “Sole Authority” Issue



MOU: Affiliated Agreements

